
HB3291 Relating to Audits of State Agencies

Report of Implementation for Recommendations within the *Strategies to Better Address Federal Level of Effort Requirements Audit*

December 18, 2012

Including implementation information for:
Department of Administrative Services
Department of Education
Department of Human Services and
Oregon Health Authority

HB3291 Relating to Audits of State Agencies
Report of Implementation for Recommendations within the
Strategies to Better Address Federal Level of Effort Requirements Audit

This report is being submitted to meet the requirements as contained in HB3291 SECTION 1 which states “Each state agency that is audited by the Secretary of State under ORS 297.070 shall disclose the results of the audit and submit a written report about changes the agency has made, or is making, to implement the audit recommendations to:

- (1) The Legislative Assembly, within six months after the date the secretary issues the audit report; and
- (2) To the subcommittee of the Joint Committee on Ways and Means considering the agency’s budget request, at all hearings related to the agency’s budget for a period of three years after the date the secretary issues the audit report.”

The following report is being submitted to the Legislative Assembly to meet SECTION 1 (1) requirements.

The information in this report includes implementation work performed or planned based on audit recommendations included in the “Strategies to Better Address Federal Level of Effort Requirements” conducted by the Oregon Secretary of State Audits Division and issued in March 2012. The report included recommendations specifically to the Department of Administrative Services (DAS), as well as recommendations that were issued to the Oregon Department of Education and the Department of Human Services/Oregon Health Authority.

DAS coordinated reporting for the “Strategies to Better Address Federal Level of Effort Requirements” due to the nature of the original report. All information contained in the report was received from the agency that received the original finding. Each summary of implementation is listed by agency and includes the original recommendation, status update, and a point of contact.

Summary of Implementation

Department of Administrative Services

Original Recommendations:

To increase awareness and coordination of Level of Effort requirements during budgeting, we recommend management in the Department of Administrative Services:

- require programs to distinctly identify all funding sources related to Level of Effort programs; and
- convene key agency staff to identify potential partnerships across agencies to manage General Fund shortages and surpluses in relation to Level of Effort requirements.

To maximize state resources, allocate General Funds strategically, and ensure continued compliance with Level of Effort requirements, we recommend management from Oregon agencies subject to federal Level of Effort requirements:

- encourage program staff to work with their federal agency contact to understand possible financial sources available to meet Level of Effort requirements, including funds outside of those directly budgeted for that program;

- work with the Legislative Fiscal Office to make information available to Oregon Legislative members explaining Level of Effort requirements and consequences for lack of compliance;
- conduct regular communications among program, financial, and budget staff within each agency to discuss Level of Effort compliance and cross-program expenditure possibilities; and
- strengthen certification procedures across programs to allow more cross-program expenditures while ensuring compliance with federal mandates.

Status: *In-process/Pending*

The Department of Administrative Services (DAS) generally agrees with the first set of recommendations. These efforts have historically been done on an “as-needed” basis. DAS recognizes the desire to make these requirements more formal in the future. Agency programs are currently required to identify and maintain documentation regarding funding sources for programs with Level of Effort requirements. DAS will strengthen language in future Budget Instructions to require agencies to produce documentation on request. From increased documentation, DAS can better determine the frequency in which agencies and programs need to be convened.

Staff from affected agencies convenes when the potential exists that Levels of Effort may not be adequately maintained. These meetings of key staff discuss existing partnerships and brainstorm ways in which agencies can better manage General Fund in relation to Level of Effort requirements. The Budget Instruction updates are planned to occur in Spring 2014 during the next budget cycle.

While the second set of recommendations is not specific DAS, the Department does play a key role in encouraging cross-agency efforts of coordination and communication in an effort to identify problems at the earliest stage. The state budget process provides a conduit for communication during the preparation cycle, and as was effectively demonstrated in the 2009-11 biennium, during the interim when working in tandem with the Legislative Fiscal Office and the Joint Legislative Emergency Board.

Contact Person: George Naughton, DAS Chief Financial Officer,
George.M.Naughton@state.or.us or 503-378-5460

Oregon Department of Education

Original Recommendation:

To maximize state resources, allocate General Funds strategically, and ensure continued compliance with Level of Effort requirements, we recommend management from Oregon agencies subject to federal Level of Effort requirements:

- encourage program staff to work with their federal agency contact to understand possible financial sources available to meet Level of Effort requirements, including funds outside of those directly budgeted for that program;

- work with the Legislative Fiscal Office to make information available to Oregon Legislative members explaining Level of Effort requirements and consequences for lack of compliance;
- conduct regular communications among program, financial, and budget staff within each agency to discuss Level of Effort compliance and cross-program expenditure possibilities; and
- strengthen certification procedures across programs to allow more cross-program expenditures while ensuring compliance with federal mandates.

Status: *In-process*

1. *Encourage program staff to work with their federal agency contact to understand possible financial sources available to meet level-of-effort requirements, including funds outside of those directly budgeted for that program.*

The Oregon Department of Education (ODE) agrees with this recommendation and will continue to encourage - and require - ODE staff to work with federal agency contacts. ODE program staff currently work with a number of federal personnel, including assigned contacts, audit facilitators, monitoring team leads, and audit team leads on this issue. ODE has sought and will continue to seek clarification whenever a question arises or circumstances have changed with regard to federal level-of-effort requirements, including what financial sources may or may not be included in meeting level-of-effort requirements.

2. *Work with the Legislative Fiscal Office to make information available to Oregon legislative members explaining level-of-effort requirements and consequences for lack of compliance.*

ODE agrees with this recommendation and has worked closely with the Legislative Fiscal Office (LFO) - as well as DAS - during budget development and reduction cycles to raise awareness of the level-of-effort requirements, most recently those related to federal special education funds awarded under the Individuals with Disabilities Education Act (IDEA), identifying the specific education programs that are included in IDEA level-of-effort calculations and the consequences for not meeting level-of-effort requirements. This was most notable during the 2011 legislative session when the State requested a level-of-effort waiver from U.S. Department of Education and was denied. Subsequently, the legislature was able to provide the necessary funding to allow ODE to meet the level-of-effort requirements. Constant communication with the Legislative Fiscal Office related to IDEA level-of-effort requirements was instrumental in obtaining the additional state funding.

Communication now occurs with every request for budget reduction scenarios not only for IDEA level of effort but for other federal programs also, such as the Carl Perkins grant. ODE also responds to all legislative requests for information on level of effort. Depending on the request, responses may be oral (such as presenting to legislative committees) or in writing.

3. *Conduct regular communications among program, financial, and budget staff within each agency to discuss level-of-effort compliance and cross-program expenditure possibilities.*

ODE agrees with this recommendation. Given our work with the current state of IDEA level-of-effort requirements (which are specific to amounts made available – not expenditures – for special education and related services), we are not aware of any possibilities for additional cross-program expenditures to count toward level of effort. Should there be new federal guidelines issued related to IDEA level of effort, or new state-funded programs created that could be counted toward IDEA level of effort, ODE will explore the possibility of adding more programs to the level-of-effort calculations.

ODE currently engages in regular cross-office/function communication on this issue. As level-of-effort situations change (e.g., during budget development or budget reduction scenarios), communication is frequent. During the past two years, ODE has developed good communication networks specific to IDEA level of effort and plans on developing more specific protocols for the regular mechanics of all level-of-effort calculations in the next six months, a period which corresponds to the 2013-15 budget development cycle.

Additional steps underway: For all programs subject to MOE, ODE will be using a spreadsheet similar to the one used for calculating MOE for IDEA. Once the Governor's budget is finalized, all calculations will be updated. ODE has added to its procedures for legislative budget presentations a step for presenting on MOE calculations.

- 4. Strengthen certification procedures across programs to allow more cross-program expenditures while ensuring compliance with federal mandates.*

ODE agrees with this recommendation. For IDEA, ODE currently requires written assurance via e-mail or letter from other state agencies regarding possible budget items that could count toward IDEA level of effort. We ask them to affirm whether they do or do not have budgeted amounts for special education and related services for students with disabilities. If an agency indicates that funds can be counted toward IDEA level of effort, the written communication must also include the annual amount budgeted for that purpose. The written communication is kept in the same file as the annual IDEA level-of-effort calculations for audit purposes. If any budget reductions occur, agencies are contacted again to determine if the amount budgeted for IDEA level of effort has changed. The federal Office of Special Education Programs reviewed this procedure during a verification visit in September 2010 and determined it to be sufficient.

As the audit report notes, because of its role in assisting agencies through the budget process, DAS may be able to assist in this endeavor. Therefore, rather than provide an agency-specific response to what appears to be a statewide issue, ODE believes DAS should take the lead and coordinate with all agencies to devise a system for cross-program certification.

Contact Person: Sue MacGlashan, Assistant Superintendent, Office of Finance and Administration, Susan.Macglashan@state.or.us or 503-947-5658

Department of Human Services and Oregon Health Authority

Original Recommendation:

To maximize state resources, allocate General Funds strategically, and ensure continued compliance with Level of Effort requirements, we recommend management from Oregon agencies subject to federal Level of Effort requirements:

- encourage program staff to work with their federal agency contact to understand possible financial sources available to meet Level of Effort requirements, including funds outside of those directly budgeted for that program;
- work with the Legislative Fiscal Office to make information available to Oregon Legislative members explaining Level of Effort requirements and consequences for lack of compliance;
- conduct regular communications among program, financial, and budget staff within each agency to discuss Level of Effort compliance and cross-program expenditure possibilities; and
- strengthen certification procedures across programs to allow more cross-program expenditures while ensuring compliance with federal mandates.

Status: In-process

DHS and OHA recognize that Level of Effort (LOE) provisions vary widely both in their structure and their impact. Programs must consider the potential benefits of extensive analysis against the costs. Management of LOE and Maintenance of Effort (MOE) is an ongoing focus within the agencies as part of successfully managing our federal grants. DHS and OHA have recently made changes in our internal grant application processes which enhance the communication between program and fiscal staff prior to the grant applications being submitted.

OHA and DHS have continued to actively work with the Legislative Fiscal Office (LFO), and the Department of Administrative Services, Budget and Management division (BAM) to communicate, maintain and ensure compliance with these grant requirements. This includes recent detailed history and estimates for the Governor's Budget Process to allow BAM to account for MOE issues as much as possible in the 2013-15 budget process. The agencies have also communicated to LFO and BAM any LOE/MOE requirements that are directly tied to all reduction options that might be considered to meet statewide revenue shortfalls.

In addition, we have continued to work with other internal programs, agencies or private entities to maximize our MOE. Recent examples include:

- *Monthly meetings between budget staff and the Oregon Supplemental Income Program (OSIP) program to track MOE and ongoing program changes made in order to ensure MOE is met.*
- *Work with the Oregon Food Bank and federal partners to begin counting an additional \$20 million in MOE per year. (Note: These discussions began before this audit started.)*
- *Due to the importance of TANF Contingency funding and the uncertainties of federal funding, the budget, program and accounting staff have been in routine communication internally and with the federal agencies as necessary to ensure DHS remains in compliance at a time when the federal agencies are in uncharted territory (the Contingency Fund having been depleted prior to the end of the year for the first time).*
- *DHS Office of Vocational Rehabilitation Services (OVRs) and OHA Addictions and Mental Health division (AMH) are developing a memorandum of understanding (MOU)*

to expand the Early Assessment and Support Alliance (EASA) outreach and treatment program for a statewide partnership providing vocational services to at-risk youth on a state wide basis.

- *Oregon Health Authority continues to strengthen its partnerships with private foundations and has recently been awarded new grants from the Northwest Health Foundation and the Keizer Foundation.*
- *Recently, for the first time ever, the Center for Medicare and Medicaid Services (CMS) has approved a new waiver for Designated State Health Program (DSHP) under the State's 1115 waiver process. With the DSHP waiver, over the next five years OHA will now be able to claim Medicaid match for existing General Fund and Other Fund expenditures with OHA, DHS, Oregon Youth Authority (OYA), as well as partnering with Oregon Health Sciences University, the Oregon University System, and the Oregon Community Colleges and Workforce Development. The DSHP Waiver will leverage as much as \$1.9 billion in additional federal funds for Oregon. Ultimately with DSHP, the state has now maximized revenue in these areas, and it may limit the amount of future grant matching that can be expected.*
- *As OHA prepares for implementation of the Affordable Care Act, OHA continues to work closely with LFO, DAS-CFO, and the DHS Forecasting Unit to properly account for any known LOE/MOE related to the expansion of Medicaid coverage in Oregon.*

Contact Person: Eric Moore, DHS Chief Financial Officer, Eric.L.Moore@state.or.us or 503-884-4701; William Coulombe, OHA Budget Director, William.J.Coulombe@state.or.us or 503-947-5196; or Dave Lyda, DHS/OHA Chief Audit Officer, Dave.M.Lyda@state.or.us or 503-945-6700