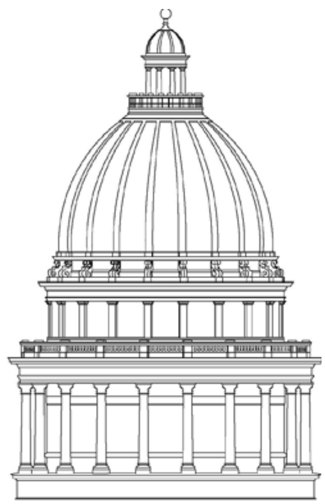
REPORT TO THE

UTAH LEGISLATURE

Number 2016-08



A Review of the Distribution and Use of Local 911 Surcharge Funds

October 2016

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

STATE OF UTAH

Office of the Legislative Auditor General

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AUDITOR GENERAL

October 18, 2016

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Review of the Distribution and Use of Local 911 Surcharge Funds** (Report #2016-08). 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

A Digest of A Review of the Distribution and Use of the Local 911 Surcharge

Chapter I Introduction

Every phone line, wired or mobile, in the State of Utah is required to pay a surcharge of $0.76 per month for 911 emergency services. Of the $0.76 monthly surcharge, $0.61 is used to help fund the operations of local public safety answering points (PSAPs). In fiscal year 2015, over 21 million dollars in local 911 taxes (also called E-911) were collected and distributed to the PSAPs. We were asked to perform a review of local 911 taxes to determine if the use of these funds is in compliance with state statute.

Chapter II Teleco Compliance with Local 911 Funds Can Be Improved

Local 911 funds appear lost within the larger Tax Commission system. While the roughly $21 million collected annually in E-911 funds is critical to the state's local 911 operations, like all taxes, is not regularly reviewed individually. Instead, the Tax Commission mainly relies on its internal system to identify returns to review. In comparison to the total amount of taxes collected by the Tax Commission, local 911 tax revenue is almost insignificant. In addition, the tax system is quite complex, making the detection of errors more challenging. Telephone companies, depending on their size, are required to file local 911 returns on a monthly, quarterly, or annual basis. A return must be filed for each jurisdiction in which the teleco operates. Tax Commission auditors are responsible for identifying errors in local 911 returns, which are subject to penalties and interest.

Local 911 collections process allows inaccuracies. The process designed to collect local 911 taxes from telecos (which are then passed through to cities and counties) allows for inaccuracies. Several questionable returns filed by different telecos were identified from a sample of selected returns. Some telecos skipped months, but appeared to fail to pay tax for the skipped month later. Another teleco filed identical returns for every city in a county for at least two years. In addition, legislative auditors identified at least two very large back-payments or overpayments that may not be accurate. These questionable payments were not identified by the Tax Commission and were not assessed interest or penalties.

System changes may improve revenue flow. While identifying every inaccurate return is not feasible, there are options that may help tax auditors better address errors while minimizing the effect of those errors. The Tax Commission currently retains less of the local 911 revenues than it is authorized to do. The additional portion of local 911 revenues could help fund additional resources to focus exclusively on local 911 taxes. In addition, the Legislature should continue to study the potential benefit of distributing local 911 taxes based on population and/or call volume. This policy change may allow telecos to file one, state-wide return, leaving redistribution to the state. A state-wide return would be less burdensome for telecos to file and should make auditing for accuracy easier.

Chapter III
DPS Lacks Uniform Process For Funding PSAPs

DPS is inconsistent in cost sharing with consolidated PSAPs. The percentage of expenses covered by DPS varies among the five consolidated centers. DPS does not use a cost allocation process to determine its share of expenses. The population that each consolidated PSAP serves varies significantly, as does the level of usage by the state. While these differences may help to explain DPS's varying degrees of financial contribution, there is no formalized process in place to ensure that DPS contributions are fair and equitable. Conversely, county and local participants have developed methodologies to allocate costs among themselves. These methodologies are approved by their governing boards and/or their advisory boards, in which DPS has representation. However, these methods are not used to determine the state's proportion of costs.

DPS inequity in payments and lack of contracts causes concerns. DPS pays one local PSAP more than it pays four other local PSAPs for similar state dispatch services. In addition, DPS's dispatch reimbursement formula has only been recently updated in the last two years to reflect the mid-range compensation scale range of dispatch employees. By not updating this amount, the formula may not reflect an equitable amount that is needed to reimburse local PSAPs for their dispatching services. Lastly, DPS lacks contracts with four of the five local PSAPs that provide dispatch services for state personnel.

Chapter IV
Most Local 911 Funds Are Used As Intended

Generally, local 911 funds have been maintained and appropriately used. Public entity uses of local 911 funds generally follow state statute. Local 911 funds are sent directly to the PSAP or its designated administrative body. Some local 911 funds continue to be sent to the appropriate entity who then redirects the funds to their PSAP. Once the local 911 funds are received, statute requires entities to maintain the funds in a separate account. Local 911 funds appear to be used appropriately as PSAPs are using the funds to help pay for their operations. The exception found in our review was three towns in Rich County who did not understand what these funds were for and failed to send the local 911 funds to Rich County for a number of years.

Use of 911 funds by a dispatch center now in compliance. Statutory changes passed during the 2016 Legislative General Session requires local entities to send their local 911 funds directly to PSAPS. Legislation also changed the definition of a PSAP. Senate Bill 193 clarified the criteria an entity must meet to be considered a PSAP. According to statute, to be eligible to receive local 911 funds, an entity must be a public safety answering point (PSAP). Also according to statute, local 911 restricted funds are to be used for PSAP operations.

REPORT TO THE
UTAH LEGISLATURE

Report No. 2016-08

A Review of the Distribution and Use of the Local 911 Surcharge

October 2016

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Table of Contents

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Chapter I
Introduction

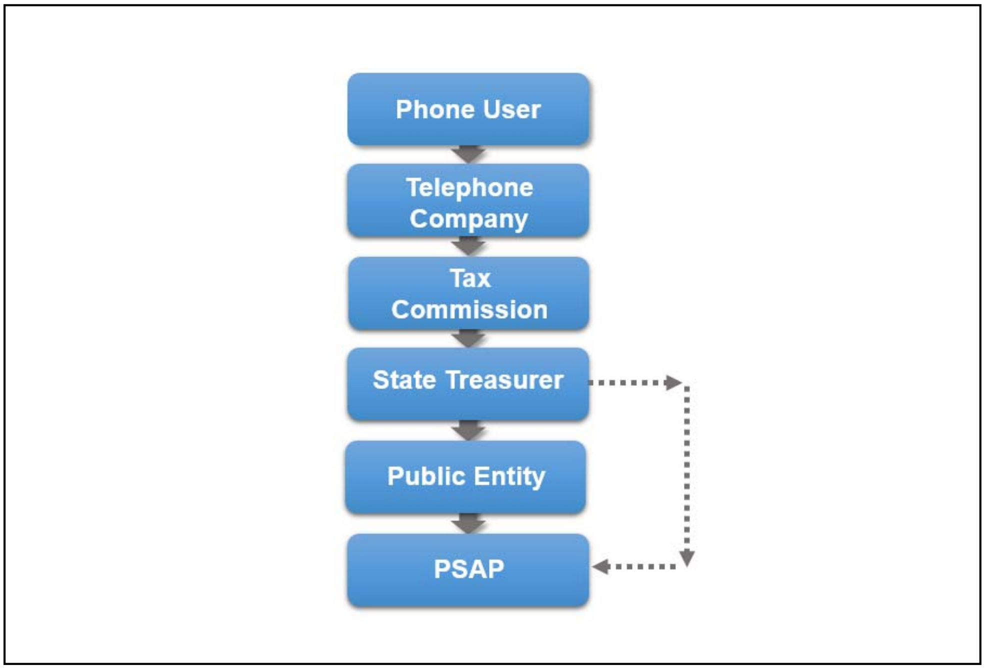
Every phone line, wired or mobile, in the State of Utah is required to pay a surcharge of $0.76 per month for 911 emergency services. Of the $0.76 monthly surcharge, $0.61 is used to help fund the operations of local public safety answering points (PSAPs). In fiscal year 2015, over $21 million in local 911 taxes (also called E-911) were collected and distributed to the PSAPs. We were asked to perform a review of local 911 taxes to determine if the use of these funds is in compliance with state statute.

Local 911 Tax Collection and Distribution Is Complex

Telephone provider companies (telecos) bill and collect local 911 taxes from users monthly. While the local 911 tax is the same throughout Utah, the teleco(s) must report the number of lines and associated amount of tax collected from each jurisdiction (based on the phone users' billing addresses) and submit the money to the Utah State Tax Commission. The Tax Commission distributes the money (via the State Treasurer) to each county or city, based on the jurisdictional information provided by the teleco. Counties, cities, and towns can have their local 911 funds sent directly to the PSAP as long as they give the Tax Commission permission to do so in writing. Figure 1.1 is an overview of how the local 911 funds eventually get to the PSAPs.

Legislated local 911 funds help pay for PSAP operations.

Figure 1.1 Process by Which the Local 911 Taxes Are Sent to PSAPs. In some cases, the Tax Commission directs the state treasurer to release the local 911 funds directly to the PSAPs, as shown by the dotted line.



These funds are distributed to 33 public safety answering points (PSAPs) in Utah. As intended by the Legislature, local 911 taxes must be used to fund the operation of PSAPs. Figure 1.2 shows the funds collected from the telecos by the Tax Commission for fiscal years 2014 through 2016. Once collected, the Tax Commission/State Treasurer either transfers the collected funds directly to counties or cities (local entities) or, as assigned by the entities, to PSAPs to fund operations. These funds can be used for a wide range of PSAP purchases and expenses.

Figure 1.2 Total Local 911 Taxes Collected from Fiscal Years 2014 Through 2016. The local 911 tax is used for PSAP operations. These funds are sent to the local public agencies to help pay for the operations of the PSAP in their areas.

	FY2014	FY2015	FY2016
Local 911 Fee	$21,586,642	$21,641,790	$21,622,024

As was mentioned in our 2016-02 report, this local tax was created in 1986 and started as a $0.50 tax per month on every landline and wireless line with a Utah address. In 2004, the surcharge was increased to $0.61 and has not been adjusted since.

Utah's PSAPs Operate Either as a Consolidation with the State or as a Locally Controlled Center. The Department of Public Safety's (DPS) Communications Bureau (Bureau) oversees the dispatch of the Utah Highway Patrol (UHP) throughout Utah. The Bureau is a participating member of five consolidated PSAPs in the state and independently operates one dispatch center in Salt Lake County. To cover the remainder of the state, DPS pays five additional local PSAPs for dispatching services for UHP officers that aren't covered by the consolidated PSAPs. Because the Bureau is an active member of the five consolidated PSAPs, it plays a major role in this operation. The Bureau provides all administrative, legal, and accounting services for the consolidated PSAPs as well as operational personnel. The Bureau has worked toward consolidating many rural areas of the state to provide emergency communications for Utah residents in remote areas. Two of the five consolidated PSAPs were formed before the 911 surcharge was created in 1986 and the other three were formed two years after the tax was created. Figure 1.3 is an overview of the five consolidated PSAPs, showing the number of counties they serve.

DPS is a member of five different consolidated PSAPs.

Figure 1.3 Five Consolidated PSAPs Cover Different Geographical Areas of the State. In some of the counties, the consolidated PSAPs only dispatch for state entities.

PSAP	Areas Served
Box Elder	All of Box Elder County
Uintah Basin	All of Uintah, Duchesne, and Daggett counties
Cedar	All of Iron County, New Harmony and Enterprise Cities. State agencies only: Washington and Beaver counties
Price	All of Carbon County. State agencies only: Emery, Grand, and San Juan counties
Richfield	All of Sevier, Wayne, Piute and Millard counties. State agencies only: Juab, Sanpete, Garfield, Kane, and Millard counties.

Source: DPS

In counties where some of the consolidated PSAPs provide dispatch services only for state entities, the consolidated PSAP becomes a secondary PSAP, because they do not receive any direct 911 calls. Instead, the calls are initially received by the local (primary) PSAP operating in that area. If the 911 call requires response from UHP or another state agency, the call is transferred to the consolidated PSAP. Some counties choose to operate their own PSAP. For example, in the Richfield PSAP area, three counties are members of the consolidation while the other five have their own primary PSAP. The Richfield consolidated PSAP is essentially a secondary PSAP for those five other counties.

In areas not covered by a consolidated PSAP, DPS has either a set rate that it pays the local PSAPs or, in one case, has contracted for state dispatching services. In these areas, DPS is more of a contractual purchaser of services than an active member participating in cost sharing.

Audit Scope and Objectives

This review examines the distribution, use, and the underlying statutory intent of the local 911 surcharge revenue. Specifically, our audit objectives are to:

1. Review the ability of the Tax Commission to effectively monitor the accuracy of the telephone companies' returns to ensure the state is receiving the correct amounts that telephone companies collect from their customers.

2. Review the consolidated PSAPs that include DPS to ensure they are operating efficiently and effectively.

3. Determine that the local 911 surcharge funds are being received by counties, cities, and towns and are being used according to statute.

Chapter II
Teleco Compliance with Local 911 Funds Can Be Improved

Local 911 taxes (also called E-911) generate less revenue compared to some of the other taxes in the state's large tax collection and processing system. As a result, local 911 taxes only receive attention from the Utah State Tax Commission (Tax Commission) intermittently. This limited oversight allows local 911 errors to be overlooked within the considerably large, cumbersome tax returns submitted by telephone companies (telecos). Several telecos, identified by Legislative Auditors, have filed questionable returns that have not been examined by tax auditors. Some options exist to reduce filing errors or help tax auditors identify inaccurate returns. Improvements in these areas should lead to the recovery of additional local 911 tax dollars.

Local 911 Funds Appear Lost Within the Larger Tax Commission System

While the roughly $21 million collected annually in E-911 funds is critical to the state's local 911 operations, like all taxes, is not regularly reviewed individually. Instead, the Utah State Tax Commission (Tax Commission) mainly relies on its internal system to identify returns to review. In comparison to the total amount of taxes collected by the Tax Commission, local 911 tax revenue is almost insignificant. In addition, the tax system is quite complex, making the detection of errors more challenging. Telephone companies (telecos), depending on their size, are required to file local 911 returns on a monthly, quarterly, or annual basis. A return must be filed for each jurisdiction in which the teleco operates. Tax Commission auditors are responsible for identifying errors in local 911 returns, which are subject to penalties and interest.

A tax return must be filed for every jurisdiction in which a teleco operates.

Complex Revenue System Is Open to Errors

All telecos operating in Utah must file tax returns for every city and county in the state (in which they have customers) and remit local 911 fees collected from their customers who reside in Utah. There are over

300 separate jurisdictions and close to 250 telecos operating in Utah. Most telecos are required to file either monthly or quarterly, however, just under 19 percent of all telecos may file annually, based on their minimal total tax liability.

The requirement to file monthly or quarterly depends on each teleco's total annual tax liability for all sales tax. According to ***Utah Code*** 59-12-108, a seller that has a tax liability of $50,000 or more for the previous calendar year must file a return with the "monthly on or before the last day of the month immediately following the month for which the seller collects a tax…" Telecos with a total tax liability of less than $50,000 may file quarterly.

In addition, Administrative Rule allows some very small telecos to file annually, based on accounting limitations, pending Tax Commission approval. Currently, only 46 telecos (19 percent) qualify to file annually.

Teleco Auditing Is Insufficient To Ensure Local 911 Compliance

Tax audits are based on all types of sales and use returns from all types of companies that pay taxes in the state. Since local 911 taxes only represents a fraction of total tax revenue, it has the potential to be overlooked. This situation becomes clearer looking at the Tax Commission's local 911 audits which, although use local 911 returns, clearly focus on sales and municipal tax collections.

A small percentage of telecos operating in Utah were audited for local 911 tax issues between 2013 and 2015.

Between 2013 and 2015, the Tax Commission looked at a small percentage of telecos' local 911 returns. As a supplement to the work of tax auditors, their compliance division conducted an in-depth review (project) of telephone companies in 2013 and 2014. The review focused on the following two areas, with regard to local 911 filers:

- Municipal telecom and sales tax for which no local 911 tax was reported for the same jurisdiction on the corresponding return
- Irregularities between the taxes or fees reported in consecutive periods

Teleco companies that file amended returns are often not subject to penalties.

The criteria are designed to recover some missing local 911 revenues.

In the last project, there were 89 returns flagged because of irregularities between the local 911 fees reported in consecutive periods. No additional local 911 penalties were assessed because the returns were either filed correctly or the companies filed amended returns to correct the errors.

Tax Commission May Impose Interest and Penalties

Utah Code allows the Tax Commission to assess a penalty and interest, based on total liability, to telecos who pay late or file late or inaccurate returns. Late payments or returns can be automatically detected through the tax system. However, inaccurate returns are harder to identify as long as the payment corresponds with the information on the return. Inaccurate returns will only be penalized if they are identified by tax auditors.

Utah Code 59-1-401 allows the Tax Commission to impose a penalty on late returns. Figure 2.1 shows the minimum and maximum penalties, based on the number of days late.

Figure 2.1 Penalties That Can Be Imposed by the Tax Commission. Entities who submit incorrect or late return information can face penalties.

Days Late	Penalty
1 to 5	**Greater of $20 or 2% of unpaid tax**
6 to 15	**Greater of $20 or 5% of unpaid tax**
16 or more	**Greater of $20 or 10% of unpaid tax**

Source: Utah Code

Returns are due the last day of the month after the filing period. Penalties are automated in the Tax Commission's system and are imposed immediately. However, the inaccuracy has to be detected and confirmed through an audit of the teleco's accounts to be penalized. If the teleco fails to submit a return, the Tax Commission can estimate the tax based on the best information or knowledge the commission can obtain. Recipients of these tax dollars may identify errors, but their findings must be submitted within 90 days.

Inaccuracies must be identified by tax auditors in order to assess penalties.

Local 911 Collections Process Allows Inaccuracies

The process designed to collect local 911 taxes from telecos (which are then passed through to cities and counties) allows for inaccuracies.

Several questionable returns filed by different telecos were identified from a sample of selected returns. Some telecos skipped months, but appeared to fail to pay tax for the skipped month later. Another teleco filed identical returns for every city in a county for at least two years. In addition, legislative auditors identified at least two very large back-payments or overpayments that may not be accurate. These questionable payments were not identified by the Tax Commission and were not assessed interest or penalties.

Unexplained Large Teleco Payments Were Not Detected

A major teleco made several large, unexplained payments in 2015 that were not investigated by the Tax Commission. As shown in Figure 2.2, these payments were associated with returns that reported telephone lines well in excess of the total population of the area for which the returns were filed. Since most telecos use third-party companies to file returns, the teleco may not have realized that an error was made. Attempts to contact this teleco have been unsuccessful.

Figure 2.2 A Large Teleco Over-reported Its Phones Lines for a Small Town. The town has a population of about 850. The number of landlines and cell phones reported to the Tax Commission appears to be in error.

	All Teleco Lines
January	**5,014**
February	89
March	**4,460**
April	88
May	**53,197**
June	**7,611**
July	97
August	107
September	144
October	98
November	98
December	96

Source: Auditor Analysis

The figure above shows the number of landlines filed by one teleco for a rural city with a population of about 850. The number of lines skyrockets in several months before returning to numbers similar to earlier filings. A similar event occurred in a rural Utah county. Figure 2.3 shows the data for the county in question.

Figure 2.3 Lines That Were Reported by a Teleco for a Rural County. The number of reported landlines varied greatly in every consecutive month.

Month	Total Landlines
January	1,767
February	10,701
March	14,317
April	239
May	12,117
June	3,622
July	10,190
August	7,021
September	42,467
October	3,473
November	74
December	6,913
Total	**112,901**

Source: Auditor Analysis

The Tax Commission did not assess penalties in any of the examples above because errors were not identified through tax audits. Similar swings were also identified in an urban Utah county.

Tax auditors believe that the majority of questionable payments are due to mistakes made by third-party companies hired by telecos to file tax returns with state governments. These companies struggle to keep up with evolving tax rules and procedures that vary from state to state. Often, the companies will report the appropriate number of lines for the state, but get the distribution wrong. This type of error may explain the implausibly large payments by the teleco in the example above.

The Tax Commission believes that most inaccuracies are distribution errors made by third-party companies hired by telecos that file tax returns.

Distribution errors can only be corrected if they are identified within 90 days of the return filing. After that 90-day period, there must be an associated audit. If at any point, the teleco files an amended return, redistribution is automatic.

The Tax Commission was able to compel redistribution in 2012 when a large teleco filed all its returns under the county code for a county that has multiple PSAPs operating within it. Because only one of the multiple PSAPs provides dispatch services for the unincorporated areas, that PSAP received all the tax revenue from phone lines that were located in or billed to addresses in other PSAP's boundaries. However, in many cases, redistribution can be extremely burdensome on PSAPs, especially small PSAPs operating in rural areas.

Lack of Audits and Applicable Penalties Limits Enforcement

Several small telecos appeared to skip filing returns and/or making payments periodically. These missed payments did not appear to be included in future payments. Interest and penalties were not assessed. Other telecos' reported number of lines fluctuated greatly. Most of these missing payments and large fluctuations have gone undetected by auditors.

Figure 2.4 Number of Lines Filed in 2015 from Three Different Telecos in One County. Three telecos filed returns that should have been reviewed by tax auditors.

	Teleco A	Payment	Teleco B	Payment	Teleco C	Payment
Month 1	0	$ 0	241	$ 144.80	36	$ 21.63
Month 2	24	28.84	227	136.40	36	21.63
Month 3	0	0	161	96.73	12	7.21
Month 4	24	28.84	186	111.74	0	0
Month 5	24	14.42	185	111.16	36	21.63
Month 6	24	14.42	180	108.15	336	201.89
Month 7	24	14.42	1,009	606.26	132	79.31
Month 8	0	0	168	100.94	72	43.26
Month 9	24	14.42	202	121.37	84	50.47
Month 10	24	14.42	540	324.45	48	28.84
Month 11	24	28.84	232	139.39	48	28.84
Month 12	0	0	686	412.18	0	0

Source: Auditor Analysis

Figure 2.4 shows three small telecos that operate in one Utah county. The payments in red do not equal the corresponding number of lines filed that month. The payments in green do match.

The first teleco filed identical returns for 8 of 12 months. The other 4 months it reported zero lines or failed to submit a return. The teleco appeared to compensate for three of the four months that it did not report lines. However, no interest or penalties were paid. In addition, no audit was conducted on the returns from this teleco during this time period.

The second and third telecos filed lines that fluctuated widely without any apparent reason. It is unlikely that this fluctuation is accurate. The money paid each month corresponded with the number of returns filed, so the account would not have been flagged by collections. However, the extreme fluctuation warrants a review by the Tax Commission.

In another example, not shown in the figure, one teleco filed identical returns every month in every jurisdiction of its service area (five cities and the unincorporated area). The teleco reported nine lines for every jurisdiction for every month for at least two years. It seems unlikely that the teleco had the same number of customers in each city and that there was no variation in the number of customers over two years. This anomaly did not trigger a review by the Tax Commission. Unlike the previous scenario, it is unlikely that this scenario would have resulted in a flagged return if the compliance project had been conducted in 2015, because the project was only looking for major swings from month to month.

One teleco filed identical returns in every jurisdiction within a county for two years.

In all four cases, the amount of the potential lost tax revenue is small in comparison to total tax revenue from local 911 taxes collected (about $22 million). However, it is important to note that similar problems are possible in every Utah county with a significant number of telecos.

In addition, penalties charged on returns filed by any of the three telecos discussed above would equal, at most, the greater of $20 or 10 percent of any unpaid balance (assuming the payments are underpayments and not overpayments). The penalty imposed on a teleco with very few customers in the jurisdiction would amount to a very small financial burden. Thus, the threat of a penalty upon discovery of an error may not be a very effective means to compel compliance from telecos. In addition, in some cases, recovery efforts by the Tax Commission may cost more than the amount of money recovered.

Potential penalties assessed and revenue recovered should be compared to the cost associated with more rigorous auditing.

System Changes May Improve Revenue Flow

While identifying every inaccurate return is not feasible, there are options that may help tax auditors better address errors while minimizing the effect of those errors. The Tax Commission currently retains less of the local 911 revenues than it is authorized to do. The additional portion of local 911 revenues could help fund additional resources to focus exclusively on local 911 taxes. In addition, the Legislature should continue to study the potential benefit of distributing local 911 taxes based on population and/or call volume. This policy change may allow telecos to file one, state-wide return, leaving redistribution to the state. A state-wide return would be less burdensome for telecos to file and should make auditing for accuracy easier.

Collecting the Maximum Administration Fee Could Ensure Compliance and Fund Additional Audits

The Tax Commission could retain additional administration fees to fund more compliance activities.

Utah Code allows the Tax Commission to retain up to 1.5 percent of the total local 911 taxes collected as an administrative fee. Currently, the commission collects only 0.95 percent. Based on last year's statewide total collections, the Tax Commission could likely retain enough money to fund an additional FTE on a trial basis. However, the Tax Commission should monitor the FTE's impact to determine if it is a good use of money.

Statewide Return May Allow Tax Commission to More Effectively Distribute Funds and Audit Returns

A simplified return process may result in greater compliance and additional recovered tax revenue.

A change in statute to allow telecos to file one return for the entire state each month or quarter may increase accuracy and help expose potential errors. In addition, our legislative audit report 2016-03, *A Review of the Administration of 911 Surcharges*, presented options to increase the equity of the distribution of 911 taxes, including an option to distribute 911 funds based on 911 calls received by each PSAP.

If allowing telecos to file one return for the entire state each month or quarter is feasible, it eliminates the need for telecos to file returns by jurisdiction and drastically reduces the number of returns that tax auditors would need to monitor for inconsistencies. We discussed this option with Tax Commission representatives who concurred with our opinion.

Also, changing the distribution of 911 taxes to the counties and cities based on call volume, would redirect 911 funds to areas of the state with higher demand for 911 services. Of course, this would be a major change in 911 funding which could be disruptive and would need further study.

Recommendations

1. We recommend that the Tax Commission use more of their allowed administrative fee to identify irregularities and correct errors.

2. We recommend that the Legislature consider changing statute to allow telecos to file one statewide return for each filing period.

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Chapter III
DPS Lacks Uniform Process For Funding PSAPs

The Department of Public Safety's (DPS) cost allocation process for dispatch services lacks consistency, historic documentation, and a tie to actual usage. The five consolidated PSAPs have many differences that create challenges when determining the appropriate allocation of expenses. DPS pays a different proportion of the actual expenses at each of the consolidated PSAP centers. In addition, DPS pays five other locally operated PSAPs to dispatch UHP officers, but only has a service contract with one of them. That contracted local PSAP is paid more for dispatching state personnel than other local PSAPs.

DPS Is Inconsistent in Cost Sharing With Consolidated PSAPs

The percentage of expenses covered by DPS varies among the five consolidated centers. DPS does not use a cost allocation process to determine its share of expenses. The population that each consolidated PSAP serves varies significantly, as does the level of usage by the state. While these differences may help to explain DPS's varying degrees of financial contribution, there is no formalized process in place to ensure that DPS contributions are fair and equitable. Conversely, county and local participants have developed methodologies to allocate costs among themselves. These methodologies are approved by their governing boards and/or their advisory boards, in which DPS has representation. However, these methods are not used to determine the state's proportion of costs.

DPS's Expense Sharing Is Inconsistent

DPS's share of expenses varies widely among the five consolidated PSAPs. DPS pays a different percentage of the expenses at each consolidated PSAP. The expense amounts are not based on any consistent, documented criteria. As a result, it is difficult to assess whether consolidated PSAP members are paying an equitable share of expenses. Figure 3.1 shows DPS's share of expenses among the five consolidated PSAPs.

DPS's expenses and demographics vary for the five consolidated PSAPs.

Figure 3.1 DPS's Share of Total Operating Expenses at the Five Consolidated PSAPs for Fiscal Year 2015. Consolidated PSAPs actual expenditures and costs distributions vary widely.

PSAP	DPS Base Expenditures	Local Base Expenditures	Total Base Expenditures	State Percentage
Box Elder	$ 208,050	$ 648,128	$ 856,178	24%
Cedar	507,496	579,546	1,087,042	47
Price	570,385	515,654	1,086,039	53
Richfield	563,942	360,164	924,106	61
Uintah Basin	174,307	645,193	819,500	21

Source: Auditor's Analysis

As shown in the figure, there is a considerable difference in level of state participation in the five consolidated PSAPs' actual expenses. For example, DPS is paying 61 percent of the expenses at the Richfield PSAP and only paying 21 percent at the Uintah Basin PSAP.

Some costs of the PSAPs are assigned according to their interlocal agreement.

In all five consolidated PSAPs, DPS and the local entities agree upon an approximate percentage of the budgeted expenses that will be paid by the state each year. In the past, these agreements have not been based on any methodology or process nor have they been documented.

The base expenses shown in the figure do not include phone and network charges, which are usually around $100,000 per year. Nor do the listed expenses include administrative overhead. Phone and network charges are paid by the local entities and administrative overhead is provided by DPS.

Only one of the agreed-upon state expense percentages has been documented in a contract. Additionally, all agreed-upon percentages have fluctuated in the past because of policy changes or other external factors. For example, when the law changed to provide public safety retirement to dispatchers working for DPS, the consolidated PSAPs' expenses increased significantly. DPS covered the increase for fiscal year 2016, but plans to share the cost with the local entities in the future.

We expect a difference in the state's contribution at each PSAP because of their significant differences, however, as discussed later in the chapter, the process used to calculate the state's different contributions remains undocumented.

DPS Administration Is Unaware of How Expenses Were Allocated and Agreed Upon at the Time of PSAP Formation. Most consolidated PSAPs were formed in the late 1980s and early 1990s, with Box Elder being created in 2001. Current members of DPS administration, as well as consolidated PSAP managers, were either not involved in the formation or could not recall specifics. Thus, without past knowledge or documentation, annual budget negotiations are based on previous years' budgets.

It is unclear whether the state's varying percent of contribution to each PSAP was based on criteria because it has not been historically documented. Since the formation of the consolidated PSAPs, DPS has either continued to pay the same proportion of expenses, or DPS and local entities have used the original agreed-upon percentage as a basis for renegotiation. For example, Box Elder Communications negotiated an increase in the budgeted amount paid by DPS from around 25 to 31 percent several years ago.

DPS's expenses are not based on a consistent process.

We recommend that DPS create a methodology or process to allocate expenses equitably to the participants in the consolidated PSAPs and document it in policy. DPS should account for its assumption of the administrative costs in the process. It should also consider including policies that address budget shortfalls or overages.

Historic DPS Expense Allocation Is Not Based on Currently Available Usage Information. County and local expenses within the consolidated PSAPs are typically allocated based on some calculation of usage. Because the state portion is predetermined as a percentage of the total budget, the formulas used by the locals are not applied to the state to determine the state's usage and, thus, the state's equitable share of the costs. DPS acknowledges that it needs to work with locals to develop a suitable allocation process.

The local entities that participate in the consolidated PSAPs use a variety of criteria to determine the equitable share of expenses for each local entity. Some of the commonly used criteria include tax base, population, usage (based on call volume, radio logs, or number of incidents) and officer counts. While population and tax base may not be practical criteria to calculate the state's share, usage and officer counts may provide a more reasonable calculation of the state's equitable share of consolidated PSAP expenses.

Local entities at the five consolidated PSAPs have set methodologies to determine their share of the costs.

DPS's share of expenses is not determined using these PSAP's methodologies. Currently, DPS has interlocal agreements with each of the five PSAP entities that generally specify state participation levels. Four of the five agreements specify that "services will be paid by parties on a cost basis." Cost basis is not defined and can be anything that the parties agree upon. This is one of the reasons DPS is paying different percentages of the actual costs at the consolidated PSAPs. The fifth agreement specifies that DPS will pay 50 percent of the expenses.

Because DPS does not have an allocation process to determine an equitable share of expenses for the consolidated PSAPs, we have analyzed what its share of the expenses could be. Our analysis used the following two measures; (1) percentage of state and federal personnel (referred to below as DPS officers served), and (2) percentage of dispatch calls that go to DPS officers. Figure 3.4 shows the state's share of expenses in fiscal year 2015 and what its share could be, based on these two measures.

Figure 3.4 Comparing DPS's Overall Expenses and Usage Among the Five Consolidated PSAPs. DPS's usage of PSAPs is far less than that of the local users when comparing law enforcement officers.

PSAP	DPS Percent of Expenses	% DPS Officers Served	DPS Percent of Dispatch
Box Elder	24%	19%	26%
Cedar	47	32	25
Price	53	26	34
Richfield	61	30	38
Uintah Basin	21	12	16

Source: Auditor Analysis

DPS's use of the PSAPs is less than the locals.

The information in Figure 3.4 shows that DPS's expenses at some of the consolidated PSAPs are not in line with the percent of DPS officers covered nor with DPS usage. As an example, while the state paid 53 percent of Price PSAP's expenses, state and federal personnel officers represented roughly 26 percent of personnel served by the PSAP and state utilization represents 34 percent of Price's PSAP dispatch services. In a more balanced example, the state paid 24 percent of Box Elder's expenses, had a roughly equivalent level of dispatch services, but served a lower percentage of DPS officers.

Equally disconcerting is the wide range of percent of expenses paid by the state shown in the first column.

It is important to note that the "usage" measure is based on the statistics collected and used at each consolidated PSAP to determine its local contributions. Again, usage may be based on calls, radio logs, or incidents, depending on the PSAP. Thus, the usage variable should not be used to compare different PSAPs to each other. It should only be used to compare state use to local use within one PSAP. Officer counts are based on law enforcement officers serving the PSAP area.

Similar to the county- and city-level participants in the consolidated PSAPs, some local PSAPs utilize a cost allocation methodology. Salt Lake City 911 (which contracts with Sandy City to provide that city's 911 services) uses a cost-sharing methodology based on the number of dispatched incidents. For example, if Sandy City has 30 percent of all incidents for the year then they are charged for 30 percent of the overall expenses to run the SLC 911 PSAP and Salt Lake City pays 70 percent of the expenses.

Another example of this type of cost allocation is the Salt Lake Valley Emergency Communications Center (VECC). VECC is the primary contracted PSAP of most of the cities and towns in the Salt Lake Valley. VECC uses a cost-per-call formula using a three-year average in order to determine how much to charge its members.

We recommend that the state and local participants consider these measures, as well as other appropriate measures, to determine a methodology or allocation process that is equitable to all members of each consolidation. We recognize that there are many options to consider when developing a methodology, as evidenced by the varying ways in which the local entities at each consolidated PSAP calculate their own contributions. Once a cost allocation process has been agreed upon, it should be documented in a contract or an inter-local agreement.

Lack of Consolidation Increases Complexity

While the consolidated PSAPs serve unique populations, some share their areas with several additional primary PSAPs that operate within the same geographic area. The locally operated PSAPs located within the same regions as the consolidated PSAPs are typically run by the county sheriffs' offices who serve their individual county and local entities within their jurisdictions. The consolidated PSAP operates in the same jurisdiction, but only provides dispatch for state and consolidation member local entities. Under this scenario, the consolidated PSAPs become a secondary PSAP.

For example, the geographic area covered by Price consolidated PSAP includes Carbon, Emery, Grand, and San Juan counties. Price provides dispatch services to all state and local entities in Carbon County. However, Price only dispatches for state entities in Emery, Grand, and San Juan counties. The sheriffs' offices in Emery, Grand, and San Juan counties all provide their own primary dispatch services for their county and local entities. Thus, if a person dials 911 in Emery County, his/her call will be answered by a dispatcher in the Emery County Sheriff's Office. If the caller is in need of assistance from Utah Highway Patrol (state) within Emery County, the call will be transferred to the Price PSAP for handling.

In contrast, the geographic area covered by Uintah Basin consolidated PSAP includes Uintah, Duchesne, and Daggett counties. None of the three counties run their own primary PSAP, relying on the consolidated PSAP for all dispatching services. Thus, if a person dials 911 in Daggett County, the call will be received by the Uintah Basin consolidated PSAP. The Uintah Basin consolidated PSAP can dispatch local or state responders in response to the 911 call. Figure 3.2 shows all five consolidated PSAPs and their service areas.

Figure 3.2 DPS PSAPs Provide Service to State Agencies Beyond Their Primary Counties. For counties with their own PSAP, DPS still provides dispatch services for their own personnel.

Consoli-dated PSAP	Counties Served – All Dispatch	Consolidated PSAP -- Population Served	Counties Served – State Agencies Dispatch Only	Locally Operated PSAP -- Population Served
Box Elder	1	50,446	0	0
Cedar	1	46,767	2	147,834
Price	1	21,485	3	35,273
Richfield	3	25,189	5	63,444
Uintah Basin	3	53,541	0	0

Source: Auditor's Analysis

The disparities in population served among the five consolidated PSAPs shown in Figure 3.2 is notable for two reasons. First, any dispatch services provided by a consolidated PSAP outside of its primary region (PSAP county and municipal members) result in additional expenses for the PSAP that could be directly attributed to the state when a cost allocation process is developed. The state does pay a higher percentage to the three PSAPs that serve additional counties (Cedar, Price, Richfield) outside the primary region. Because the original criteria used to determine DPS's percent contribution is undocumented, we cannot say if this specific impact was calculated or considered at the time of PSAP formation.

Two of the five consolidated PSAPs provide dispatch services for their whole service area.

Second, consolidated PSAPs do not receive local 911 funds in any non-primary counties where they provide dispatch services for state entities. Local 911 taxes are locally implemented, and consolidated PSAPs only receive these funds from the primary counties for which it provides dispatch services. Local PSAPs operating within the consolidated PSAP region keep their local 911 funds. Continuing with the Price example, local 911 taxes for Emery County are used exclusively in Emery County and do not pay for any state entity dispatch services, other than transferring an initial 911 call to the consolidation when necessary. We cannot say if this issue was considered at the time of PSAP formation.

Two consolidated PSAPs, Box Elder and Uintah Basin, do not have any locally-run PSAPs in their jurisdictions. Therefore, all local 911 funds from the participating counties go to these consolidated PSAPs. Box Elder PSAP operates only in Box Elder County, but Uintah Basin PSAP operates in three counties. Therefore, it receives local 911 funds from Uintah, Duchesne, and Daggett counties. Richfield PSAP also receives local 911 funds from three member counties, but five other counties in its service area operate their own local primary PSAP.

While this audit does not address the efficiency of current levels of consolidation or the costs and benefits of additional consolidation, it is important to note that overlap in service areas exists and may increase the overall cost of providing dispatch services in the state. If some or all of the local entities were part of the consolidation whose geographic boundary it operates within, it would provide the consolidation with additional local 911 funds and distribute the cost of the operations among more participants, thereby potentially reducing each member's costs. However, there may also be unexamined costs associated with greater consolidation.

DPS Inequity in Payments and Lack of Contracts Causes Concerns

DPS pays one local PSAP more than it pays four other local PSAPs for similar state dispatch services. In addition, DPS's dispatch reimbursement formula has only been recently updated in the last two years to reflect the mid-range compensation scale range of dispatch employees. By not updating this amount, the formula may not reflect an equitable amount that is needed to reimburse local PSAPs for their dispatching services. Lastly, DPS lacks contracts with four of the five local PSAPs that provide dispatch services for UHP officers .

In 2006, DPS, with assistance from the Governor's Office of Planning and Budget (GOPB), developed a reimbursement formula that calculates what it considers the appropriate amount to pay local PSAPs that dispatch for UHP officers. The reimbursement formula used by DPS to determine its expenses of dispatching service by local PSAPs is complicated.

Inequity in Expense Reimbursement Is Concerning

DPS pays the local PSAP in Weber County significantly more than it pays four other local PSAPs for similar state dispatch services. Over a five-year period, DPS's contract with the Weber PSAP resulted in payments over $500,000 more than DPS's statewide reimbursement formula.

In 2006, DPS, in conjunction with the GOPB, developed a statewide reimbursement formula to help determine the amount DPS should expect to pay for dispatching services, with the goal of maintaining a payment parity among the local PSAPs who dispatch for DPS. The formula was created to try to accomplish four goals:

- Fairness to the counties
- Fairness to the state
- Cost effectiveness
- Service performance

The formula is as follows:

Amount for services = (#UHP officers * 0.0833) * Midrange total compensation of DPS dispatcher.

The 0.0833 represents a staff-per-officer ratio or one staff person (dispatcher) for every 12 UHP officers dispatched by the PSAP. Currently, $65,465 is the total compensation midpoint of the current pay range for a certified dispatcher at DPS in 2016. DPS has only updated this amount twice in the last two years since the inception of the formula in 2006. This amount needs to be adjusted on a yearly basis since salary and benefits costs continue to increase as well as the UHP officer count.

DPS pays one local PSAP more than the four other local PSAPs for similar dispatch services.

DPS was only able to pay the Weber PSAP the extra expense because earmarked extra funding was legislatively added to DPS's budget. In a 2008 Legislative Executive Appropriations meeting, a budget line item of $100,000 for the Weber Consolidated Dispatch was added. This additional funding continued and is now part of DPS's base budget. According to DPS, without these additional funds they would not be able to pay the Weber PSAP the extra amount. We have been unable to justify the amount paid to Weber County PSAP beyond the state formula.

In 2012, DPS signed a five-year contract with Weber PSAP and to pay an annual fee of $237,037. Using DPS's 2016 formula, the calculated annual expenditure should be $125,424 to maintain equity with the other locally operated PSAPs. It should be noted that previously, DPS's contract with the Weber PSAP was for five years, at $200,000 a year. The contract also stipulates a 5 percent increase per year contingent upon additional appropriation from the Legislature. There has been no additional appropriation as DPS has paid only the original contracted amount for each year. The Weber PSAP is the only PSAP being paid extra for its dispatch services. Figure 3.5 shows the amount DPS paid to the five PSAPs in fiscal year 2016.

Figure 3.5 Amounts DPS Paid to Local PSAPs for Dispatch Services in Fiscal Year 2016. The amount paid to the Weber PSAP for dispatch services creates an inequity among the local PSAPs.

PSAP	Officer Count	FY2016
Davis	25	$ 136,330
Logan	16	87,251
Summit	16	87,251
Tooele	16	87,251
Weber	23	237,037
Total		**$ 635,120**

Source: DPS

According to DPS, in 2006, it began negotiations with the local PSAPs to provide dispatching services for UHP officers using the reimbursement formula. The other four local PSAPs have agreed to the calculated amount determined by DPS using the formula. According to DPS, without a formula, it would be difficult to predict what the cost of dispatch services may be from one year to the next. Also, the difference between state and local budget years makes it a more difficult process[1] to assign costs.

DPS Reimbursement Formula Is Used Only When Needed

DPS use of its dispatch reimbursement formula helps DPS determine the maximum amount it will spend for dispatching services provided by local PSAPs. From 2006 to 2014 some local PSAPs charged DPS the reimbursement formula. DPS paid the lessor amount in these cases. From 2006 to 2014, DPS reported that the formula was only used when a local PSAP wanted to charge more for its services.

For 2015 and 2016 the formula has been more consistently applied and has had some cost adjustments. All local PSAPs have received at least the full amount.

[1] Counties operate on a financial calendar year while state agencies and cities and towns operate on a fiscal year (July 1 – June 30).

DPS also has stated the reimbursement cost is only for the dispatching of UHP officers, not for other state personnel such as UDOT, State park employees and DNR employees. Some of the local PSAPs are under the impression that the money they are receiving from DPS is supposed to help cover the additional costs of dispatching for these other state agencies as well.

Trying to use a standard expense formula for entities in different regions and different costs is a monumental task. One of the reasons DPS uses the formula is to establish better control over its expenses while paying a fair share of costs when paying for dispatch services to local PSAPs.

DPS's reimbursement formula is the maximum amount DPS is willing to pay for dispatch services to local PSAPs.

The problem is that no two PSAPs are exactly the same. Some rural PSAPs may have small populations with high incident rates while others may have small populations and low incident rates and fewer officers.

Instead of basing the formula on the number of incident calls, the formula tries to assess a cost for the number of officers that respond to an incident. The number of UHP officers at each of the dispatch centers is fairly fixed, which should allow for better budgeting. The formula accounts for number of officers and administrative staff, as well as current expenses, which uses the mid-range compensation of DPS dispatchers.

In 2015, the Amount DPS Used in Its Formula for the Midrange Compensation Seems Reasonable. Figure 3.6 shows a total compensation comparison of the five local PSAPs and DPS's compensation midrange point of its dispatch staff. The amount DPS set for fiscal year 2015 of $45,700 plus $9,100 for additional expenses seems to be a reasonable amount. When compared to the PSAPs in the figure, DPS's amount is above the average of the five PSAPs.

Figure 3.6 DPS's Midrange Salary of $54,800 Is Above the Overall Average of the Non-DPS PSAP's Average Compensation. The amount used in the DPS formula for 2015 is in line with compensation of the other five local PSAPs.

PSAPs	Total Number of Employees*	Average Total Compensation
Davis	17	$42,734
Logan	19	53,564
Summit	13	56,911
Tooele	12	67,390
Weber	57	48,507
Totals	**118**	**51,336**

Source: PSAPs
** Represents employees who dispatch more than 50 percent of their time*

The Staff Per Officer Ratio Seems Reasonable. The staff per officer ratio is set at one dispatcher for every 12 officers. According to DPS, the average state-run dispatch center is approximately 17 officers per dispatcher. Since the formula calculates the money based on the staff, the lower the ratio of officers to staff, the more money the local PSAPs will receive. DPS also needs to remember to update its UHP officer counts each year since they too are a part of the reimbursement formula.

We did not identify any cost calculations done by the PSAPs to identify their PSAP's operating costs without the state as a participant. State participation needs to cover any additional (variable) costs related to state involvement, to prevent higher costs for local participants. However, state participation in existing fixed costs should be negotiated as it does decrease costs for the local participants.

DPS Is Not Adhering to State Purchasing Laws

DPS's lack of contracts does not follow state procurement law.

DPS currently lacks contracts with four of the five locally operated PSAPs. The exception is DPS's five-year contract (expiring in June 2017) with the local PSAP in Weber County. The lack of contracts with the four other local PSAPs is a concern; all state agencies are statutorily required to use the state procurement process when there is an expenditure of public funds for services.

According to ***Utah Code*** 63G-6a-103, a contract is defined as an agreement for the procurement or disposal of a procurement item. In this situation, the procurement item is the dispatch service that DPS receives from the four local PSAPs. Since DPS is procuring a service, they must have a contract with each of the four local PSAPs. We recommend that DPS follow state procurement law and use the procurement process to ensure they have valid contracts in place.

Recommendations

1. We recommend the Department of Public Safety work with consolidated PSAP members to create a cost allocation process for equitable PSAP cost sharing to be included in its inter-local agreements.

2. We recommend the Department of Public Safety document the consolidated PSAP cost allocation process in its policies.

3. We recommend that the Department of Public Safety consult with locally contracted PSAPs to determine fair and equitable expense sharing for the dispatching of state personnel.

4. We recommend that the Department of Public Safety create and maintain contracts with local PSAPs that provide them with dispatching services.

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Chapter IV
Most Local 911 Funds Are Used As Intended

Local 911 funds being sent to counties and towns appear to be used to help pay for PSAP operations as intended. The exceptions we identified were past instances in one county. From our limited review, there is no current evidence that PSAPs use of local 911 funds is contrary to statute. One concern exists in which local 911 fund use conflicts with statutory changes, while the local 911 funds are used for an emergency dispatch center which is not a statutorily defined PSAP.

Generally, Local 911 Funds Have Been Maintained and Appropriately Used

Public entity uses of local 911 funds generally follow state statute. Local 911 funds are sent directly to the PSAP or a designated administrator (typically the county auditor). Some local 911 funds are sent to the taxing entity who then must redirect the funds to its PSAP. Once the local 911 funds are received, statute requires entities to maintain the funds in a separate account. Local 911 funds appear to be used appropriately as PSAPs are using the funds to help pay for their operations. The exception found in our review involved three towns in Rich County that did not understand what these funds were for and failed to send them to the county for a number of years.

Most 911 Funds Go Directly to the Entity That Administers the PSAP's 911 Account

Most taxing entities authorize the Tax Commission to redirect their funds to the PSAP or to the administrator that oversees the finances for the PSAP. This widely used arrangement appears to be the most appropriate and is permitted by statute. According to ***Utah Code*** 69-2-5, cities and counties can instruct the Tax Commission to transfer their local 911 funds to the appropriate entity. A small percentage of local entities choose to receive the local 911 funds from the Tax Commission and, with that decision, take the responsibility to then forward the funds to the appropriate entity. Figure 4.1 identifies

Most cities and towns have the Tax Commission send their 911 funds directly to the PSAP.

the local entities that are currently receiving local 911 funds and then forwarding the funds to either the entity that oversees the PSAP or the PSAP itself.

Figure 4.1 Local Entities That Received Local 911 Funds from the State Treasurer in Fiscal Year 2015. Twelve local entities received the local 911 funds and then remitted them either to the county that oversees the PSAP or directly to the PSAP.

City or Town	PSAP
Garden City	Rich County
Bluffdale City	VECC*
Cottonwood Heights	VECC
Herriman	VECC
Riverton	VECC
Taylorsville	VECC
Hildale City	Arizona
Laketown	Rich County
Lindon	Orem
Randolph	Rich County
Salt Lake County	VECC
Woodruff	Rich County

Source: State Treasurer and UCA 911 Division
** Salt Lake Valley Emergency Communications Center*

It appears to be beneficial for the funds to go directly to the PSAP account rather than adding the step of first sending funds to a city or town. If direct transfer is not used, there can be a delay in the delivery of the local 911 funds to the PSAPs. We found that in some cases, fund transfer delays lasted two or more months. In one case, we found that the funds were accumulated by the local entity and then transferred once a year. In order to expedite the use of local 911 funds, we recommend that all cities and towns authorize the Tax Commission to redirect its funds directly to the PSAP.

911 Funds Must Be Maintained in Separate Accounts

Two counties do not maintain their local 911 funds in separate accounts, as required by statute. First, Salt Lake County receives its local 911 funds and forwards half of its funds to VECC, which is a primary PSAP. However, the rest of the funds are kept by the county for its dispatch services. These retained funds are not kept in a separate account. Second, Box Elder County, which is part of a consolidated PSAP administered by DPS, also does not maintain its local 911 funds in a separate account. Even if the amount of money that the county contributes to the consolidated PSAP far exceeds the local 911 funds each year, it is still statutorily required to maintain a separate fund account. We recommend entities that receive local 911 funds comply with statute and keep these funds in separate accounts.

Statute requires that local 911 funds be held in a separate account.

Many PSAPs Maintain Balances in Their 911 Accounts to Pay for Upgrades

Most PSAPs carry forward a portion of their local 911 funds for one-time expenditures. Because local 911 fund revenues do not fully fund any of the 33 primary PSAPs, the PSAPs fund operations through several user-agency revenue sources. Charging user agencies additional fees for dispatch services allows the PSAPs to set aside some local 911 funds for necessary equipment upgrades. Figure 4.2 shows the local 911 funds received from a sample of PSAPs. The funds that local entities contribute to the operations of their PSAP exceed the amount they receive in local 911 funds each year.

Most local 911 funds are used for capital purchases as well as phone and network charges.

Figure 4.2 Ten PSAPs Were Contacted to Ensure Local 911 Funds Were Being Used for PSAP Operations. Revenue from the local 911 funds helped supplement local funds to operate PSAPs.

PSAPs	911 Funds*	2015 PSAP Operating Expenses**	911 Funds as a Percent of Total Expenses
Beaver	$ 44,234	$ 445,954	10 %
Bountiful	575,808	929,749	62
Davis County	1,008,342	1,721,023	59
Emery	115,267	460,041	25
Millard	99,474	297,229	33
Pleasant Grove	206,818	623,574	33
SLC	3,032,191	6,394,923	47
Summit	429,028	1,046,894	41
Tooele	382,378	1,653,071	23
VECC	5,932,743	10,365,546	57

Source: Auditor Analysis
**Amounts reported by Utah State Tax Commission*
***Amounts reported by PSAPs*

Figure 4.2 identifies 10 PSAPs that were contacted to verify that they received their local 911 funds and determine the amount the entities' local 911 funds contributed to 2015 PSAP operating expenses. In all cases, the local 911 funds did not cover the operating expenses of the PSAPs. It is interesting to note that in areas with higher populations, the 911 local funds cover a higher percentage of the PSAP expenses. All 10 PSAPs appeared to be compliant with statute.

Several Small Towns in Rural Utah Did Not Send 911 Funds to Their PSAPs

Three towns in Rich county were not sending their 911 funds to the county.

Three towns in Rich County did not forward their funds to their county auditor (the entity that oversees the PSAP funds) from 2003 to 2013. It is the responsibility of the entity that receives these funds to ensure the funds are used for primary emergency dispatch services. Since 2003, the Tax Commission has been required to send local 911 funds to the cities and counties from which the taxes were collected. Figure 4.3 shows that almost $54,000 was not sent to the county and, as a result, not used for dispatch services. There has been no attempt to recover the funds.

Figure 4.3 Three Towns in Rich County Did Use Local 911 Funds for Emergency Purposes from 2003 to 2013. The towns kept local 911 funds instead of sending them to Rich County to help pay for the operation of the PSAP.

Towns	Local 911 Funds
Laketown	$ 12,453
Woodruff	13,432
Randolph	27,946
Total	**53,831**

Source: Auditor's Analysis

When contacted, the town clerks stated that they did not know the purpose of the funds and so used them as general funds. In 2013, a new town clerk in Rich County alerted the town clerks that the funds should be sent to Rich County to help pay for PSAP operations. When discussing the issue of the local 911 funds, the town clerks indicated they would rather have the funds sent directly to Rich County instead of the funds being first sent to them.

Use of 911 Funds by a Dispatch Center Now In Compliance

Statutory changes passed during the 2016 Legislative General Session requires local entities to send their local 911 funds directly to PSAPs. Legislation also changed the definition of a PSAP. Senate Bill 193 clarified the criteria an entity must meet to be considered a PSAP. According to statute, to be eligible to receive local 911 funds, an entity must be a public safety answering point (PSAP). Also according to statute, local 911 restricted funds are to be used for PSAP operations.

Salt Lake County has not been compliant with new statute requiring counties, cities, and towns to remit their local 911 funds directly to their PSAP. ***Utah Code*** 69-2-5(3)(j) states:

Salt Lake County keeps half of the local 911 funds for its secondary PSAP.

> The State Tax Commission shall transmit money collected under this Subsection (3) monthly by electronic funds transfer to the county, city, or town that imposes the charge. A county, city, or town that receives money under Subsection (3)(j)(i):
>
> (A) shall remit the money directly to a public safety answering point; and
>
> (B) may not disburse the money to a local dispatch center that is not a public safety answering point.

Salt Lake County had an interlocal agreement with VECC to send them half of the counties' local 911 funds. Salt Lake County has a close working relationship with VECC but chooses to operate its own dispatch center which it considers a PSAP, even though the dispatch center does not receive direct local 911 emergency calls as defined in statute. Salt Lake County has used its share of the local 911 funds to help fund its dispatch center. As a result of conversations with Salt Lake County and with VECC, all 911 funds received by Salt County for its dispatch center are now being sent to VECC which is a PSAP.

It is important to distinguish between primary and secondary PSAPs.

The above situation existed because of a lack of clarity in the definition of a PSAP. Statutory language changes from the 2016 Legislative General Session clarified the definition of a PSAP. Salt Lake County's dispatch center does not appear to fit this definition.

Figure 4.3 contrasts the new definition with the prior definition of a PSAP.

Figure 4.3 The Definition of a PSAP Was Changed During the 2016 Legislative General Session. The new definition emphasizes that, in order to be a PSAP, an entity must receive direct local 911 emergency communications.

New Definition of a PSAP
Public safety answering point or "PSAP" means an entity that: • Receives direct 911 emergency and non-emergency communications requesting a public safety service • Has a facility with the equipment and staff necessary to receive the communication • Assesses, classifies, and prioritizes the communication • Transfers the communication to the proper responding agency
Previous Definition of a PSAP
Public safety answering point means a facility that: • Is equipped and staffed under the authority of a political subdivision • Receives 911 communications, other calls for emergency services, and asynchronous event notifications for a defined geographic area

PSAPs receive the initial 911 call from the public.

The important distinction between the definitions is that the PSAP receives direct 911 emergency communications, which means that 911 calls are directly routed to a PSAP. Salt Lake County's dispatch center does not receive direct 911 public communications. All 911 calls received by its dispatch center are transferred from other PSAPs. It is important to make this distinction because there are another 10 dispatch-only centers in Utah that, if categorized as PSAPs, likely would qualify to receive local 911 taxes currently going to PSAPs.

In the public safety environment, sometimes PSAPs are distinguished as primary or secondary (dispatch-only) PSAPs. The difference is that primary PSAPs receive all initial 911 and emergency calls from the public, while secondary PSAPs (dispatch centers) receive transferred emergency calls from PSAPs.

Secondary PSAPs 911 calls are transferred to them from a Primary PSAP.

To help clarify the distinction between a primary PSAP and a secondary PSAP, it would be beneficial to statutorily define secondary

PSAPs. The Federal Communications Commission definition of a secondary PSAP is ". . . a PSAP to which 9-1-1 calls are transferred from a primary PSAP." The 911 Division of the Utah Communications Agency defines a secondary PSAP as a PSAP that receives 911 calls that are initially answered at a primary PSAP and then transferred to the secondary PSAP. It is very important that this distinction is clear because local 911 taxes are intended to go to primary PSAPS. Without a clear distinction between a primary PSAP and a secondary PSAP, entities such as the Salt Lake County dispatch center and other dispatch centers could seek access to local 911 funds.

Recommendations

1. We recommend that counties, cities, and towns with local 911 funds keep these funds in a separate account as directed by statute.

2. We recommend that counties, cities, and towns request the Tax Commission to redirect their local 911 funds to the PSAP in their area or the entity who oversees the PSAP.

3. We recommend that the Legislature consider providing a definition of a secondary PSAP in statute.

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Agency Response

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State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Utah State Tax Commission

JOHN L. VALENTINE
Commission Chair

MICHAEL J. CRAGUN
Commissioner

ROBERT P. PERO
Commissioner

REBECCA L. ROCKWELL
Commissioner

BARRY C. CONOVER
Executive Director

September 29, 2016

John M. Schaff, CIA
Auditor General
315 House Building
PO Box 145315
Salt Lake City, UT 84114

Dear Mr. Schaff:

The Utah State Tax Commission has reviewed Chapter II, Teleco Compliance with Local 911 Funds Can Be Improved, in your draft audit report. We appreciate the opportunity to comment on your recommendations contained in the draft report.

Recommendations

1. **We recommend that the Tax Commission use more of their allowed administrative fee to identify irregularities and correct errors.**

   We will reevaluate our processes to better identify reporting irregularities and ways to correct errors.

2. **We recommend that the Legislature consider changing statute to allow Teleco to file one statewide return for each filing period.**

   We support any effort to simplify tax reporting and tax distribution.

Again, we appreciate the opportunity to respond to the draft report and appreciate your efforts in improving state government.

Sincerely,

Barry C. Conover
Executive Director

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If you need an accommodation under the Americans with Disabilities Act, email taxada@utah.gov, or call 801-297-3811 or TDD 801-297-2020. Please allow three working days for a response.

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Department of Public Safety
KEITH D. SQUIRES
Commissioner

State of Utah
GARY R. HERBERT
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SPENCER J. COX
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October 04, 2016

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Office of the Legislative Auditor General
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350 North State Street
Salt LAke City, Utah 84115

SUBJECT: **Legislative Audit Report No. 2016-08**

Dear Auditor General Schaff,

Thank you for the opportunity to respond to the Performance Audit of the Utah Department of Public Safety (DPS) Communication Centers (Report No. 2016-08). Your team was very diligent in their review of the DPS operated Public Service Answering Points (PSAPs) and we appreciate the opportunity for our employees to share their knowledge and observations as part of that process.

We are committed to the concept of continual improvement, and working with your team provided a unique opportunity to look inward at our processes and receive valuable external feedback and recommendations regarding our operations. Attached you will find the DPS response, specific to the four recommendations provided at the conclusion of the audit.

Again, thank you for the hard work and effort of your team. They were pleasant and responsive throughout the process, and very professional to work with. Please do not hesitate to contact me directly with any questions or comments regarding our response.

Sincerely,

Keith D. Squires
Commissioner

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DPS Lacks Uniform Process for Funding PSAPs

Auditor Recommendation:

1. We recommend the Department of Public Safety work with consolidated PSAP members to create a cost allocation process for equitable PSAP cost sharing to be included in their inter-local agreements.

The Department of Public Safety (DPS) agrees with the audit recommendation to identify and define a uniform model for cost allocations among the consolidated PSAPs. As the agency tasked with oversight, administration and operation of the six consolidated PSAPs, it would be beneficial to DPS to have a single formula that would provide a consistent and uniform cost allocation for all participants.

However, as stated in the audit report, trying to use a standard expense formula for entities in different regions and different costs is a monumental task. With so many variables and differences among each stakeholder, it is extremely difficult to formulate a standard cost allocation that would satisfy the various and unique needs of each member in all the consolidated PSAPs. Even should a formula be developed, it would be equally difficult to have each stakeholder, or a majority of stakeholders representing the consolidation governing or advisory boards, agree with a standard formula. These boards are made up of county, city and state stakeholders, each having different service needs, different geographical uniqueness, and different levels of usage.

Because of these differences in each consolidated area, DPS has partnered with each consolidation governing or advisory board to find a shared cost solution that a majority can agree upon. A standard formula would nullify the efforts each governing or advisory board has worked to develop. Depending on the variables involved in a standard formula, applying a standard formula may give rise to significant cost allocation fluctuations from year to year among each stakeholder. Such fluctuations would be difficult for each stakeholder to abide by given their need for budget approvals sometimes a year in advance.

DPS is committed to work with each governing and advisory board apprising them of the audit recommendations to apply a consistent, uniform and defined method of allocating costs for each of the consolidated centers. DPS will work to find a cost allocation process that all can agree upon. Under our current form of decision making for each PSAP, it will ultimately be the decision of each governing or advisory board.

Consolidation is critical to the success of emergency services in these regional areas. The individual, cooperative agreements have been in place for many years and were established to provide effective, interoperable and consolidated emergency dispatch services in rural portions of the state that otherwise would not be possible. Recognizing this need, and encouraging local participation, it is likely DPS assumed responsibility for a larger share than the analysis by the auditor would indicate is the state's share. Given the budgets of local governments, it would be difficult to adjust upward significantly the amounts local public safety agencies pay for a consolidated PSAP, and may encourage some to seek service outside of the consolidations. This has the potential to unravel the consolidations currently in place. Both the state and local agencies have benefited from critical and full-functioning 911 emergency communications services at reduced costs due to consolidation.

The statewide responsibility of UHP/DPS officers requires emergency radio and 911 communications services in every area of the state. These services must include coordination and communication with local law enforcement and emergency service agencies. This is a service that comes at a considerable cost which, through consolidation, is shared with other local law enforcement and emergency services stakeholders in the region. DPS's portion to run an individual dispatch center for each of the six regions represented would cost significantly more than the shared costs it currently pays.

Consolidating resources also assists DPS and other consolidated stakeholders to keep up with the skills and demands of a complex and changing radio and 911 environment. Before 1989, all six centers were strictly state dispatch centers, primarily dispatching for UHP officers. When the 911 system was established, five of the state centers became primary PSAPs, taking on the additional responsibilities for processing 911 emergency calls in their region. The abilities and skills necessary to fill this mission expanded with this additional responsibility. With shared local participation, DPS has successfully and effectively managed this increased responsibility to provide all participants of police, fire and emergency medical services with qualified, certified public safety dispatchers.

DPS Administration Is Unaware of How Expenses Were Allocated and Agreed Upon at the Time of PSAP Formation

Auditor Recommendation:

2. We recommend the Department of Public Safety document the consolidated PSAP cost allocation process in their policies.

As stated previously, DPS will work with the local stakeholders to identify a better cost sharing model and process. Once a model has been identified and approved by the individual consolidation boards, which determine the cost allocation process for each of the five PSAP consolidation agreements, they will be implemented into existing policy and/or cooperative agreements. This will facilitate an understanding of what methods have been established and provide a good record for future reference.

DPS Inequity in Payments and Lack of Contracts Causes Concerns

Auditor Recommendation:

3. We recommend that the Department of Public Safety consult with locally contracted PSAPs to determine fair and equitable expense sharing for dispatching of state personnel.

DPS recognizes the discrepancy between the Weber 911 contract, and service agreements with other contracted PSAPs. The cost associated to the Weber 911 contract is based on agreements from previous administrations, and legislative appropriations specific for that center. Cost of the remaining service agreements are based on the formula established through the Governor's Office of Planning and Budget in 2006, and updated by DPS in 2015 and 2016.

As stated in the audit, DPS does not have current contracts with four of the local PSAPs providing service to UHP officers, which are instead based on annual service agreements.

DPS will work with the locally contracted PSAPs currently providing dispatch services to UHP, to establish formal contracts. DPS will solicit input for better ways to look at current cost sharing, to include number of calls, population, number of incidents, number of officers, 911 fees collected, etc. In addition DPS will evaluate whether other alternatives such as dispatching from one of the other five DPS consolidated centers is a viable option.

DPS is not Currently Adhering to State Purchasing Laws

Auditor Recommendation:

4. We recommend that the Department of Public Safety create and maintain contracts with local PSAPs that provide them with dispatching services.

DPS is currently drafting formal contracts for the four remaining PSAPs, which have been operating with letters of understanding for several years now (Logan, Davis, Tooele and Summit). In order to be compliant with state law, DPS will change the letters of understanding to contract agreements. This will ensure DPS is in compliance with Utah Code 63G-6a-103.