

PERFORMANCE AUDIT

**GOVERNOR'S COUNCIL ON
DEVELOPMENTAL DISABILITIES**

Report to the Arizona Legislature
By the Auditor General
February 1988
88-2

DOUGLAS R. NORTON, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

LINDA J. BLESSING, CPA
DEPUTY AUDITOR GENERAL

February 3, 1988

Members of the Arizona Legislature
The Honorable Evan Mecham, Governor
Mr. Randall L. Gray, Chairperson
Governor's Council on Developmental Disabilities

Transmitted herewith is a report of the Auditor General, a Performance Audit of the Governor's Council on Developmental Disabilities. This report is in response to a March 3, 1987, resolution of the Joint Legislative Oversight Committee.

The report addresses the Council's performance in planning and advocating services for Arizona's developmentally disabled citizens. The Council has successfully identified the needs of developmentally disabled Arizonans and developed a series of State plans to address these needs, but has had difficulty implementing some aspects of its plans. The Council also needs to improve its process for procuring contractors to implement projects so that the process is consistent with the State procurement code.

My staff and I will be pleased to discuss or clarify items in the report.

Respectfully submitted,


Douglas R. Norton
Auditor General

cc: Mr. Jon C. Hinz, Executive Director
Members of the Governor's Council
on Developmental Disabilities

Staff: William Thomson
Mark Fleming
Cindy Whitaker
Michael Friedman

SUMMARY

The Office of the Auditor General has conducted a performance audit of the Governor's Council on Developmental Disabilities (GCDD) in response to a March 3, 1987, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes §§41-2351 through 41-2379.

The purpose of the GCDD is to plan and advocate on behalf of the State's developmentally disabled citizens to assist them in reaching their maximum potential. The Council does this by monitoring current services, identifying unmet needs and gaps in services, and developing plans to address these needs. In addition, the Council funds various projects based on identified needs.

GCDD Needs To Be More Effective In Implementing Its State Plan (see pages 11 through 15)

The Council has successfully identified the needs of Arizona's developmentally disabled and developed a series of State Plans to address these needs. Furthermore, the Council has successfully carried out some important projects. For example, one recent project increased the number of developmentally disabled adults finding jobs from four to 92. In addition, Council legislative advocacy efforts have resulted in important contributions to the State's developmentally disabled population.

Despite its successes, the Council has had difficulty implementing some aspects of its State Plans. The GCDD has identified transportation as an important issue for the developmentally disabled since at least 1981, yet has sponsored only one minor transportation related project in recent years. In addition, the Council has been unable to hold an important workshop suggested by a Council task force nearly two years ago. The Council has also poorly managed two significant projects addressing other needs. One project funded a model program, the results of which were to support a future funding request for treating the developmentally disabled/mentally ill. The Council spent approximately \$250,000 over a two year period for this project. However, the Council received the project's results 19 months behind schedule and has indicated the quality of the final report is inadequate evidence of

the program's results. A second poorly managed project involved the six district advisory councils. Although GCDD spends approximately half of its project dollars to fund district councils each year, it has failed to regularly monitor district councils' contract compliance.

To improve implementation of its State Plan, the GCDD should review its progress in achieving stated goals and determine necessary actions to improve performance or revise goals. Additionally, the Council should routinely monitor contractor activity and take steps to resolve identified problems in a timely manner.

The GCDD Needs To Improve
Project Procurement (see pages 17 through 20)

The Council needs to improve project procurement in two ways. First, the GCDD should begin the contracting process earlier to ensure that funds are used in a timely manner. During fiscal year 1987, slow Council action to identify and fund projects resulted in over \$92,200 of project funds remaining unused for most of the year. Furthermore, the Council reverted approximately \$37,400 of this amount during a last minute attempt to obligate some of the remaining funds.

Secondly, the Council should strengthen its procurement procedures to improve competition and ensure compliance with the State's Procurement Code. In the past, the Council's method of soliciting and funding projects may have limited competition. Current GCDD procurement guidelines are vague and limit the Council's ability to effectively solicit innovative projects. According to Department of Administration Purchasing and Department of Economic Security contracting officials, the Council has two alternatives that would meet its project identification and procurement needs and comply with Code provisions. The GCDD should ensure that all future actions are consistent with the Procurement Code.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Governor's Council on Developmental Disabilities (GCDD) in response to a March 3, 1987, resolution of the Joint Legislative Oversight Committee. This performance audit was conducted as part of the Sunset Review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

Role Of The Council

The Council is comprised of up to 23 members appointed by the Governor. By law, the members must represent persons with developmental disabilities, parents and guardians of persons with developmental disabilities, and representatives from State agencies delivering services to the developmentally disabled. The Council was established in 1978 under executive order as the Arizona Developmental Disabilities Planning and Advocacy Council, and statutorily established in 1983 as the Governor's Council on Developmental Disabilities. Federal law requires that Arizona create such a Council in order to receive Federal funding under the Developmental Disabilities Act of 1984.

The purpose of the Council is to coordinate, plan and monitor services for developmentally disabled individuals. In addition, the Council advocates for these individuals to assist them in reaching their maximum potential. The Council does this by identifying unmet needs and gaps in service that face the developmentally disabled population. To address these needs, the GCDD is required by statute to develop and submit for approval an annual State Plan to the Federal Department of Health and Human Services.

Extent Of Developmental Disability In Arizona

According to the Council's three year 1987-89 State Plan, it was estimated there were more than 60,000 people in 1987 with developmental disabilities in Arizona.

Generally, persons unable to function in certain life areas identified in statute are considered developmentally disabled. Specifically, the Council's statute defines developmental disability as a severe, chronic disability of a person that:

- is attributable to mental or physical impairment such as mental retardation, cerebral palsy, epilepsy or autism.
- is manifested before age 18.
- is likely to continue indefinitely.
- results in substantial functional limitations in three or more of the following life areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.
- reflects the need for a combination and sequence of special services which are of lifelong or extended duration.

Not all developmentally disabled individuals receive services or treatment through private and public agencies. According to a Department of Economic Security (DES) official, resources are directed generally towards infants and individuals with the most severe functional limitations. For example, DES was funding services for approximately 5,200 developmentally disabled persons as of June 30, 1987.

Organization

The Council is organized into four standing committees. The Executive committee oversees the budget and allocates project funds. The Planning Committee coordinates Council efforts with other State agencies and evaluates the feasibility of proposed projects. The Human Rights and Systems Committee addresses statewide issues to improve service delivery and ensure the protection of the legal and human rights of developmentally disabled persons. Activities of the Legislative Committee include proposing, reviewing and monitoring legislative issues affecting developmentally disabled people.

Currently, there are 22 Council members. In addition, five full-time staff support Council activities. Staff include an executive director, planner, program and project specialist, administrative secretary, and clerk typist. In addition, the GCDD periodically employs a part-time intern.

Federal law requires the Council be placed under the auspices of an administering agency to assist the Council and its staff with administrative functions.

The Council's administering agency is the Department of Economic Security. In this capacity, DES provides the Council with administrative services such as accounting, contracting, and personnel services. For these services, DES may receive up to 5 percent of the Council's total yearly allotment or \$50,000, whichever is less.

Budget

The GCDD is entirely Federally funded under the Developmental Disability Act of 1984. Although the Council receives no State funding, other State agencies co-fund some Council projects. Federal statute specifies certain GCDD expenditure allocations. At least 65 percent of Council funds are to be allocated to develop and fund projects, while no more than 35 percent can go toward administrative and planning activities. The Council operates on a Federal fiscal year (October 1 through September 30). Table 1 (see page 4) shows Council expenditure detail for fiscal years 1985-86 through 1987-88.

Audit Scope And Purpose

Our audit of the GCDD focused on the Council's effectiveness in developing and implementing the State Plan and the adequacy of the contracting process. The audit concentrated on the Council's success in attaining several important State Plan goals. In addition, our audit included a review of the Council's contracting process used to meet its State Plan goals. The audit report presents findings and recommendations in two areas.

- The adequacy of the GCDD's execution of the State Plan.
- The adequacy of the GCDD's contracting process.

We also present information addressing the 12 factors that the Legislature should consider in determining whether the Governor's Council on Developmental Disabilities should be continued or terminated.

TABLE 1
**GOVERNOR'S COUNCIL
ON DEVELOPMENTAL DISABILITIES
EXPENDITURE DETAIL
FEDERAL FISCAL YEARS 1985-86 THROUGH 1987-88
(Unaudited)**

	<u>Actual FY 1985-86</u>	<u>Actual FY 1986-87</u>	<u>Budgeted FY 1987-88</u>
Personal Services	\$128,826	\$132,555	\$148,464
Employee Related	27,223	28,356	31,518
Professional and Outside Services	116	1,041	5,000
Travel	20,007	22,742	22,500
Equipment	1,436	555	2,000
DES - Administration	2,064 ^(a)	28,507	32,389
Other Operating	31,468	33,926	36,200
Projects ^(b)	337,383	339,095	369,702
TOTAL	<u>\$548,523</u>	<u>\$586,777^(c)</u>	<u>\$647,773</u>

(a) DES reduced the amount of its administrative charge for fiscal year 1986 because of Council overexpenditures in some budget categories.

(b) Although projects expenditures does not equal at least 65 percent of yearly expenditures, some staff costs are allocated to projects. These include staff costs for contract and project development.

(c) The total authorized amount of Federal funds was \$624,189, however, \$37,412 of project funds was reverted to the Federal government.

Source: Prepared by Auditor General staff based on fiscal years 1985-86 through 1987-88 expenditure information provided by DES.

This audit was performed in accordance with generally accepted governmental auditing standards.

The Auditor General and staff express appreciation to the Chairman, council members, Executive Director and staff of the Governor's Council on Developmental Disabilities for their cooperation and assistance during the audit.

SUNSET FACTORS

In accordance with Arizona Revised Statutes (A.R.S.) §41-2354, the Legislature should consider the following 12 factors in determining whether the Governor's Council on Developmental Disabilities (GCDD) should be continued or terminated.

1. The objective and purpose in establishing the Governor's Council on Developmental Disabilities

GCDD is Arizona's advocacy and planning body for persons with developmental disabilities. GCDD's statute states that the purpose of the Council is "to ensure that persons with developmental disabilities receive the care necessary for them to reach their maximum potential." The Council meets this responsibility in the following ways.

- Identifying unmet needs for the provision of services for the developmentally disabled through public input.
- Developing a State Plan that establishes and prioritizes goals for addressing those issues or problems.
- Funding projects to meet those goals.

In addition, A.R.S. §41-2454 directs the Council to serve as a statewide forum for issues concerning the developmentally disabled, advise private and public officials on current programs and policies, review service plans of agencies, monitor services to the developmentally disabled population, and facilitate a statewide community information network among the six district advisory councils.

2. The effectiveness with which the GCDD has met its objective and purpose and the efficiency with which it has operated

The Council has been generally effective in meeting some of its primary responsibilities. GCDD has developed State Plans as required by law. In addition, some GCDD members and staff and other parties indicated that the Council's legislative advocacy work has produced some significant results in addressing the needs of developmentally disabled children and adults.

Furthermore, some Council projects appear to have been successful. For instance, projects assisting developmentally disabled adults in finding employment and supporting siblings of developmentally disabled children have demonstrated achievements.

However, the Council can increase its effectiveness in two ways. First, it needs to strengthen the implementation of the State Plan by reviewing progress toward accomplishing goals and more carefully managing individual projects (see Finding I, Page 11). Second, the Council needs to improve its procurement process to ensure that it is able to contract for projects in a timely manner (see Finding II, page 17).

3. **The extent to which the GCDD has operated within the public interest**

The Council has operated within the public interest by:

- incorporating public input in developing a State Plan.
- funding projects to address unmet needs of developmentally disabled individuals.
- showing significant involvement in legislative advocacy.

4. **The extent to which rules and regulations promulgated by the GCDD are consistent with the legislative mandate**

According to the Attorney General's Office, the GCDD does not have the authority to promulgate rules and regulations.

5. **The extent to which the GCDD has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public**

Since the GCDD does not have the authority to promulgate rules and regulations, this factor does not apply.

6. The extent to which the GCDD has been able to investigate and resolve complaints that are within its jurisdiction

The GCDD's enabling legislation does not establish a formal complaint review process.

7. The extent to which the Attorney General or any other applicable agency of State government has the authority to prosecute actions under its enabling legislation

The GCDD's enabling legislation does not establish such authority.

8. The extent to which the GCDD has addressed deficiencies in its enabling statutes which prevent it from fulfilling its statutory mandate

The Council's Federal mandate defines developmental disability more broadly than its State statute. The Council was originally established by an Executive Order which specified developmental disabilities to include autism, cerebral palsy, epilepsy and mental retardation. However, when the Council helped draft its enabling statute, SB 1139, its efforts resulted in a revised, broader definition of developmental disabilities. According to the Council, this allowed it to advocate for individuals more in line with the Federal definition.

In 1986, the Council requested introduction of SB 1086 which increased Council membership from 17 to no more than 23 in order to comply with changes in Federal law requiring additional agency representation.

9. The extent to which changes are necessary in the laws of the GCDD to adequately comply with the factors listed in the sunset law

Based on our audit work, no statutory changes are recommended.

10. The extent to which the termination of the GCDD would significantly harm the public health, safety or welfare

Termination of the GCDD would not significantly harm the health, safety or welfare of the State's developmentally disabled population. However, if the GCDD were terminated, Arizona's developmentally disabled citizens would lose a valuable resource. Although the GCDD does not provide continuous direct-care services for the developmentally disabled, it does serve as a statewide advocate and funds projects to identify and meet the needs of the developmentally disabled community. In addition, Arizona must have a Council to receive its allotted share of Federal funds which will, according to Council estimates, amount to approximately \$650,000 for fiscal year 1988.

11. The extent to which the level of regulation exercised by the GCDD is appropriate and whether less or more stringent levels of regulation would be appropriate

The GCDD is not a regulatory agency, therefore, this factor does not apply.

12. The extent to which the GCDD has used private contractors in the performance of its duties and how the effective use of private contractors could be accomplished

The Council routinely hires private contractors. The Council has funded annually, since at least fiscal year 1984, the six nonprofit district advisory councils. In addition, the Center for Law in the Public Interest for the same period received funding to provide increased public information and legal advocacy services to the developmentally disabled. Periodically, the Council also funds other private contractors for a variety of services. However, the Council has experienced some contract management problems. To improve the effective use of contractors, the Council should more closely monitor contractor performance and assert authority when necessary, (see Finding 1, page 11).

FINDING I

THE GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITIES NEEDS TO BE MORE EFFECTIVE IN IMPLEMENTING ITS STATE PLAN

The Governor's Council on Developmental Disabilities (GCDD) could improve its ability to implement its State Plan for meeting the needs of Arizona's developmentally disabled citizens. The Council has successfully developed a State Plan that meets Federal requirements and carried out some successful projects. However, the State Plan's implementation has been weak in some areas.

GCDD Has Accomplished Some Important Goals

GCDD has met several of its responsibilities. The Council has developed plans that assist in meeting the needs of the developmentally disabled. Some projects appear successful in accomplishing established goals.

State Plan - GCDD has developed a series of State Plans that identify issues facing Arizona's developmentally disabled citizens. The Council has prepared several three year State Plans since 1981. The three year State Plan can be updated to allow for flexibility to meet changing needs or issues. Each Plan has been approved by the U.S. Department of Health and Human Services.

Presently, the Council is implementing its 1987-89 State Plan. The present State Plan addresses a wide array of issues for improving services to developmentally disabled people. These issues include transportation, housing, employment, deinstitutionalization and parental rights.

State Plan issues are addressed through the identification, prioritization and funding of projects for the developmentally disabled. The Council identifies State Plan issues by holding public hearings, working with agencies serving the developmentally disabled, and soliciting input from advocacy groups concerned with the needs of the developmentally disabled. The Council has spent approximately \$1.3 million dollars since fiscal year 1983-84 on projects for the developmentally disabled in Arizona.

Successful projects - The Council has carried out some important projects designed to improve services for the developmentally disabled. For example, the GCDD helped the Department of Economic Security fund a project to train and find employment for severely disabled adults who were considered unemployable. This project increased the number of developmentally disabled adults finding jobs from four to 92, and the approach used in this project has been used in similar projects throughout Arizona. The Council also funded a program to provide support for the sisters and brothers of developmentally disabled children. The initial program results were positive, prompting the Council to fund the expansion of the program in 1988.

In addition to funding projects, the Council has supported legislation affecting the developmentally disabled. Several individuals interviewed during the audit cited the Council's legislative advocacy as making important contributions to the developmentally disabled population. The Legislative Consortium, chaired by a GCDD representative, successfully supported legislation on preschool funding for developmentally disabled children and parking for the handicapped. The consortium also issued legislative alerts through the Council during the legislative session to inform interested parties about issues that affect the developmentally disabled community coming before the legislature.

**Implementation in Some Areas
Has Been Weak**

In contrast to its accomplishments, the Council has had difficulty implementing some aspects of its State Plan. Little substantive action has been taken in the transportation area, despite its importance. In addition, the Council has not properly managed several major projects.

Limited action on transportation - Although transportation for developmentally disabled individuals has been recognized as an important issue for several years, GCDD has taken little action to address the issue. According to the Council's own analysis, transportation is important to developmentally disabled individuals because it provides access to medical, educational and other services. The GCDD identified several transportation barriers from a 1981 study while a 1982 series of workshops provided many action recommendations for addressing transportation problems.

The Council elected to study the issue again and convened a Transportation Task Force in January 1985. The final task force report, issued in March 1986, recommended the Council hold a workshop with service providers, service users and legislators. However, the Council changed the site and date of the workshop several times. The workshop is now scheduled for April 1988.

The lack of substantive action on transportation for the developmentally disabled illustrates the Council's indecisiveness in dealing with a recognized problem. Transportation has been recognized as an important issue since at least 1981, yet few resources have been allocated to it. Since fiscal year 1984, the GCDD has funded one transportation project at a cost of \$3,000. This amount represents about 1 percent of annual project funds. Thus, GCDD has accomplished little on a major problem facing Arizona's developmentally disabled citizens. ⁽¹⁾

Poor project management - Two projects representing significant Council action and substantial funding have been poorly managed. GCDD's project to gain designated funding for treatment of developmentally disabled/mentally ill individuals was extremely late and did not meet the Council's expectations. In addition, GCDD did not regularly review the activities of district advisory councils (DAC) to ensure their contract compliance.

The Council failed to conclude an important project for treating a special population of developmentally disabled people. Although the GCDD spent nearly \$250,000 on this project, it did not obtain expected results. The results from this project were to be used to support an agency's request for designated funding for treating people who are developmentally disabled with mental health problems.

This project blended the staff and financial resources of the GCDD with the Department of Economic Security (DES) Division of Developmental Disabilities and the Department of Health Services. The project was designed to provide therapeutic residential and day programs for up to 18 developmentally disabled persons with mental health problems. ⁽²⁾

(1) Some action has been taken on transportation by the local district advisory councils. Two district councils reported activities on transportation issues in their 1987 annual reports to the GCDD.

(2) The developmentally disabled person with mental illness has traditionally been an individual whose needs were not addressed because of the uncertainty about whether the person is primarily developmentally disabled or mentally ill.

GCDD experienced problems throughout the project. The Council was not a signatory to the initial project contract and, therefore, lacked control over its payments to the contractor.⁽¹⁾ After recognizing this oversight, the Council obtained signatory authority. The Council identified problems shortly after the project began but was unable to correct them. For instance, inconsistencies in vendor claims and attendance records noted at the project's outset remained as it was completed. During one program site review, the Council had concerns about the welfare of one client but did not report the concern to DES or demand an immediate response from the contractor. Furthermore, the final report on client success rates was 19 months late. Some council members and staff stated that the training materials and final report are inadequate. As a result, this project has not been used for its intended purpose.

The Council did not appear to know how to manage the contract to gain compliance. Although the Council had concerns about the contractor's performance at several points throughout the contract period, it was unable to specifically identify its expectations to the contractor. In addition, the GCDD did not attempt to use a common technique of withholding payments to ensure compliance. Thus, the GCDD did not exercise accepted contract management techniques to ensure that the project's intended purpose was accomplished. Recently, the GCDD executive director met with the contractor in an attempt to obtain the desired output.

GCDD has also failed to adequately monitor the performance of the six district advisory councils. Over the past three years, the GCDD has allocated approximately half of its project funds for the DACs. This amounted to \$174,000 during fiscal year 1986-87. These district councils assist the GCDD by providing local input and information on issues affecting the developmentally disabled. Despite their importance, prior to August 1986 the GCDD had not conducted regular DAC site reviews for several years. In addition, site reviews conducted by the Council between August 1986 and April 1987 found problem areas in the DAC's delivery of contracted services. Some examples of these problems are an unorganized legislative alert system, weak networking relationships, and no public awareness meetings. The Council also identified documentation problems.

(1) DES and the GCDD jointly funded this project. The contract began before the GCDD signed the contract because DES had signed and initiated the contract.

Furthermore, the Council did not adequately address the identified problems in new DAC contracts. According to GCDD staff and meeting minutes, DAC contracts for fiscal year 1987-88 were to include DAC action plans for correcting deficiencies noted during site reviews. However, our review found that this did not occur. According to some DACs, the GCDD wrote unclear site review reports and was slow in returning some reports. These problems may have delayed the DACs returning corrective action plans to the Council. The Council received only two DAC corrective action plans prior to fiscal year-end. In addition, our review indicated that Council staff did not adequately incorporate the corrective action plan information into the fiscal year 1988 contracts. Consequently, similar DAC performance problems may continue because contracts do not adequately reflect promised corrective action.

RECOMMENDATIONS

1. The Council should review its progress in achieving the goals identified each year in its State Plan. If the review indicates limited or no progress, the Council should: 1) determine what actions are necessary to improve performance in attaining the goal and act upon what was determined, or 2) revise the State Plan to change the goal.
2. The Council should improve project management by: 1) routinely monitoring contractor activity to ensure that it complies with the contract, and 2) bringing problems identified during the review to the attention of the contractors and resolving them in a timely manner. In cases where problems are not resolved to the Council's satisfaction, it should take necessary steps, including withholding payments, until problems are resolved.

FINDING II

THE GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITIES NEEDS TO IMPROVE PROJECT PROCUREMENT

The current procurement practices of the Governor's Council on Developmental Disabilities (GCDD) may not ensure the most productive use of project funds. Late project identification and contracting may reduce the Council's capability to meet its goals. Furthermore, weak procurement practices may compromise fair and open competition.

Each year, the Council contracts (under the auspices of the Department of Economic Security) with individuals, organizations and State agencies for specific projects or activities to identify and fulfill needs of the developmentally disabled. This process is a major role of the Council. Federal law mandates that the GCDD spend the majority of its yearly appropriation on project development and implementation. For fiscal years 1984 through 1987, the Council averaged 15 project related contracts and agreements each year, and spent approximately \$1.3 million on projects during the four year period.

Council Procurement Practices Are Slow

Late contracting and project identification may reduce the Council's effectiveness in meeting its goals. During fiscal year 1987, approximately \$92,200 of GCDD project money remained unused for nearly the entire year. This ultimately resulted in the reversion of \$37,400 of the funds, and last minute expenditures of \$11,450 on numerous small projects and conferences. The GCDD should revise the project procurement process to ensure that funds are used in a timely manner.

The GCDD was slow to identify and fund projects during fiscal year 1987. More than \$92,200 of 1987 project money, approximately 24 percent, was available but remained unused by the GCDD for nearly the entire fiscal year⁽¹⁾ Excluding projects the Council regularly funds each year, such as district advisory councils, this amount accounted for nearly 57 percent of uncommitted project funds.⁽²⁾

(1) The GCDD operates on the Federal fiscal year - October 1 to September 30.

(2) Although considerable late project identification and funding occurred during fiscal year 1987, it also occurred during 1986 to a lesser extent.

Council and Department of Economic Security records show that although approximately \$54,800 of the \$92,200 was eventually used, because the Council was late to act it lost approximately \$37,400 of fiscal year 1987 funds. According to a Federal official, state councils must formally obligate project money within the year it is appropriated by the Federal government. Unobligated funds are reverted, or returned, to the Federal government. On September 29, 1987, Council staff submitted an agreement to be signed by DES regarding a joint GCDD/DES project. The Council's intention was that remaining project money would be obligated by this signed agreement. However, DES did not sign the document, questioning the need for such an agreement. Consequently, because the Council waited until virtually the last day of the fiscal year to obligate remaining project funds, there was no time to resolve the problem and, therefore, the money reverted.

Furthermore, the Council's attempts to identify and fund projects near the end of the year may result in less effective use of the Council's limited resources. For example, the GCDD spent \$11,450 on eight small dollar projects and conferences during the last month of the fiscal year. Although each concerned the developmentally disabled and some were considered by the Council for several months, funding numerous small projects may not be the most effective use of the Council's limited funds. Some Council members themselves have indicated displeasure over this type of spending.

The Council should revise its project procurement process to ensure that funds are used in a timely manner. The Council should begin planning and procuring for projects much earlier than in recent years, so project contracts can be started as early as possible, preferably within the first few months of the fiscal year. Approximately six months prior to each fiscal year, the Federal government provides an estimate of the revenue the GCDD can expect to receive during the following fiscal year. Actual revenue has exceeded the estimate in recent years. Thus, the Council could use this information to budget and start developing contracts before the new year starts.

GCDD Needs To Ensure Greater Competition For Project Procurement

The Council's past practice of soliciting and funding concept papers may not have fully complied with Arizona's procurement requirements. Although the Procurement Code is designed to maximize competition, some Council procedures may unnecessarily limit competition. The GCDD could meet its needs for innovative projects by complying with the Code.

The Arizona Procurement Code (Arizona Revised Statutes §§41-2501 through 2652) is designed to provide for fair and open competition. The Code establishes purchasing methods and procedures designed to foster maximum feasible competition.

Soliciting and funding concept papers, a method used by the Council through 1986 to identify innovative projects, may limit competition in two ways. First, soliciting concept papers through local district advisory council (DAC) newsletters and by word-of-mouth, for example, may be construed as a request for proposals (RFP). This process may not meet Procurement Code public notice requirements, which generally require advertising the RFP at least twice in a general circulation newspaper with at least 65,000 subscribers. Secondly, the Council has, on occasion, issued an RFP based on a concept paper. This process can also limit competition because there may be a tendency to develop an RFP so specific to the original concept that only the submitter of the concept could adequately respond.

Although the Council no longer solicits concept papers, current procedures are vague and could be strengthened to allow the Council to continue to identify innovative projects while complying with Procurement Code requirements for public advertising. The Code provides several options. One method is the RFP process in which initial proposals and "best and final offers" are solicited; the other is a two-step RFP method. According to a DES Contracts Management Section manager and the State Purchasing Office, both methods could be used by the Council.

Under the first method, the Council would develop and advertise a general RFP, as required by the Code, requesting technical offers (similar to concept papers) and an

estimated total project cost.⁽¹⁾ The Council could also send an RFP to any persons or organizations it is aware of that may be interested in receiving an RFP, such as the DACs. The Council would then review the proposals received and identify those projects of greatest interest to the Council. Discussions could be held with potentially acceptable proposers to clarify GCDD intent and further define the potential project and costs involved. For those deemed potentially acceptable, the Council would solicit and evaluate "best and final offers" containing more project detail and specific budget information.

The second method, a two-step RFP process, also allows for flexibility in identifying creative projects. Under this method, the GCDD could request interested parties to submit project ideas, through a variety of means, such as DAC newsletters. However, the request must clearly indicate that: 1) it is not a request for proposals, and 2) respondents may be placed on bidders lists to be used when the GCDD issues future RFPs. The Council would evaluate project ideas received and develop two bidders lists. The first list would consist of projects the Council is most interested in, the second would contain projects of lesser interest to the Council. The Council would then develop and advertise a general RFP. The RFP would be sent to any party requesting it, based on the advertisement, and also to all persons or organizations on the first bidders list. The Council would complete the process by conducting discussions, and evaluating all proposals received.

RECOMMENDATIONS

1. The GCDD should develop procurement procedures to ensure that contracts are negotiated so projects can start at the beginning of each fiscal year.
2. The Council should revise and follow policies and procedures to improve competition by ensuring adherence with the Procurement Code for project procurement. To assist in developing these guidelines and to ensure that GCDD needs are met, Council staff should consult with representatives of the DES Contracts Management Section and the State Purchasing Office.

(1) A "general RFP" would contain descriptive information about GCDD goals, objectives and broad areas of interest.

**Governor's Council
on
Developmental Disabilities**

1717 W JEFFERSON
SITE CODE 074Z
P.O. BOX 6123
PHOENIX, ARIZONA 85005
(602) 255-4049

EVAN MECHAM
Governor
RANDALL L. GRAY
Chairperson
JON C. HINZ
Executive Director

January 28, 1988

Mr. Douglas R. Norton
Auditor General
State of Arizona
2700 N. Central Ave.
Suite 700
Phoenix, AZ 85004

Dear Mr. Norton:

The Governor's Council on Developmental Disabilities (GCDD) has reviewed the draft report of the performance audit and appreciates the opportunity to add clarification to several points raised in the audit.

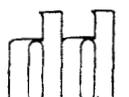
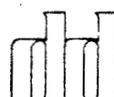
FINDING I: THE GOVERNOR'S COUNCIL ON DEVELOPMENTAL
DISABILITIES NEEDS TO BE MORE EFFECTIVE IN IMPLEMENTING ITS
STATE PLAN

Transportation

The proposed workshop to address rural transportation problems has been scheduled, with a date, site and federal participation committed. It should be also noted that individually the District Advisory Councils (DACs), funded by the GCDD, have addressed this issue with measures of success based on the needs of people with disabilities in their respective areas. The broad geographics of Arizona have made it extremely difficult to resolve transportation problems as a single state issue. The GCDD will encourage the DACs to address problems of transportation on a district by district basis. The Council will also support other agencies better equipped to handle transportation on a local basis.

Project management

The Joint Project with GCDD, DES-DDD and DHS to fund a model program for persons with a dual diagnosis presented many difficulties for the GCDD. Documents show a clear reluctance by the GCDD to take steps to withhold funds as



recommended by the Auditor General. The Council is not clear it had that option in a cooperative contract with the Administering Agency. Clarification is being sought for future contracts. The GCDD is also continuing to work with the contracted provider to secure the referenced materials in a more usable form.

As stated by the audit team, the Council had taken steps to improve monitoring of the six DACs prior to the beginning of the audit. A yearly program of on-site reviews has been implemented. The format is still under review and the audit team recommendations will be incorporated into the monitoring process.

FINDING II: THE GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITIES NEEDS TO IMPROVE PROJECT PROCUREMENT

The GCDD has taken steps to identify funding priorities much earlier in the planning cycle. Funding priorities for FY-88 were established at the September Planning Retreat and two RFP's were prepared by November, 1987.

As to the reversion of \$37,400, while the GCDD did not submit the final agreement to DES until September 29, 1987, this was a joint project with DES-DDD and discussions were held several months prior allowing for a timely obligation of the funds. The GCDD notified DES the document needed to be signed and had no reason to believe they would question the need for such an agreement. GCDD has met with current administration and steps have been taken to avoid future difficulties. In addition, the Federal Government has responded to this recognized national problem by allowing two years to commit funds to projects instead of one as referenced in the audit report. This is effective October 1, 1987.

The GCDD is appreciative of the audit team's efforts to aid the Council in establishing procedures of procurement more in line with GCDD objectives. Federal criteria mandates "new and inovative programs" and at the same time the GCDD must meet the requirements of the State Procurement Code. The audit team's recommendations will be adopted.

SUMMARY: The Governor's Council on Developmental Disabilities was very pleased with the extra effort the audit team put forth to understand the complexities of our programs. Being entirely Federal funded, the Council must respond to all Federal reporting and mandated program requirements. In addition, the Council must adhere to all

policies of its Administering Agency. Public Law 100-146 Developmental Disabilities Act of 1987, effective October 1, 1987, addresses several of the items mentioned by the audit team and a copy of ADD-PI-88-2, BSG-New Requirements is attached to show required changes in our program that must be made to meet established 1990 deadlines. Of special note to the Legislature and Executive Office are:

Page 2, Item 1) This will require Executive action prior to June 30, 1988 and possible Legislative action prior to 1990 determining the status of the GCDD relating to an administering agency.

Page 6, Item 11) This provision may require a change in the allotted number of members permitted to serve on the GCDD from its current cap of 23. This may be necessary to retain the provision of at least 50% representation of consumers on the GCDD as required by Statute.

The balance of changes focus on the implementation of programs to better assess the effectiveness of current services as well as to provide input for better utilization of resources to serve people with developmental disabilities.

Arizona is recognized as a leader in implementing innovative programs to persons with developmental disabilities, while at the same time committing the least amount of resources to develop those same programs. The GCDD has worked closely with all agencies providing services, responding to consumer input, and many of the innovative programs now in place began as pilot projects worked on or funded by the GCDD. Strong philosophical differences still exist as to the best way to provide optimum opportunity to individuals with developmental disabilities. No argument exists, however, that they deserve every opportunity to achieve their maximum potential and that all society benefits when they attain a level of independence.

Members of the Governor's Council on Developmental Disabilities again wish to thank the Auditor General's Office for the help they provided in aiding the Council to play a stronger role in seeking that goal.

Sincerely,



Randall L. Gray
Chairperson



Jon C. Hinz
Executive Director

<h1 style="font-size: 2em; margin: 0;">hds</h1> <p style="margin: 0;">human development services</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Developmental Disabilities	
	1. Log No. ADD-PI-88-2	2. Issuance Date: 1/5/88
	3. Originating Office: Administration on Developmental Disabilities	
	4. Key Word: BSG-New Requirements	5. P.L. 100-146
	6.	7.

PROGRAM INSTRUCTION

TO: Directors, State Administering Agencies
Directors, State Planning Councils

SUBJECT: New Requirements for State Participation in the Basic State Grant Program for Planning and Services for Persons with Developmental Disabilities - FY 1988 Instruction and Allotments to States.

RECEIVED

JAN 20 1988

GOVERNOR'S COUNCIL ON DD

LEGAL AND RELATED REFERENCES: Public Law 100-146 Developmental Disabilities Act of 1987

45 CFR Part 1386, dated March 27, 1984.

CONTENT: Public Law 100-146 was signed on October 29, 1987. Among the new requirements were provisions that require immediate State attention.

This instruction provides guidance to States on compliance with the additional requirements imposed on States by Sections 107, 122 and 124 of the Act. This interim guidance is being provided in order to minimize any disruption in the Basic State Grant Program, and the requirements set forth in this instruction are in addition to all other requirements of Public Law 100-146.

INSTRUCTION: States are advised that all requirements referred to in this guidance are in effect as of October 1, 1987. No later than March 15, 1988, each State must submit to the appropriate Regional Office documentation that it will implement the requirements listed below in this Fiscal Year (FY 1988). Third and fourth quarter formula grant awards will not be issued to any State which has not submitted the documentation in the form of amendments by March 15, 1988, to the currently approved Three Year State Plan. The requirements to be addressed in these amendments are numbers 4, 5, 6, 7, and 11 of this issuance.

The remainder of the requirements must be addressed through either amendments to the Three Year State Plan for Fiscal Year 1989, the new three year State plan for Fiscal Years 1990 through 1992, or other appropriate action by the State as noted in this program instruction. Additional guidance relative to these requirements will be issued by ADD in the future.

These new requirements are:

Governor

- 1) Requirement that the Governor of the State determine before June 30, 1988 if he will exercise his discretion to retain in the State Plan, the designation of a State Agency that provides or pays for services for persons with developmental disabilities as the designated State agency to administer the Developmental Disabilities Basic State Grant Program. This determination can be made by the Governor of the State only after he has considered the comments of the general public and the non-State agency members of the State Planning Council with respect to the continued designation of such agency, and after the Governor has made an independent assessment of the impact that the designation of such agency has on the ability of the State Planning Council to serve as an advocate for persons with developmental disabilities.

If the Governor decides not to retain a service providing agency as the State administering agency for the developmental disabilities program, no action with regard to a new designation is required until the Three Year State plan for Fiscal Years 1990-1993 is submitted to the Administration on Developmental Disabilities.

This State plan must then include the new designation of an agency within the State which may be; the State Planning Council, if such Council may be designated a State agency under the laws of the State; a State agency that does not provide or pay for services made available to persons with developmental disabilities; or a State office, including the immediate office of the Governor of the State or a State Planning Office. (Sections 122(b)(1)(B) and 122(e)(1))

State Planning Council and Governor

- 2) Requirement that by January 1, 1990, each State Planning Council prepare and transmit to the Governor of each State and the legislature of the State a final written report concerning the reviews and analysis required under numbers 6 and 7 of this policy issuance. The Governor is required to submit a copy of this report to the Secretary of the Department of Health and Human Services no later than January 15, 1990. This report must contain recommendations by the State Planning Council concerning:
- o the most appropriate agency or agencies of the State to be designated as responsible for the provision and coordination of services for persons with developmental disabilities who are traditionally underserved, such as persons with developmental disabilities attributable to physical impairment, persons with developmental disabilities attributable to dual mental impairments, and persons with developmental disabilities attributable to a combination of physical and mental impairments, and such other subpopulations of persons with developmental disabilities (including minorities) as the State Planning Council may identify; and
 - o the steps to be taken to include the data and recommendations obtained through the conduct of the reviews and analyses under requirements 6 and 7 of this policy issuance in the State Planning Council's ongoing advocacy, public policy, and model service demonstration activities. (Section 122(f)(4))

State Administering Agency and State Planning Council

- 3) Requirement that the State plan provide for the review and revision, not less often than once every three years, of the comprehensive Statewide plan to ensure the existence of appropriate planning, financial support and coordination, and to otherwise appropriately address, on a Statewide and comprehensive basis, urgent needs in the State for the provision of services for persons with developmental disabilities and the families of such persons. Such review and revision, and examination of the provision and the need for the provision in the State of the four Federal priority areas and the State priority area shall take into account the reviews and analysis conducted in accord with 6 and 7 in this policy issuance and the report required under 2 in this policy issuance and include at a minimum:

(a) an analysis of such priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

(b) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may be causing persons with developmental disabilities to be excluded from receiving such services;

(c) an analysis of services, assistive technology, or knowledge which may be unavailable to assist persons with developmental disabilities;

(d) an analysis of existing and projected fiscal resources;

(e) an analysis of any other issues identified by the State Planning Council; and

(f) the formulation of objectives in both policy reform and service demonstration to address the issues described in clauses (a) through (e) for all subpopulations of persons with developmental disabilities which may be identified by the State Planning Council.

This requirement applies to the FY 1990-1992 Three Year State Plans. (Section 122(b)(5))

- 4) Requirement that the description in the State Plan of the extent and scope of services provided or to be funded to persons with developmental disabilities under other State plans or federally assisted State programs in which persons with developmental disabilities are eligible to participate include programs relating to job training, aging, programs for children with special health care needs and housing, comprehensive health and mental health and such other plans as the Secretary may specify. (Section 122(b)(2)(c)(i))
- 5) Requirement that the State plan describe a process and timetable for the completion by January 1, 1990, by the State Planning Council in the State, of the reviews, analyses, and final report described in requirements 6-9 below. (Section 122(b)(3))

State Planning Council

- 6) Requirement that each State Planning Council conduct a comprehensive review and analysis of the eligibility (of persons with developmental disabilities) for services provided, and the extent, scope, and effectiveness of the services provided and the functions performed by, all State agencies (including agencies which provide public assistance) which affect, or which potentially affect the ability of persons with developmental disabilities to achieve the goals of independence, productivity, and integration into the community, including persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of mental and physical impairments. (Section 122(f)(1))
- 7) Requirement that each State Planning Council conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and the services provided or paid for from Federal and State funds by each of the State agencies (including agencies providing public assistance) responsible for performing functions for, and providing services to, all persons with developmental disabilities within the State. This review and analysis shall be based upon a statistically valid survey of a representative sample of persons with developmental disabilities receiving services from each such agency, and if appropriate, shall include their families. (Section 122(f)(2))
- 8) Requirement that each State Planning Council convene public forums, after the provision of public notice within the State to present the findings of the review and analysis of requirements 6 and 7 of this policy, issuance obtain comments from all interested persons in the State regarding the unserved and underserved populations of persons with developmental disabilities which result from physical impairment, mental impairment, or a combination of physical and mental impairments and obtain comments on any proposed recommendations concerning the removal of barriers to services for persons with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services. (Section 122(f)(3))

- *9) Requirement that the Annual Report of the State Planning Council include a description of the State Planning Council's response to significant actions taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared pursuant to Section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State. (Section 107(a)(4)).
- *10) Requirement that the Annual Report of the State Planning Council include a description of the progress made in the State in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f). (Section 107(a)(5)).
- 11) Requirement that the State Planning Council include a representative of the State agency that administers funds under the Older Americans Act of 1965. (Section 124(b)(3))
- 12) Requirement that the State Planning Council have the authority to prepare and approve a budget using amounts paid to the State under the Basic State Grant Program to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the State Planning Council determines to be necessary to carry out its functions. (Section 124(c)(1))
- 13) Requirement that the staff and other personnel of a State Planning Council while working for the State Planning Council, shall be responsible solely for assisting the State Planning Council in carrying out its duties, and shall not be assigned duties by the designated State agency or any other agency or office of the State. (Section 124(c)(2))

*While these reporting requirements become effective with the FY 1988 annual report due December 31, 1988, the activities to be reported on must be conducted during FY 1988.

If the required documentation is not received by March 15, 1988, the State will be subject to disallowance of expenditures of Fiscal Year 1988 funds expended during the first two quarters.

A Regional Office listing is attached for your information.

ATTACHMENTS : List of HDS Regional Offices for the Developmental Disabilities Program.

EFFECTIVE DATE: Date of Issuance

INQUIRIES TO: Regional Administrators, OHDS, Regions III, VI VII, IX.


Lucy C. Biggs
Commissioner
Administration on Developmental
Disabilities