STUDY OF LOCAL AND PRIVATE CONTRACT PROVIDERS
A REPORT TO THE
EXECUTIVE APPROPRIATIONS COMMITTEE

OFFICE OF THE LEGISLATIVE FISCAL ANALYST
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TABLE OF CONTENTS

EXECUTIVE SUMMARY

During the 2007 General Session, the Health and Human Services Appropriations Subcommittee heard testimony from the Youth Providers Association (contractors with the Divisions of Child and Family Services) and the Utah Association of Community Services (contractors with the Division of Services for People with Disabilities) in which the contract providers made the following assertions regarding their reimbursement rates:

1. reimbursement rates are inadequate to cover operating expenditures;
2. providers are experiencing high employee turnovers because of low wages;
3. providers have vacant positions because of low wages;
4. providers that contract with the Divisions of Juvenile Justice Services and Child and Family Services are turning away state contract clients and taking on more out-of-state clients to offset the shortfalls in operating costs; and
5. the methodology used to calculate the cost of living increases does not reflect actual costs.

In the 2007 General Session, the Legislature provided contractors with a 6 percent cost of living increase and adopted the following intent language:

> *It is the intent of the Legislature that the Office of the Legislative Fiscal Analyst conduct a study of contract rates of local and private providers for the Departments of Health and Human Services and submit a written report to be presented with recommendations to the Health and Human Services Appropriations Subcommittee by the 2008 General Session.*

This report addresses the requirements of the above intent language. As a result of the study, the Analyst recommends that the methodology for calculating cost of living adjustments for local and private contract providers remain the same. In addition, the analyst recommends that the provider associations collect data annually on salary and contract costs and submit the information as part of any requests for increased funding.

PURPOSE

The purpose of this study is to determine the following:

1. Are the social services contract reimbursement rates adequate to support the contracted services?
2. Should the methodology for calculating the cost of living adjustments for local and private providers be changed?
3. Are providers experiencing a high employee turnover rate?
4. Are providers accepting more out of state clients and turning away state contract clients?

There are currently over 626 state contracts with local and private providers. The vast majority of state contracts (90 percent) are with the Divisions of Child and Family Services (DCFS) (319), Juvenile Justice Services (DJJS) (136), and Services for People with Disabilities (DSPD) (111). Because most of the contracts are with the Department of Human Services, this study will focus mainly on three divisions of that department: DCFS, DJJS and DSPD.

The assertions made by the provider associations during the 2007 General Session did not pertain to the local providers (Local Mental Health and Substance Abuse Authorities, Local Area Agencies on Aging or the Local Health Departments) and the private contracts with the Utah State Office of Rehabilitation.

The total state dollars allocated for contracts for FY 2006 was $29,044,086 (41 percent of the total General Funds) for DCFS, $21,950,700 (29 percent of the total General Funds) for DJJS and $33,137,600 (71 percent of the total General Funds) for DSPD. The total clients served in FY 2006 by these contractors were 9,527 for DCFS, 4,449 for DSPD and 835 per day for DJJS.

BACKGROUND AND HISTORY

Historically in Utah most social services have been delivered by local government entities or through private contractual agreements rather than directly by the State. Services by private and local providers play an integral role in providing services for the State.

Local Providers

Two divisions within DHS, the Division of Substance Abuse and Mental Health (DSAMH) and the Division of Aging and Adult Services (DAAS) contract with local providers for services.

DSAMH: Both mental health and substance abuse services are delivered either directly by the local authorities (counties) or through contracts with private providers (such as Valley Mental Health in Salt Lake County). Section 17-43 of the Utah Code requires counties to provide a minimum scope and level of service, and a minimum of a 20 percent county matching funds. Local authorities set priorities to meet local needs but must submit an annual plan describing services they will provide.

DAAS: The division enters into contracts with local Area Agencies on Aging (AAAs) for delivery of services for the aging population of Utah. There are twelve AAAs (local government units) under contract with DAAS. Five counties are separate service providers (Salt Lake, Davis, Tooele, San Juan and Uintah). One provider is a cooperative venture between Weber and Morgan Counties.

Other providers are associations of county governments: Mountainland (Utah, Summit, Wasatch), Five County Assoc. (Kane, Iron, Washington, Garfield, Beaver), Six County Association (Juab, Millard, Sevier, Wayne, Piute, Sanpete), Southeast Association (Carbon, Emery, Grand), Uintah Basin (Daggett, Duchesne), Bear River Association (Cache, Box Elder, Rich)

The AAAs may enter into a contract to provide services after establishing a plan to provide services based on standards set by the Board of Aging and Adult Services. Under section 62A-3-105 of the Utah Code, the local AAA are required to match 15 percent of service dollars and a 25 percent of administrative dollars for funds provided by DAAS for contractual services.

Private Providers

Three divisions, the Division of Services for People with Disabilities, the Division of Child and Family Services and the Division of Juvenile Justice Services contract with private providers for services.

DSPD: The division has divided the state into three regions for the delivery of services. The regions contract for services with private providers and oversee and evaluate the quality of services delivered. The types of services provided include: supported living; supervised living; day programs; supported employment; family support; respite care; and transportation services.

DCFS: The division contracts with private providers for Out of Home Care services. This program includes care and maintenance costs such as room and board, personal care, clothing, and allowance. DCFS oversees and evaluates the quality of services delivered.

DJJS: The division contracts with private providers for the Early Intervention Services Program and Correctional Facilities. The Early Intervention Program provides "a mixture of preemptive front end services to youth, their families and the community." The Correctional Facilities offer secure care and detention facilities for youth in custody.

Contract Rates

Contract amounts in the Department of Human Services are based on maximum allowable rates (MARs). MARs have been established for most service codes but not all. The MARs are adjusted annually based on the U.S. Department of Labor Statistics Consumer Price Index. There are four methodologies used to determine the MARs for a new service contract:

1. Existing Market Survey determines the actual cost of existing service providers.
2. Community Price Survey evaluates existing service providers for the prevailing market price for the services.
3. Comparative Analysis is used when similar services exist in another agency such as the Department of Health.
4. Component Cost Analysis determines the various costs associated with the services provided.

Most of the contract payments are generated from the United Social Services Delivery System (USSDS) data base, however a small amount are processed in the State's FINET accounting system. There are currently about 423 established contractual rates in the USSDS.

The actual contractual payments are based on budgetary constraints within the divisions. The actual amount paid for contractual services is generally below the MAR rates. Many of the increases in contract rates are directly linked to Legislative appropriations for the Cost of Living Allowances (COLAs) for service providers. Typically, the COLA increases have been based on the salary component of the total contract amount.

The overhead portion of the contracts, such as liability insurance, energy costs, and rent have not been included in the calculation for Legislative appropriations. The MAR has steadily increased while the actual contractual rates have increased at a minimal rate, increasing the gap between the MAR and contract rates. For example, the MAR rate for psychiatric residential treatment is $16.30 per day while the actual cost paid is $6.77 (Item # 2). See Appendix A for a list of the Department of Human Services provider and MAR rates.

Funding of Providers

Since FY 1991, with the exception of FY 2001, the Legislature has historically funded a cost of living increase for private and local providers based on the salary component of their budget. The funds appropriated to the State agencies for COLAs are used to increase contract rates.

The Budgetary Procedures Act (UCA 63-38-2-(10) states "the Governor shall consider…the same percentage increase for wages and benefits that he includes in his budget for persons employed by the state." The statute applies to the following local providers:

- Local Mental Health Authorities;
- Local Substance Abuse Authorities;

- Local Area Agencies on Aging;
- Local Health Departments.

In addition, UCA Section 63-38-2-(12) states “the Governor shall consider an amount sufficient to grant employees of corporations that provide direct services under contract with those divisions, the same percentage increase for cost-of-living that he includes in his budget for persons employed by the state.” This statute applies to contracts with the following:

- Utah State Office of Rehabilitation,
- Division of Services for People with Disabilities;
- Division of Child and Family Services;
- Division of Juvenile Justice Services.

A report prepared by the Office of the Legislative Fiscal Analyst in July of 2001, entitled, “Review of Calculation Method for Local Provider COLA,” established a policy for the calculation of COLAs for providers. Because the statute states that the Governor shall consider “the same percentage increase for cost-of-living that he includes in his budget for persons employed by the state” it was determined that the calculation for increases for contract providers should be based on personnel costs only. The percentage used for calculating the COLAs was determined by taking the weighted average of personnel services for the following:

Personnel Costs as a Percent of the Total Operating Budgets
Based on the 2001 Study Prepared by the LFA

Entity	Percent
Local Mental Health Authorities	75%
Local Substance Abuse Authorities	75%
Local Area Agencies on Aging	65%
Local Health Departments	71%
Division of Services for People with Disabilities	80%
Division of Child and Family Services	69%
Division of Juvenile Justice Services	65%
State Office of Rehabilitation	N/A*

* Calculations are based on actual personnel service costs

Inflationary Increases in Operating Expenses

The practice of appropriating COLAs based only on the compensation component of the provider’s budget has caused concern. According to the private and local providers, operating expenses such as rent, fuel, utilities, worker’s compensation, health insurance, background checks, and liability insurance have increased while the contract rates have only increased to cover salaries. The contractors feel if contract rates are not increased to cover operating expenses, they will be forced to reduce direct care wages which may result in a negative impact on client care. In addition, DJJS and DCFS contractors have indicated that they are accepting more out-of-state clients and reducing the number of state contract clients they can serve to cover their operating expenses. Finally, some of the providers state they will not be able to renew their contracts.

METHODOLOGY FOR THIS CONTRACT STUDY

Determine the Number of Contracts

The contract study team first sent a survey to the agencies that contract with local and private providers to determine the following:

1. What is the total number of contracts per division?
2. What are the contact names, phone numbers and email addresses for contract providers?
3. What is the process for contracting with private and local providers?
4. How is the private, local or formula contracts assessed (price determined) and allocated?
5. What are that statutory requirements for contracts?
6. What is the monitoring process of contract payments, services etc.?

Survey the Providers

Once State Agencies sent contract information to the Office of the Legislative Fiscal Analyst, a survey was sent to all of the providers. Although there are 626 contracts, many of the providers have multiple contracts which resulted in 361 surveys being sent requesting the following: (Survey is Appendix B)

1. Provide a five year history of actual expenditures for each state contract.
2. Describe the services provides.
3. Provide a five year history of clients served for each state contract.
4. Provide a five year history of the total revenues by source of funding for this state contract (state funds, federal funds, and local funds).
5. Provide a five year history of all clients served by state contract, in-state private contracts or out-of-state contracts.
6. Describe your current capacity to serve clients based on labor force, facilities, etc.
7. Provide a five year history of the number of employees who have left your employment for the following reasons: change in profession, promotion, not enough money, not enough hours, working conditions, fired, retired, other (specify).

Perform Analysis on the Data

Once the responses from the providers came in, the Legislative staff attempted to perform an analysis on the data to determine the following:

1. Are the contract rates adequate to cover the expenditures?
2. Is the methodology for calculating the COLA appropriate?
3. Has there has been a high turnover in staff?
4. Are providers turning away state contract clients to accept more out-of-state clients?

FINDINGS OF THE ANALYSIS

Staff submitted a survey in two different formats to local and private providers in the summer of 2007 requesting information on their operations. The focus of the study was on three divisions, DCFS, DJJS and DSPD. Staff also met with the provider associations for the respective divisions to acquire additional information. The contract associations made an effort to contact providers to encourage them to submit the surveys.

However, out of 566 contracts analyzed (DCFS, DJJS and DSPD contracts); only 22 responses (3 percent) were useable. Contractors indicated concern with confidentiality of their data. The Analyst has received no evidence upon which to change the Legislature's current contract methodology. The Analyst therefore recommends the status quo.

While the limited number of responses keeps the analysts from making generalizations about all contract providers, the analyst has included below a review of the data we did receive.

Are the Contract Reimbursement Rates Adequate?

Once a provider contracts with the State, they accept the contract rate. However, because of increases in fixed costs like liability insurance, utilities and transportation, they have had an issue with salary compression. One DSPD provider shared the following increases in operating expenses:

Change in Operating Expenditures						
	2003	**2004**	**2005**	**2006**	**2007**	**2003-2007**
Liability Insurance	$47,273	$97,130	$94,012	$85,607	$81,732	
Percent Change		105.5%	-3.2%	-8.9%	-4.5%	22.2%
Health Insurance	$240,142	$273,093	$289,626	$270,431	$283,455	
Percent Change		13.7%	6.1%	-6.6%	4.8%	4.5%
Transportation	$27,363	$29,723	$35,655	$41,425	$47,521	
Percent Change		8.6%	20.0%	16.2%	14.7%	14.9%
Utilities	$50,091	$61,526	$66,352	$78,430	$80,705	
Percent Change		22.8%	7.8%	18.2%	2.9%	12.9%

In addition, the Youth Providers Association shared the following on hourly wages during the same time period, indicating that operating expenses are increasing at a greater rate than wages.

Change in Direct Care Wages (Hourly)						
	2003	**2004**	**2005**	**2006**	**2007**	**2003-2007**
Low Range	$6.50	$6.75	$7.00	$7.25	$7.50	
Percent Change		3.8%	3.7%	3.6%	3.4%	3.6%
High Range	$7.50	$7.75	$8.25	$8.75	$9.00	
Percent Change		3.3%	6.5%	6.1%	2.9%	4.7%

The Legislature provided COLA increases as follows during the same time period which indicates anecdotally that COLA increases did not keep up with the above wage increases.

COLA Increases						
	2003	**2004**	***2005**	**2006**	**2007**	**2003-2007**
Percent Increase	0.00%	0.00%	1.00%	2.00%	2.50%	1.4%

* In FY 2005, there was also a one-time COLA of 1 percent

While this anecdotal evidence alone may be compelling, without comprehensive data, the analyst can only assume that because the contractors continue to accept the terms of the contract, the reimbursement rates are adequate to cover the costs of services provided.

Should the Methodology for Calculating the Cost of Living Adjustments be Changes?

The Analyst received no evidence from the 22 respondents that supports changing the Legislature's methodology for cost of comprehensive living adjustments. The Budgetary Procedures Act (UCA 63-38) says the cost of living increases for contractors shall be based on the same percentage increase for wages and benefits as state employees. The methodology for calculating the cost of living adjustments is therefore based on the compensation component of the contractor's total budget. Consistent with this statute, the Analyst recommends the current methodology should continue.

Are Providers Experiencing a High Employee Turnover Rate?

The 22 respondents show that in FY 2006, 726 staff left their employ. The reasons varied from retirement, health reasons, moving out of state. The three largest reasons were that 283 had a change in position, 184 left because of money and 167 were fired. Many of the providers said they do not capture this data because the employees often leave without giving an explanation. Because the sample size was so small, an adequate conclusion on employee turnover cannot be drawn from this information.

Are the Providers Accepting More Out-of-State Clients and Turning Away State Contract Clients?

A request submitted to the Department of Human Services indicates that 8 out of 455 (DCFS and DJJS) contractors have refused to renew their contracts because the rates are too low. Two other contractors are limiting the state clients they will accept because out-of-state or private clients because the reimbursement rate is higher.

RECOMMENDATIONS

The Analyst recommends that the current methodology for calculating cost of living adjustment remain in place. Upon repeated requests by the analysts, contract providers were unwilling to submit data upon which the analyst could make a recommendation for change. The analyst recommends that the Youth Provider Association and the Utah Association of Community Services collect the necessary data for contract providers annually and submit the information as part of any requests for increased contract funding.

APPENDIX A UTAH DEPARTMENT OF HUMAN SERVICES PROVIDER AND MAR RATES

APPENDIX B CONTRACT STUDY SURVEY QUESTIONS