



UTAH STATE OFFICE OF REHABILITATION – FISCAL STATUS AND AUDIT FOLLOW UP

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE
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ISSUE BRIEF

SUMMARY

A recently completed Legislative audit, [A Performance Audit of USOR's Budget and Governance](#) (found at: <http://le.utah.gov/interim/2015/pdf/00004013.pdf>) summarized the Utah State Office of Rehabilitation (USOR) as follows: “[USOR] is housed within the Utah State Office of Education (USOE). USOR offers multiple programs to help disabled Utahns achieve employment, greater independence, and a higher quality of life. Primarily, USOR provides a range of vocational rehabilitation (VR) services to disabled Utahns 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.” The Office of the Legislative Auditor General (OLAG) further explains, “Since the 2008 recession, USOR has had problems managing its budget. . . . During the 2014 General Legislative Session, USOR appeared before the SSAS [Social Services Appropriations Subcommittee] to report a pending budget deficit of \$7.8 million.” The Legislature addressed the \$7.8 million shortfall with an ongoing appropriation. In the 2015 General Session USOR also requested a \$6.3 million supplemental increase. The auditors further explain that “these difficulties eventually led to the request of this audit by the Social Services Appropriations Subcommittee.” The main themes of the audit results include: 1) “USOR mismanaged its budget” by “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, and anticipating a potential penalty from the federal government of \$5 to 6 million; 2) “weak oversight and communication prolonged and worsened financial problems” because “nonfunctioning oversight and poor communication aggravated financial problems,” “USBE failed to provide an appropriate level of governance of USOR,” and “USOE failed to provide oversight of USOR;” 3) “USOR’s mission would be better served elsewhere in state government” by concluding that “USOE is not the best location for USOR” and that “DWS appears to be the most likely candidate for USOR placement” while acknowledging that “stakeholder concerns exist” and also that “other options [also] exist for USOR placement;” and 4) “use of [the] Visually Impaired fund for Vocational Rehabilitation was imprudent” and acknowledging that “guidance on [the] fund use is limited” and that “options exist for possible reimbursement of the funds.” In addition to the request for an audit, the Social Services Appropriations Subcommittee also approved intent language requiring USOR, USOE, and the Utah State Board of Education to provide a report on actual and projected fiscal status of vocational rehabilitation over several years, including identification of one-time funding sources used to pay for ongoing services. These reports can be found at: [USOR, USOE, USBE Intent Report on Visually Impaired Fund](#); [USOR, USOE, USBE Intent Report on Fiscal Status](#); [USOR, USOE, USBE Intent Report on Oversight](#); [USOR Brief](#); and [Possible Budget Scenarios – USOR](#). The OLAG audit and the reports in response to intent language pose at least five main budget policy questions for Legislators.

Questions

1. ***What could the Legislature do to ensure that USOR’s budget and financial management process is adequate to prevent future budget problems?***
 - OLAG has the following major recommendations:
 - The Legislature work with the Office of the Legislative Fiscal Analyst and other stakeholders to establish a statewide grant management system.
 - The Legislature consider assigning responsibility for the monitoring and enforcement of the Federal Funds Procedures Act in Utah Code and also consider a penalty for violation.
2. ***What could the Legislature do to ensure proper oversight and accountability to prevent future budget problems?***

- OLAG has the following major recommendations:
 - USOR, USOE, and USBE develop in policy a systematic, ongoing process of budget creation and monitoring including communication of accurate budget information to key governance, oversight, and management members.
 - As part of this, the Legislature could consider intent language during its 2016 General Session requiring these entities to report back during the interim regarding progress.
 - If USOR remains under the oversight of USBE, that Utah State Code should be amended to reflect the needed priority the USBE should place on USOR.

3. *Where should USOR be placed within state government to best ensure accountability?*

- OLAG has the following major recommendations:
 - Place USOR under the governance of the Department of Workforce Services (DWS).
 - If the Legislature determines DWS is not the best location, OLAG recommends the Legislature consider placing USOR under the Department of Human Services or making USOR an independent executive entity.
 - The Legislature make sure recommendations from this audit be implemented wherever USOR is finally placed within state government.
 - The Legislature create a study group responsible for the transition of USOR in accordance with state and federal requirements.

4. *Given that USOR estimates a continued shortfall in ongoing funding to cover ongoing expenditures, how will those projected shortfalls be met?*

- Does the Legislature agree with USOR using nonlapsing carryover funds from the \$6.3 million supplemental provided in the 2015 General Session to help cover FY 2016 expenditure?
- Will USOR request additional funds in the 2016 General Session and beyond to help pay for its budget and will the Legislature see those requests as a significantly high enough priority to be funded?
 - For example, USOR “now faces a potentially large maintenance of effort 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.”
 - USOR has stated at this time that “it is *not* the intent of USOR to ask the Legislature to fund any upcoming budget shortfalls even if USOR incurs a MOE penalty in FFY 2016. USOR intends to ask for federal reallocation funding (money surrendered by other states) to fill the hole that will be created if USOR is assessed an MOE penalty. If USOR does not receive reallocation (or only partial reallocation) USOR has plans to reduce expenses in the current year to create enough carryover that we could fill the hole. USOR *will* ask the Legislature for IFRs to help USOR build capacity and move people off the waiting list; but even if those funds are not approved, we do *not* anticipate a budget shortfall.”
- If the Legislature is unwilling to meet some or all of these requests for additional funding, how will USOR manage its budget?

5. *Given that the audit has determined that USOR’s use of money from the Visually Impaired Trust Fund to help fulfill their vocational rehabilitation match requirements was legal, does the Legislature believe it was appropriate and if not, what could be done about that?*

- OLAG has the following major recommendations:
 - The Legislature clarify in code which type of fund the Visually Impaired fund should be, as well as how it can be used.

- The Legislature consider whether Visually Impaired fund money should be reimbursed, and if so, how that would be accomplished.

APPENDIX A – QUICK REFERENCE GUIDE TO WHERE USOR SHOULD BE PLACED WITHIN STATE GOVERNMENT

Table 1 provides a quick reference to the possible options as to where USOR should be placed within state government and indicates the response of the major government entities regarding those options. An additional question regarding USOR placement within state government addresses the USOR subparts (the divisions of Blind and Visually Impaired, Deaf and Hard of Hearing, and Disability Determination) and whether they should remain together under USOR.

Where Should USOR Be Placed Within State Government? Quick Reference Guide					
Entity	Remain under State Board	Move to DWS	Move to DHS	Independent Executive Entity	Should Subparts Be Separated*
Legislative Auditor General	No	Yes - "DWS appears to be the most likely candidate for USOR placement"	Office of the Legislative Auditor General points out this is another option	Office of the Legislative Auditor General points out this is another option	No position - "Rehabilitation Services and the Division for the Blind and Visually Impaired are predominantly employment focused . . . all divisions are not required to be under the same departmental governance"
Utah State Board of Education	No - "The State Board of Education recommends that the USOR not stay under the State Board of Education, that the USOR is not best served by a board that is primarily elected to serve another entity, but that the State Board will continue to fully support USOR while a decision is being finalized."	No position	No position	No position	No position
Utah State Office of Education	"USOE takes its policy direction from the State Board of Education."	No position	No position	No position	No position

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Entity	Remain under State Board	Move to DWS	Move to DHS	Independent Executive Entity	Should Subparts Be Separated*
Utah State Office of Rehabilitation (USOR)	Committed to carry out its mission "in any location"	Committed to carry out its mission "in any location"	Committed to carry out its mission "in any location"	Committed to carry out its mission "in any location"	No position - although USOR has stated in the audit that "regardless of the ultimate decision about the location of USOR to be made by the Legislature, USOR believes it is in the best interest of individuals with disabilities in Utah to leave USOR intact."
Department of Workforce Services (DWS)	No position	"DWS sees an overlap of missions . . . [and] will be a willing partner in any request to explore additional oversight duties"	No position	No position	No position
Department of Human Services (DHS)	No position	No position	"reluctant to take USOR" given that "existing administrative infrastructure in DHS is already operating at full capacity"	No position	No position

* Note: Subparts would include:
 1. Division of the Blind and Visually Impaired;
 2. Division of the Deaf and Hard of Hearing;
 3. Disability Determination; and
 4. Independent Living Centers.

Table 1