

*Senate Health & House of Representatives Human Services
Committee of Reference Report*

**GOVERNOR'S COUNCIL ON
DEVELOPMENTAL DISABILITIES**

Date: December 15, 1998

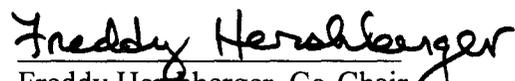
To: Joint Legislative Audit Committee
Randall Gnant, Co-Chair
Barry Wong, Co-Chair

Pursuant to Title 41, Chapter 27, Arizona Revised Statutes, the Committee of Reference, after performing the sunset review and conducting a public hearing, recommends:

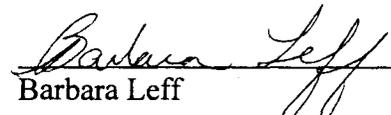
The Governor's Council on Developmental Disabilities be continued for five years.

COMMITTEE OF REFERENCE

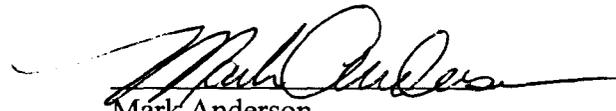

Ann Day, Co-Chair

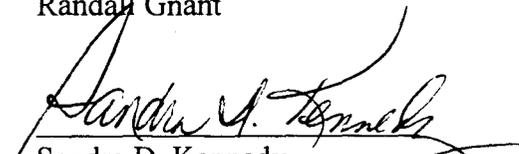

Freddy Hershenberger, Co-Chair

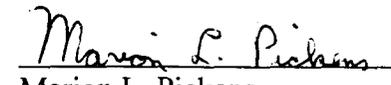

Sue Grace

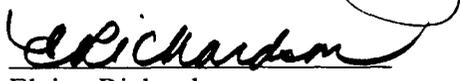

Barbara Leff

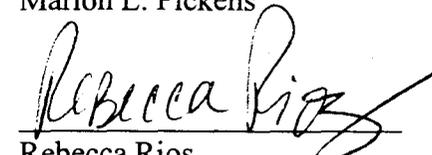

Randall Gnant


Mark Anderson


Sandra D. Kennedy


Marion L. Pickens


Elaine Richardson


Rebecca Rios

*Senate Health & House of Representatives Human Services
Committee of Reference Report*

**GOVERNOR'S COUNCIL ON
DEVELOPMENTAL DISABILITIES**

Background

Pursuant to ARS § 41-2953, the Joint Legislative Audit Committee assigned the sunset review of the Governor's Council on Developmental Disabilities (Council) to the Senate Health and House of Representatives Human Services Committee of Reference.

The Council was established in 1983 as the state's advocacy and planning body for persons with developmental disabilities. There are approximately 83,000 developmentally disabled people in Arizona.

ARS § 36-551 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 manifest before age 18.
- is likely to continue indefinitely.
- results in substantial functional limitation in three or more of the following areas of major life activity: 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 individually planned or coordinated special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration.

The 23-member, governor-appointed Council is charged with ensuring that persons with developmental disabilities receive the care necessary for them to reach their maximum potential. The Council achieves this charge primarily through contracts with six regional district councils, located in Apache Junction, Benson, Kingman, Prescott, Scottsdale and Tucson. The six district councils are not-for-profit entities that: (1) provide advocacy, such as informing the Council about problems facing developmentally disabled citizens in their local communities; (2) provide information regarding local service providers and services offered; and (3) refer developmentally disabled citizens and their families to needed services. For Arizona, the 1998-2000 state plan focuses on four major goals: leadership/self-determination, education, employment and family support.

Committee Sunset Review Procedure

The Committee of Reference held two public meetings; the first on October 13, 1998, and the second on December 15, 1998, to review the performance audit report of the Council, prepared by the Office of the Auditor General (OAG), and to receive testimony. The Committee heard testimony from representatives of the OAG, the Executive Director and members of the Council and the Office of the Governor.

OAG staff reviewed the performance audit report for the Committee, including their findings and recommendations. OAG staff responded to members' questions and concerns regarding contracts and funding of regional district councils. The Council's Chairman testified that the Council agreed to the findings and recommendations contained in the audit and said the Council will continue to implement those recommendations.

The OAG audit recommendations to enhance district council contract monitoring include:

- Reviewing its regional district council contracts to ensure all Council goals and objectives are addressed.
- Holding its district councils to all contract specifications by continuing to:
 - ▶ review and compare district council quarterly reports against contract specifications;
 - ▶ conduct regular site visits of its district councils; and
 - ▶ review district council independent audit reports.
- Continuing to withhold district council funding for nonperformance of contract specifications.
- Revising district council contracts to reflect more outcome-based performance measures.
- Considering a Request for Proposal process to ensure contract specifications are effectively met.

Committee Recommendations

The Committee recommended the Governor's Council on Developmental Disabilities be continued for five years.

Sunset Report Requires Pursuant to ARS § 41-2954

I. Identification of the problem or need that the agency is intended to address

The Council was established under the direction of the federal Developmental Disabilities Council State Grant Program to invest in innovative strategies to: (1) coordinate and improve the delivery of services; (2) promote inclusion of people with developmental disabilities in community life; and (3) assist in developing quality services and supports in the community as alternatives to costly institutionalization.

II. Statement of the objectives of the agency and its anticipated accomplishments

The federal and state laws governing the Council require the Council to plan and monitor treatment and services to ensure that persons with developmental disabilities receive the care necessary for them to reach their maximum potential; and promote the development of a consumer and family-centered comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity and integration and inclusion into the community for individuals with developmental disabilities.

The Council has operated within the public interest by assisting developmentally disabled citizens and their families through promoting changes in the developmental disabilities service delivery system, advocacy and increased independence. Specifically, the Council works toward four principal goals:

1. *Self-Determination/Leadership Development* — Providing increased independence for individuals and their families through participation in self-advocacy training so they have knowledge and control over their own lives.
2. *Education* — Providing advocacy for a free appropriate public education for all students with disabilities, including adequate funding for related services. Provides training in education advocacy and promotes a fair due process system and dispute resolution when students are not receiving appropriate education and necessary related services.
3. *Employment* — increasing opportunities for individuals to become employed through changes in public policy and demonstration of an entrepreneurship project.
4. *Family Support* — Providing advocacy for increased implementation of family and individual supports within the community and through grassroots involvement of families in formal Family Support Groups.

III. Identification of any other agencies with similar, conflicting or duplicative objectives and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies

The Council is the only agency that serves as a statewide advocate and funds projects to identify and meet the needs of Arizona's developmentally disabled citizens.

IV. Assessment of the consequences of eliminating the agency or of consolidating the agency with another agency

Although termination of the Council would not significantly harm the health, safety or welfare of Arizona's citizens, the State's developmentally disabled population would lose its advocate for promoting and meeting the needs of individuals with developmental disabilities and their families. Additionally, without a Council, the State would not be eligible to receive its allotted share of federal money.

Attachments

1. Minutes of the Senate Health and House Human Services Committee of Reference
2. Performance Audit Report

ARIZONA STATE LEGISLATURE

MEETING NOTICE

OPEN TO THE PUBLIC

SENATE HEALTH AND HOUSE HUMAN SERVICES COMMITTEE OF REFERENCE ON THE GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITIES

DATE: Tuesday, October 13, 1998

TIME: 10:00 a.m.

PLACE: Senate Hearing Room 2

AGENDA

1. Call to Order - Opening Comments
2. Presentation of Auditor General Performance Report
3. Response by Council
4. Public Testimony
5. Discussion and Recommendations of Committee
6. Adjourn

MEMBERS:

Senator Ann Day, Cochair

Representative Freddy Hershberger, Cochair

Senator Sue Grace

Representative Barbara Leff

Senator Randall Gnant

Representative Rebecca Rios

Senator Sandra D. Kennedy

Representative Marion L. Pickens

Senator Elaine Richardson

Representative Mark Anderson

9/30/98

JB/jas

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Senate Secretary's Office at (602) 542-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA STATE LEGISLATURE

**Senate Health and House Human Services
Committee of Reference**

on

**The Governor's Council on Developmental Disabilities
Minutes of the Meeting**

**Tuesday, October 13, 1998
10:00 a.m., Senate Hearing Room 2**

Members Present

Senator Day, Co-chair
Senator Gnant
Senator Grace
Representative Hershberger, Co-chair
Representative Anderson
Representative Leff
Representative Pickens
Representative Rios

Members Absent

Senator Kennedy
Senator E. Richardson

Staff

Mark Barry, House Research Analyst
Heather Baker, Senate Research Intern

Other attendees

(Attachment A)

Co-chair Day called the meeting to order at 10:10 a.m. and attendance was noted.

Presentation of Auditor General Performance Report

Miriam Seymore, Senior Auditor, The Office of the Auditor General, distributed the Auditor General's Performance Audit to committee members (Attachment B) and gave an overhead presentation entitled *Governor's Council on Developmental Disabilities Performance Audit and Sunset Review* (Attachment C). Her testimony is attached to the minutes. (Attachment D)

In response to Senator Day, Ms. Seymore explained a Council contract is a contract between the Council and a district. Because the districts are set up as non-profit 501C3 corporations, they are able to enter into other contracts. For example: one district has a

**SENATE HEALTH AND HOUSE HUMAN SERVICES
COMMITTEE OF REFERENCE ON THE GOVERNOR'S
COUNCIL ON DEVELOPMENTAL DISABILITIES**

**Page 2
October 13, 1998**

contract with the rehabilitative services administration at the Department of Economic Security (DES), and another district is under a contract to help increase transportation options for developmentally disabled citizens in their local communities. Ms. Seymore stated in one case she discovered that a district director was working full-time under a non-council contract while at the same time his Council contract also specified his position as full-time and in both cases the director was taking the salary that was commensurate with two full-time positions.

Senator Day asked if any other agency other than the Auditor General's office has ever reviewed the Governor's Council in the last ten years. Ms. Seymore stated that prior to the current Council management, which came into place in June of 1997, independent audit reports and quarterly progress reports were not reviewed and site visits were not regularly conducted. However, under the current Council management this information is being reviewed. She stated this information is being compared against contracts, district progress is being tracked and the districts are being provided with specific feedback on how they need to improve their operations.

In response to Representative Anderson, Ms. Seymore explained that only one entity can perform the duties required in a sole source contract. She noted the districts have been in place since the late 1970's - early 1980's and were set up for the purpose of filling contract needs of the Council. Currently, there are many other sources available for use by the Council outside of the districts which is why the Auditor General's office is recommending requests for proposal. Ms. Seymore stated this process would allow the Council to assess the best options relating to cost available to the Council and location of services. She noted the districts would then compete with other entities to provide services needed by the Council.

Senator Day asked what agency is responsible for monitoring non-council contracts. Ms. Seymore stated that each district has a governing board that is responsible to monitor the district's day-to-day operations and all non-council contracts.

Ms. Seymore stated in the past, the districts wrote their own contracts and submitted contracts for activities they were going to perform along with a budget which would state where all the money was being spent. That information was all the Council received. If prior management of the Council had reviewed the independent audit reports it would have known about the non-council contracts. Current management has requested that districts now disclose all sources of revenue. Ms. Seymore noted that is why one of the recommendations of the Auditor General's office is that the Council have a better handle on all the activities being performed by it's districts because the non-contracted activities could impact the Council's portion.

SENATE HEALTH AND HOUSE HUMAN SERVICES
COMMITTEE ON REFERENCE ON THE GOVERNOR'S
COUNCIL ON DEVELOPMENTAL DISABILITIES

Senator Day commented that the process to keep track of the entire process sounds confusing.

Representative Pickens asked what the responsibilities of the six staff members of the Council have been and have those responsibilities been changed since the observation that not enough oversight has been made. Ms. Seymore explained three or four of the Council's staff are new. She stated there may have been problems in the past with Council staff, but there are now clearly defined duties; one staff person is the legislative liaison, one staff person is in charge of district contracts, reviewing district quarterly reports, and coordinating site visits; two positions are administrative; and the remaining position is the Executive Director.

Representative Pickens asked if the district councils have been providers as opposed to some outside contract. Ms. Seymore explained the federal government gives the Council \$835,000 of which 65% must go out to develop and fund projects. Most of the 65% is paid to the districts and the districts must have an office where public inquires can be made in regard to developmental disabilities services and information. Ms. Seymore noted the Council can also specify in the contracts specific projects that the district must perform; ie: having a representative go out to certain populations in the State such as an Indian Reservation, where culture and language could be barriers and work as one-on-one liaisons for the district and for the Council. The districts serve to provide advocacy, deliver and gather information and to work on specific projects. The districts themselves do not provide specific direct services such as the DES Division of Developmental Disabilities. The districts provide the information flow and the gathering and dissemination of data which is a valuable service. Ms. Seymore stated the districts are the only entities on a local level to obtain "grassroots" input and provide one-on-one services for citizens with developmental disabilities.

Senator Day commented the Council seems very bureaucratic and opined it is difficult to understand. She asked for the representative from the Council to testify.

Susan Madison, Executive Director for the Governor's Council on Developmental Disabilities, stated that she was available to answer questions and deferred to the appointed council member to give the Council's response.

Helen Baldino, Chair of the Governor's Council on Developmental Disabilities, testified that she is the mother of two children with disabilities. She stated the Council agrees with the findings and recommendations of the Auditor General's Performance Audit and said the Council will continue to implement those recommendations.

Ms. Baldino remarked the Council was established under Arizona statute and the members

are persons with developmental disabilities, family members of developmentally disabled individuals and representatives from various state agencies and other agencies that provide services to the developmentally disabled. She stated the Council is mandated under federal law to provide advocacy and services and receive all funds from the federal government. Ms. Baldino stated as a requirement under federal law, the Council prepares a three-year plan identifying major issues that face the developmentally disabled within the state. She noted the Council is in the second year of the three-year plan which began in 1998 and continues through 2000. Ms. Baldino noted the current three-year plan focuses on four major areas: leadership and self determination for the developmentally disabled; education services; employment opportunities and training; and family support to assist families. In addition to the three-year plan, the Council also has an on going involvement in legislative advocacy, which specifically is the roll of the legislative liaison. She noted the Council is also sensitive to the cultural diversity found in Arizona and recognizes the need to have a culturally competent system of care throughout the state. Ms. Baldino stated the Council currently contracts with six district advisory councils that represent the geographic areas of the state, with the Center for Disability Law, and partners with other Arizona organizations, such as the University Affiliated Program to work together in support of programs for the disabled.

In response to Representative Hershberger, Ms. Baldino commented that the Council is well aware that there have been significant problems in the past with the monitoring of district contracts and stated the Council recognizes the need to be much more diligent in the future. She opined the Council has made significant strides during the past year which reflect in the Auditor General's report.

In response to Senator Day, Ms. Baldino opined that the Council, the mechanism that runs the work of the council and the staff are there to assist in fulfilling the objectives of the Council.

Senator Gnant, referring to page 14, section 3 of the audit report, asked Ms. Baldino to expand on the topic, *the intent to which the Council has operated within the public education.* (Attachment B)

Ms. Baldino stated that one of the goals for the current three-year plan is that special education be available to every child within the state with a need for it. She added the Council wants to expand services to include assistive technology, physical therapy and speech therapy. Ms. Baldino commented that as a parent of developmentally disabled children who receive special education, she is aware that this issue is of particular importance to parents of developmentally disabled children. She noted the Council has always made this issue a high priority.

SENATE HEALTH AND HOUSE HUMAN SERVICES
COMMITTEE ON REFERENCE ON THE GOVERNOR'S
COUNCIL ON DEVELOPMENTAL DISABILITIES

Senator Gnant asked if the Council has taken a position as to how that special education is to be delivered in a public school setting specifically.

Ms. Baldino opined that most parents with developmentally disabled children want to have their children integrated into the school system to the greatest extent possible. She stated the Council expects and advocates for full inclusion of the children to the extent possible and recognizes that this is not for every child.

Senator Gnant asked if the Council has recommended or has staff taken as it's policy an advocacy position that the special education services be provided wherever possible withing the existing schools.

Ms. Baldino stated she did not know whether the Council has specifically enunciated that policy, but it is the prevailing view of the Council that children should be included and integrated to the greatest extent possible in the education system. Ms. Baldino stated she was not aware that this concept is or is not one of the legislative positions the Council has currently taken.

Senator Grace stated there are other facilities that are publicly funded that do not provide the services directly within the school district. She asked if the Council is involved with the monitoring of these facilities with the same degree as the public schools.

Ms. Baldino stated the Council represents all children with disabilities and advocates on behalf of all children with special needs regardless of location.

Representative Pickens, referring to the paragraph on employment on page 14, section 3 of the audit report (Attachment B), asked if there has been any attempt to promote any kind of economic jobs that provide employment for those with developmental disabilities.

Ms. Baldino stated that one goal in the current three-year plan is to provide persons with disabilities the opportunity to become self employed. She stated it is the Council's objective to make that opportunity available not only in the metropolitan areas, but in the rural areas as well.

Representative Pickens asked if this goal is to demonstrate how that can happen or are there places where economic employment is actually being promoted which would provide work for those individuals with developmental disabilities.

Ms. Baldino stated that the Council sees the project as enabling persons with disabilities to learn the process to make the right connections within the community. She stated it is an enabling project in the sense that the Council will show or assist people to learn what

they need to do to become self-employed and what connections they need to make in the particular geographic area to ensure long lasting success.

In response to Representative Pickens, Ms. Baldino stated in the past there were different mechanisms by which the Council determined funding sources for various districts, such as geographic size, population considerations and others. She stated that in more recent contracts, there have been equal amounts allocated to each of the districts, rather than basing the funding on other factors.

David Cutty, representing the Arizona Association of Providers for People with Disabilities, and Council member, testified that many of the adverse findings that resulted from the Auditor General's Office report date back several years. He noted that he has been on the Council for over four years and has a historical perspective as a Council member. Mr. Cutty stated prior to the hiring of the current executive director, the Council had a part-time interim appointed executive director who was actually on loan from DES. He opined this interim period lasted longer than six months. Prior to this time, there were substantial issues related to the operation of the council, some related to the prior director that remained unresolved at the time of that directors departure from the council.

Mr. Cutty stated that during the same time period, DES provided all the budget and accounting support to the Council and accurate financial data was often not available for months. Mr. Cutty opined that, in deference to the audit report, Council staff did not have good financial accounting data to fully understand what was happening in the districts. He described the council during this period of time as dysfunctional and other Council members reported to DES as the lead agency overseeing the Council's activities at that time.

Mr. Cutty noted the process of selecting the new executive director was protracted partially because the hiring process itself is prescribed by state personnel rules and because the council had decided to perform a national search to ensure that the most capable and effective candidate would be selected. He reiterated Ms. Baldino's comments that the Council members and staff are committed to implementing all the recommendations by the Auditor General's Office so as to ensure that these contracts and financial anomalies do not repeat themselves.

Mr. Cutty stated the Council has accomplished a tremendous amount over the last several years. It has served as lead agency for system change in Arizona in the areas of special education, family support, consumer empowerment, employment and self sufficiency, public awareness and related issues. He stated many peoples lives have benefited enormously from the work of the Council. He clarified that not all of the Council's work and achievements occurred through the districts. He noted the staff is very dedicated and hard

SENATE HEALTH AND HOUSE HUMAN SERVICES
COMMITTEE ON REFERENCE ON THE GOVERNOR'S
COUNCIL ON DEVELOPMENTAL DISABILITIES

working and many of the accomplishments of the council have been the result of staff taking the lead and the 23 Council members donating a tremendous amount of time to ensure the goals of the Council are being achieved and are progressing.

Mr. Cutty stated that many of the concerns over the Council's past record have been addressed and with the new leadership in place to better serve the citizens of the state with developmental disabilities and to ensure the accountability for the federal dollars that finance the Council's activities, he expressed his hope that the Legislature would seriously consider continuing the Council.

In response to Representative Pickens, Mr. Cutty stated currently the council has 20 members and during the last four years, most attendance has been approximately 80%.

Karen Van Epps, Council member, testified she has been a member of the Council for the ten years and stated historically it has always been a problematic situation in determining how to best use both the Council and the districts. She stated her concern, given the problems that have existed in the past, that the Council be given a chance to complete its goals for this year. Ms. Van Epps clarified that the districts do not write their own contracts. She noted one of the difficulties that existed last year was having a DES staff member acting as Executive Director and stated several councils in the country are "stand alone" agencies. At the last meeting it was suggested that changing the Council into an independent body as opposed to being channeled through DES as the designated agency.

Senator Day stated she did not understand the rationale that the Council has a better chance to become effective if changed into an independent body.

Ms. Van Epps noted that federal regulations state the designated agency should not be the agency that provides services to persons with developmental disabilities. She noted DES provides 99.9% of the funding to people with developmental disabilities through the Division of Developmental Disabilities.

Senator Day asked how DES curtails the Council's independence. Ms. Van Epps stated DES does not actually curtail the Council, but it is a powerful perception that the Council is a part of the agency.

Senator Day stated she did not agree and noted that many agencies have advisory councils and opined that the Council, as well as being an advocacy group, being advisory to the agency of DES makes sense.

Ms. Van Epps stated the Governor's Council on Developmental Disabilities is not an

advisory council. She noted the Council is federally funded and stated the Council is to be an oversight for people with developmental disabilities within the state that works with various different state agencies.

In response to Senator Day, Ms. Van Epps stated there have always been only six staff members: two staff for administration, one for legislative concerns, one as a project planner, one for overseeing all the district contracts, and the executive director. Ms. Van Epps stated 35% of the budget can be used for operating expenses with the Council.

Ms. Van Epps opined there will be better oversight from the Council as well as the staff to accomplish the goals that have been set.

In response to Representative Leff, Ms. Madison stated the role of the Council from the federal government is to provide advocacy, systemic change and planning and coordination with big systems, such as the Division of Developmental Disabilities which runs group homes and vocational rehabilitation. She opined that although it is a long process, there have been many changes to make services for the developmentally disabled more effective. Ms. Madison stated the Council does make recommendations regarding contracts.

Senator Day noted the Council members are a very dedicated group of people and opined the Council is needed to provide the services needed for the developmentally disabled. She stated her concern with the Council contracting with the districts.

Representative Anderson suggested the Request for Proposal (RFP) recommendation (Attachment B, page 11) should be implemented so that the districts are no longer the only entity and perhaps, through the competitive process, there may be a more direct route for services.

Ms. Madison stated that all of the Auditor General's Office recommendations would be included in the Council's operation.

Senator Grace applauded the Auditor General's Office in it's effort to help the Council improve the contracting process and stated her concern with not having a clear understanding of the role and objective of the Council outside of clearing up a contract process that needs to be clarified and more closely monitored.

Senator Day agreed with Senator Grace's comments regarding the need for clarification of the Council's role and the contracting process. She stated that she would like to hear from DES about how the whole system works and noted it is not necessary for the Committee to take specific action today.

Page 9
October 13, 1998

**SENATE HEALTH AND HOUSE HUMAN SERVICES
COMMITTEE OF REFERENCE ON THE GOVERNOR'S
COUNCIL ON DEVELOPMENTAL DISABILITIES**

In response to Representative Leff, Ms. Madison stated several of the Auditor General's Office recommendations have already been implemented. She reiterated there have been problems with the lack of oversight of district contracts, but changes have been implemented to address this.

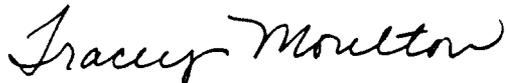
Senator Day stated more information is needed before a decision can be made whether to continue with the current structure, role and objective of the Council.

Representative Hershberger asked for a summary of the federal law requirements before the Committee makes a decision.

Senator Day opined the Council is a valuable advocacy tool, but she has concerns regarding what other responsibilities it has.

There being no further business, the meeting was adjourned at 11:40 a.m.

Respectfully submitted,



Tracey Moulton
Committee Secretary

(Tapes and original minutes on file in office of the Secretary of the Senate.)

Senate Secretary

ARIZONA STATE LEGISLATURE

MEETING NOTICE

OPEN TO THE PUBLIC

**SENATE HEALTH AND HOUSE HUMAN SERVICES
COMMITTEE OF REFERENCE
ON
THE GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITIES**

DATE: Tuesday, December 15, 1998
TIME: 10:30 a.m.
PLACE: Senate Appropriations Room 109

AGENDA

1. Call to Order - Opening Remarks
2. Public Testimony
3. Discussion
4. Committee Recommendation
5. Adjourn

MEMBERS:

Senator Ann Day
Cochair

Representative Freddy Hershberger
Cochair

Senator Sue Grace
Senator Randall Gnant
Senator Sandra D. Kennedy
Senator Elaine Richardson

Representative Barbara Leff
Representative Mark Anderson
Representative Marion L. Pickens
Representative Rebecca Rios

12/4/98
JB/jas

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Senate Secretary's Office at (602) 542-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

Handwritten signature

ARIZONA STATE LEGISLATURE
Forty-third Legislature - Second Regular Session

Committees of Reference
on the
Governor's Council on Developmental Disabilities

Minutes of the Meeting
Tuesday, December 15, 1998
Senate Appropriations Room 109, 10:00 a.m.

Tape 1, Side A

Members Present

Senator Day, Co-chair
Senator Gnant
Senator Grace

Representative Hershberger, Co-chair
Representative Leff
Representative Rios

Members Absent

Senator Kennedy
Senator E. Richardson

Representative Anderson
Representative Pickens

Staff

Jason Bezozo, Senate Research Analyst
John Barry, House Research Analyst

Speakers

Jodi Beckley, Governor Hull's Office

Guest list (Attachment A)

Senator Day called the meeting to order at 10:40 a.m. and announced that the Committee members are prepared to move that the Council be extended for 5 years.

PUBLIC TESTIMONY

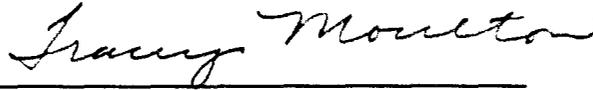
Jodi Beckley, Governor Hull's Office, stated Governor Hull wanted to have her make a statement of support for the Council's Chair and the Executive Director whom she opined have been working very hard on the problems that have been identified.

Senator Grace moved that the Committee extend the Governor's Council on Developmental Disabilities for a period of five years and to prepare a bill to reflect this. The Motion CARRIED by voice vote.

Senator Day opined that the Council is making progress and noted that the Committee took the Auditor General's report seriously. She wished the Council good luck

Without objection, the meeting was adjourned at 10:43 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Tracey Moulton".

Tracey Moulton, Committee Secretary

(Attachments and tape on file in the Secretary of the Senate's Office.)

ARIZONA STATE LEGISLATURE

MEETING NOTICE

OPEN TO THE PUBLIC

SENATE HEALTH AND HOUSE HUMAN SERVICES COMMITTEE OF REFERENCE ON THE GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITIES

DATE: Tuesday, December 15, 1998

TIME: 10:30 a.m.

PLACE: Senate Appropriations Room 109

AGENDA

1. Call to Order - Opening Remarks
2. Public Testimony
3. Discussion
4. Committee Recommendation
5. Adjourn

MEMBERS:

Senator Ann Day
Cochair

Representative Freddy Hershberger
Cochair

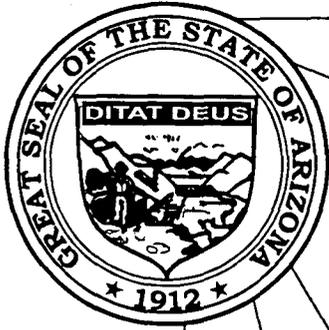
Senator Sue Grace
Senator Randall Gnant
Senator Sandra D. Kennedy
Senator Elaine Richardson

Representative Barbara Leff
Representative Mark Anderson
Representative Marion L. Pickens
Representative Rebecca Rios

12/4/98

JB/jas

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Senate Secretary's Office at (602) 542-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.



State of Arizona
Office
of the
Auditor General

PERFORMANCE AUDIT

**GOVERNOR'S
COUNCIL ON
DEVELOPMENTAL
DISABILITIES**

Report to the Arizona Legislature
By Douglas R. Norton
Auditor General
September 1998
Report Number 98-18

DOUGLAS R. NORTON, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

DEBRA K. DAVENPORT, CPA
DEPUTY AUDITOR GENERAL

September 21, 1998

Members of the Arizona Legislature

The Honorable Jane Dee Hull, Governor

Ms. Susan Madison, Executive Director
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 May 27, 1997, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §§41-2951 through 41-2957.

The report addresses the Council's ability to effectively oversee the district councils it contracts with to help plan and advocate on behalf of Arizona's developmentally disabled citizens. The Council itself consists of 23 members appointed by the Governor and is supported by a staff of six full-time employees; however, the Council's goals are achieved primarily through annual contracts with six regional districts councils. As specified in their contracts, these district councils serve their developmentally disabled citizens by informing the Council about problems facing developmentally disabled persons in their local communities, providing information regarding local service providers and services offered, and referring developmentally disabled citizens and their families to needed services. Historically, the district councils wrote their own contracts and submitted them to the Council for approval. Consequently, the contracts did not correspond directly with the Council's goals as specified in its State Plan. Additionally, because Council staff did not sufficiently monitor district councils' activities, some district councils had not been performing in accordance with their contract requirements. However, to address these deficiencies and to provide an increased emphasis on contract oversight, the Council's Executive Director has recently implemented a new contract development and monitoring process. In addition to these

September 21, 1998

Page -2-

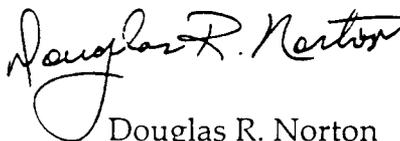
efforts, the Council should also consider other methods of ensuring contract requirements are met such as withholding district council funding when necessary, developing outcome-based contracts, and implementing a competitive bidding process.

As outlined in its response, the Council agrees with all of the findings and recommendations.

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

This report will be released to the public on September 22, 1998.

Sincerely,

A handwritten signature in black ink that reads "Douglas R. Norton". The signature is written in a cursive style with a large, looping initial "D".

Douglas R. Norton
Auditor General

Enclosure

SUMMARY

The Office of the Auditor General has conducted a performance audit of the Governor's Council on Developmental Disabilities (Council) in response to a May 27, 1997, resolution of the Joint Legislative Audit Committee. This performance audit was conducted as part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

The Council's purpose is to plan and advocate on behalf of Arizona's estimated 83,000 developmentally disabled citizens to assist them in reaching their maximum potential. The Council does this by monitoring current services for the developmentally disabled, identifying unmet needs and gaps in services, and developing plans to address these needs. To address the important issues facing Arizona's developmentally disabled citizens, the Council develops a three-year State Plan. This plan is required under federal legislation and is approved by the U. S. Department of Health and Human Services. Federal legislation also requires that the Council operate independently of direct service providers, such as the Department of Economic Security (DES). However, DES does provide the Council with administrative services.

The Council's current State Plan (1998-2000) identifies four important goals: Leadership/Self-Determination (increasing self-sufficiency), Education, Employment, and Family Support. The Council implements these goals through annual contracts with six regional district councils, located in Scottsdale, Tucson, Prescott, Kingman, Apache Junction, and Benson. The district councils provide local developmentally disabled citizens with advocacy on important issues, information regarding service providers and services offered, and referrals to needed services.

Governor's Council Should Continue Increased Emphasis on Contract Oversight (See pages 5 through 11)

This performance audit found several problems that have historically impacted the Council's ability to achieve its monitoring and advocacy goals for the developmentally disabled.

Contract oversight problems—The Council's limited oversight of the contracts it holds with six district councils has impacted its ability to ensure all State Plan goals and objectives were met in the past. Prior to 1998, the contracting process was problematic because the Council relied on the district councils to develop their own contracts. This did not ensure district councils were working on high-priority activities or that all Council goals and objectives were collectively addressed. Further, the audit found that district councils were not performing all of the work mandated by their contracts. For example, several district councils

made little or no progress in establishing family support groups or supporting leadership development programs. Moreover, some district councils were also performing work under non-Council contracts, which may have adversely affected the resources expended to achieve Council goals.

Contract monitoring historically insufficient—The Council has also failed to adequately monitor district council contract performance to ensure compliance with contract requirements in the past. The Council requires the district councils to provide quarterly reports on their activities. However, until recently the Council has not effectively used this information to monitor contractually mandated activities and ensure goals are met at the local level. The Council should continue its recent efforts to use information obtained from district council quarterly progress reports, have Council staff conduct regular site visits, and review independent audit reports to monitor and assess contract performance.

Other options—In addition to improved contracts and better monitoring, the Council has other options to help ensure contract requirements are met. First, annually reviewing and revising district council contracts to address deficiencies would help the Council ensure all State Plan goals and objectives are addressed. Additionally, the Council could withhold district council funding for partial or complete nonperformance of contractual requirements. Moreover, outcome-based contracts, which focus on specific impacts of district council activities, such as the number of jobs developmentally disabled citizens obtained as a result of district council efforts, could help the Council measure district council performance. Finally, the Council could use a competitive bidding process to help ensure its goals are met. Currently, the Council issues sole source contracts to the district councils. The Council could use a competitive bidding process, such as Requests for Proposal, to promote competition and help ensure adequate performance of contract requirements. Nine of 10 states surveyed during the audit use competitive bidding.

Table of Contents

	<u>Page</u>
Introduction and Background	1
Finding I: Governor’s Council Should Continue Increased Emphasis on Contract Oversight	5
Contracts with District Councils Primary Method of Achieving Goals	5
Past Contract Oversight Problems Hampered Council Efforts to Ensure Goals Were Achieved	6
Additional Changes Can Help Ensure Contract Requirements Are Met	9
Recommendations	11
Sunset Factors	13
Agency Response	
Appendix	a-i

Table of Contents (concl'd)

Page

Tables

Table 1	Governor's Council on Developmental Disabilities Statement of Revenues, Expenditures, and Operating Transfers Years Ended June 30, 1996, 1997, and 1998 (Unaudited).....	4
Table 2	Governor's Council on Developmental Disabilities District Council Contracts Year Ended September 30, 1996	a-i

INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Governor's Council on Developmental Disabilities (Council) in response to a May 27, 1997, resolution of the Joint Legislative Audit Committee. This performance audit was conducted as part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2951 through 41-2957.

Extent of Developmental Disabilities in Arizona

According to the Council's three-year 1998-2000 State Plan, there are approximately 83,000 developmentally disabled people in Arizona. A.R.S. §41-2451 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 major 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 that are lifelong or of extended duration.

The Council's Role

A.R.S. §41-2452 establishes the Council as Arizona's advocacy and planning body for persons with developmental disabilities. The Council's statutory purpose is "to ensure that persons with developmental disabilities receive the care necessary for them to reach their maximum potential." 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.

The federal government plays a significant role in mandating Council activities and funding them. The federal Developmental Disabilities Assistance and Bill of Rights Act of 1984 di-

rected federal monies to states to provide advocacy and planning services to the developmentally disabled. As such, the federal government mandated a separate entity other than the state agency involved in coordinating and funding services to the developmentally disabled, which in Arizona is the Department of Economic Security (DES). The Council serves as Arizona's separate entity. As part of its federal mandate, the Council develops a three-year State Plan that addresses federal goals and objectives.

The Council achieves most of its State Plan goals and objectives through contracts with six district councils. These are separate not-for-profit entities that contract with the Council and others to provide services to the developmentally disabled. The six district councils are located in the same geographical areas as the six regional districts of DES' Division of Developmental Disabilities.

Organization

The Council is comprised of up to 23 members appointed by the Governor. By statute, the members must represent people with developmental disabilities, parents and guardians of people with developmental disabilities, and representatives from state agencies delivering services to the developmentally disabled. The Council is organized into four standing committees. The Executive Committee oversees the budget and allocates project monies. The Planning Committee coordinates Council efforts with other state agencies and evaluates the feasibility of proposed projects. The Legislative Committee proposes, reviews, and monitors legislative issues affecting Arizona's developmentally disabled citizens and their families. The Monitoring and Evaluation Committee evaluates Council projects and contracts to ensure the Council's mission and goals are being met.

Six full-time staff support Council activities. Staff include an executive director, two planners, a program and project specialist, and two administrative staff.

Federal law requires the Council to 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 (DES). 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 budget or \$50,000, whichever is less. For fiscal year 1998, DES did not receive any compensation for services performed on the Council's behalf.

Budget

The Council is entirely federally funded under the Developmental Disabilities Assistance and Bill of Rights Act of 1984. Federal statute specifies certain Council expenditure allocations. At least 65 percent of Council monies must 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 appropriations and expenditures for fiscal years 1995-96 through 1997-98.

Audit Scope and Methodology

The audit focused on the Council's contracts with six regional district councils and whether more effective oversight of the Council's contracts and its district councils could help it better achieve its mission. The report also includes the 12 factors that the Legislature should consider in determining whether the Governor's Council on Developmental Disabilities should be continued or terminated.

Auditors used several methods to review the issues presented in this report. They compared federal legislation with the Council's three-year State Plan to determine if the Council is meeting its federal requirements. Next, auditors compared the State Plan with the Council's six district council contracts to determine if all State Plan goals and objectives are covered by the contracts. Additionally, auditors reviewed district council quarterly reports to ascertain if the district councils were adequately meeting their contract specifications. Auditors also reviewed the district councils' independent audit reports and other non-Council contracts to obtain an understanding of district council operations. Finally, auditors conducted a survey of developmental disability council executive directors in ten other states to identify criteria for improving the Council.¹ The states were selected based on their demographic similarity to Arizona and their innovative work with developmental disabilities issues.

Key persons interviewed during this audit include the Council Executive Director and staff, five Council members, the six district council directors, and representatives of five Arizona advocacy organizations. In addition, auditors attended two full Council meetings and eight Council standing committee meetings.

This audit was performed in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Council, the Executive Director and staff of the Council, district council directors and staff, and advocacy organization representatives for their cooperation and assistance during the audit.

¹ The ten other states contacted during the audit include California, Colorado, Hawaii, Iowa, Massachusetts, Minnesota, Missouri, New Jersey, Oregon, and Utah.

Table 1

**Governor's Council on Developmental Disabilities
Statement of Revenues, Expenditures, and Operating Transfers¹
Years Ended June 30, 1996, 1997, and 1998
(Unaudited)**

	1996	1997	1998
Revenues:			
Federal grants	\$ 988,745	\$932,061	\$853,154
State in-kind contributions ²	39,093	34,638	34,679
Other		<u>1,337</u>	
Total revenues	<u>1,027,838</u>	<u>968,036</u>	<u>887,833</u>
Expenditures:			
Personal services	202,529	180,024	172,827
Employee related	45,849	40,596	41,248
Professional and outside services	10,619	10,757	15,752
Travel	38,664	20,203	14,989
Aid to individuals	674,353	619,243	570,276
Other operating	69,362	49,903	53,059
Capital outlay	<u>1,508</u>	<u>773</u>	<u>730</u>
Total expenditures	<u>1,042,884</u>	<u>921,499</u>	<u>868,881</u>
Excess of revenues over (under) expenditures	<u>\$ (15,046)</u>	<u>\$ 46,537</u>	<u>\$ 18,952</u>

¹ The Department of Economic Security accounts for the Council's financial transactions and activities, identifying them by a separate account code in the Department's General Fund. However, the Department does not maintain fund balances at the activity level. Consequently, the Council's fund balance is not readily determinable.

² Represents the value of administrative services, such as accounting, contracting, and personnel services, contributed by the Department to the Council.

Source: The Council's listing of revenues and the Department of Economic Security's Financial Management Control System *Summary Trial Balance by Fund* report for the years ended June 30, 1996, 1997, and 1998.

FINDING I

GOVERNOR'S COUNCIL SHOULD CONTINUE INCREASED EMPHASIS ON CONTRACT OVERSIGHT

The Governor's Council on Developmental Disabilities (Council) should continue its recent efforts to improve its oversight of district council contracts. Although the Council contracts with six regional district councils to implement its goals, the contracts have not adequately specified Council objectives and have not been adequately monitored. However, under new leadership, the Council has taken a more active role in overseeing its contracts. In addition to these recent activities, the Council could implement several other changes that will help ensure its goals are met and that Arizona's developmentally disabled citizens are adequately served.

Contracts with District Councils Primary Method of Achieving Goals

The Council works to address important issues facing Arizona's developmentally disabled citizens and their families. In doing so, the Council develops a three-year State Plan, which is approved by the U.S. Department of Health and Human Services. Under the 1984 federal Developmental Disabilities Assistance and Bill of Rights Act, state developmental disabilities councils must promote two of four federal goals, including employment, in order to receive federal funding for developmental disability advocacy and related activities. Over the years, the Council has prepared several State Plans, which identify important issues facing Arizona's developmentally disabled citizens. The current State Plan (federal fiscal years 1998-2000) focuses the Council's efforts in four major goal areas: Leadership/Self-Determination, which increases self-sufficiency for citizens with developmental disabilities; Education, including access to related services such as assistive technology; Employment opportunities and training; and Family Support, to help families of the developmentally disabled.

The Council's goals are primarily achieved through annual contracts with six regional district councils, which are located in Scottsdale, Tucson, Prescott, Kingman, Apache Junction, and Benson. As specified in their Council contracts, these district councils serve their local developmentally disabled citizens in several ways: providing advocacy, such as informing the Council about problems facing developmentally disabled citizens in their local communities; providing information regarding local service providers and services offered; and referring developmentally disabled citizens and their families to needed services.

Past Contract Oversight Problems Hampered Council Efforts to Ensure Goals Were Achieved

Although the Council has recently identified the need for increased oversight, historically, the Council has not adequately monitored district councils or their contracts to ensure that all State Plan goals and objectives are met. The Council's prior contracting process did not ensure all Council goals were addressed. Further, our review found that the district councils are not performing all of the work specified in their contracts. In addition, district councils' work involving non-Council contracts may impact the resources used to meet Council goals and objectives. Finally, although the Council requires its district councils to report on their activities, the Council has not historically used this information to track and ensure that contractually mandated activities are performed.

Contracting process was problematic—Prior to the federal fiscal year 1999 contracting period, the Council's contracting process created problems that impaired its ability to ensure district council contracts addressed all Council goals. Historically, district councils wrote their own contracts and submitted them to the Council for approval. This process was problematic in that the district councils' contract objectives did not correspond directly with the State Plan's goals, and Council staff did not review the contracts to ensure that the contractual requirements were sufficient to address the Council's State Plan goals. The district council contracts also varied in their format, which further complicated comparison of district council contracts to Council goals.

To correct these problems, the Council Executive Director implemented a new process for contracting with district councils for federal fiscal year 1999. The contracting process now reflects a "top-down" approach in which the Council develops the contracts specifying which goals the district councils are expected to address. District councils are now given a scope of work, prior to contracting, which lists specific State Plan objectives to be achieved during the contract year. Moreover, Council staff are now responsible for ensuring that all district council contracts collectively address all Council goals and objectives contained in the State Plan.

District councils not performing in accordance with contract requirements—While contracts for federal fiscal year 1999 have been revised to more clearly specify what the Council expects of the district councils, the Council has not ensured that its district councils are achieving contract specifications. Auditors reviewed district council quarterly reports for the current contract year and found that several district council quarterly progress reports either did not address contract reporting requirements or showed little progress in performing specific contract requirements. For example:

- All six district council contracts contain a Council Goal to "establish a family support group through each district council to assess the implementation of Family Support."

However, three of the district councils are making little progress in initiating Family Support group efforts or collaborating with other related entities, such as the Department of Economic Security (DES) Division of Developmental Disabilities offices located in the same regions as the district councils. Collaboration with other entities could provide increased information and resources to developmentally disabled citizens and their families, which is the primary purpose of the Family Support goal.

- All six district council contracts contain a Council Goal to “increase participation of individuals with developmental disabilities and/or their family members in leadership development programs.” Four of the district councils made little or no progress during the first six months of their current contracts, even though progress in this area could help increase the self-sufficiency of developmentally disabled citizens.

Non-Council contracts could take resources away from Council goal achievement—Several district councils’ work on non-Council contracts may have impacted the time and resources expended to meet Council contractual goals. District councils are non-profit corporations and may enter into non-Council contracts. During federal fiscal year 1996, four of the six district councils had at least one non-Council contract. These contracts came from a variety of sources, such as the Rehabilitative Services Administration of DES, Arizona Department of Transportation, and Easter Seals. These contracts averaged 67 percent of the funding for these district councils (see Appendix, page a-i).

The district councils’ staff and resources used to fulfill these non-Council contracts can present problems for the Council, especially if the work is performed using resources funded by the Council. For example, one district council has a full-time director and secretary specified in its Council contract. However, this district council director also works full-time under a non-Council contract at the same time. As a result, Council-supported staff also administer the non-Council activities, thus taking time and resources away from contractually mandated Council duties. Therefore, the Council should address whether district councils use staff and resources paid for under Council contracts to perform non-Council contract work.

Monitoring of district council contract activities historically insufficient—Until recently, the Council did not sufficiently monitor its district council activities. Although the Council has several sources of useful information for determining the district councils’ performance of contract specifications, such as quarterly reports, site visits, and independent audit reports, it did not fully use those monitoring tools in the past.

- **Quarterly Reports**—Historically, the Council and its staff have not used quarterly reports to ensure that district councils are making adequate progress toward contract performance and addressing the Council’s goals and objectives. District councils are required to submit quarterly reports to Council staff, which document their progress in meeting all contract requirements. As mentioned previously, auditors’ review of the

quarterly reports revealed that several district councils had performed little or no activity on several of the goals. Timely and thorough review of the quarterly reports can provide the Council an assessment of progress-to-date on the goals. Thus, the Council staff could then provide feedback and take other actions as needed to ensure that contract requirements will be met.

The Council is beginning to address concerns with district council quarterly reports. Until recently, the Council staff has never specified a standard reporting format for the quarterly reports, which would facilitate comparison with contract specifications and identification of inadequate district council performance. The Council Executive Director recently assigned one staff person responsibility for monitoring district council quarterly reports and comparing them with district council contracts to ensure contractual obligations are met. District councils are now provided feedback regarding the adequacy of their quarterly reports, including progress on Council goals.

- **Site Visits**—As was found in the 1988 audit, the Council members and staff have continued to encounter difficulty performing site visits of its district councils. Site visits can provide the Council with important information on district council operations and help the Council identify inadequate performance. However, the Council staff performed only three site visits for the year ended September 30, 1996, and none in 1995. In addition, the Council staff had not specified a standard format or purpose for site visits. As a result, some district council directors had questioned the purpose and usefulness of these visits. To help rectify this situation, the Council staff has recently developed a standard format for site visits, developed training for its Council members prior to their making any future visits, and assigned one Council staff person oversight responsibility for site visits. As of August 1998, the Council members and staff have performed site visits of all six district councils.
- **Independent Audit Reports**—Prior to the hiring of the current Executive Director in July 1997, it appears the Council did not review or question the findings of annual district council independent audit reports, which are required under the Council contracts. These audit reports contain important information, such as financial discrepancies, operating problems, and other work being performed by the district councils. They provide the Council with valuable insight into district council operations and help the Council make informed decisions regarding its contracts. In one case, it appears the Council and its staff did not review or retain one district council's 1996 independent audit report. This report noted approximately \$6,500 in questionable expenditures, including \$2,800 in undocumented travel expenses for the former director. However, the current Council Executive Director has since reviewed the audit report and requested and received documentation of the expenditures and reimbursement for approximately \$2,800 in undocumented expenses.

Additional Changes Can Help Ensure Contract Requirements Are Met

In addition to the Council's recent oversight activities, the Council should consider other options to help ensure its contract requirements are met. First, district council contracts should be annually reviewed, and revised as necessary, to ensure all Council goals are addressed. Second, funding could be withheld for partial or complete nonperformance of contractual mandates. Third, using outcome-based contracts could help the Council measure district councils' performance and hold them accountable in the future. Finally, the Council could use competitive bidding to promote competition and help ensure its goals are met.

① *Contract review and revisions warranted*— Better development of district council contracts is necessary to ensure Council goals are addressed. The Council has contracted with the district councils for several years. However, as noted previously, the prior contracting process, which allowed district councils to write their own contracts with little involvement from Council staff, contributed to incomplete and inconsistent contracts. Because contracts are awarded annually and expire on September 30, the Council has the opportunity to annually address contract deficiencies. Currently, the Council is developing new contracts for federal fiscal year 1999 to ensure all facets of its State Plan that can be addressed by the district councils are included.

Revision of district council contracts can also help ensure district councils fulfill Council goals. The Council should determine if completion of its state plan goals satisfies contractual requirements or if additional specifications regarding district council staffing are warranted. If necessary, the Council can contractually specify the hours or percentage of district council staff time to be spent on Council contractual activities.

② *Council could withhold district council funding*— The Council could also withhold district council funding to address performance problems. Each quarter, the Council prepays the district councils one-fourth of the total funding specified in the contracts. As specified in its contracts, the Council does have the option of withholding funding if some contractual requirements are not met. In fact, the Council's new Executive Director recently withheld one district council's funding for complete nonperformance of contractual obligations. Although the district council lacked a director and did not operate for six months, the Council still paid the district council over \$46,000 during this period. After reviewing the district council's quarterly reports and independent audit report, the new Council Executive Director withheld approximately \$24,000 to reflect staff vacancies and related expenditures in the director's office during this six-month period. The Council Executive Director determined that the remaining monies were appropriately spent on subcontractors who worked during this period.

Good
Point
with
Ext. Dir.
is using
contracting
process
to ensure
compliance

Although the above case illustrates an extreme example of district council nonperformance, the Council had not previously withheld funding for merely substandard district council performance either. In contrast, 4 of 10 states contacted during the audit have either withheld funding or canceled contracts due to substandard performance.

Outcome-based contracts improve accountability—In addition to withholding funding for inadequate performance, the Council should revise its district council contracts to be more outcome oriented. Outcome-based contracts can help the Council better determine whether its efforts are positively impacting Arizona’s developmentally disabled citizens and help it hold its district councils accountable for their performance. Even though the current contracts specify district council activities, the contracts do not focus on the outcomes or overall effect of their efforts. For example, one Council Employment Goal specifies that district councils will “increase initiatives in transition and post secondary education to enhance employment opportunities.” A more outcome-based objective would focus on the number of jobs that developmentally disabled citizens obtain as a direct result of district council efforts.

The federal government is placing an increasing emphasis on outcome-based contracting and accountability, according to the U.S. Department of Health and Human Services representative who oversees state developmental disability councils. In addition, several state developmental disabilities councils, such as California, Colorado, Iowa, Missouri, and Oregon, have also moved to outcome-oriented contracting.

Competitive bidding could help ensure adequate performance—Finally, competitive bidding is available to the Council to help ensure its goals are met in the districts. Currently, the Council issues sole source contracts to the district councils in each of the six districts. The Council has been contracting with these same district councils for many years. Instead, the Council may consider issuing Requests for Proposals (RFPs) to promote competition and ensure adequate performance of its contracts. Comparatively, 9 of 10 states surveyed during the audit use either an RFP-only contracting process or a combination of RFPs and sole source contracts. An RFP process could allow the Council to contract with organizations specializing in its goal areas. One organization could coordinate employment training and entrepreneurship opportunities for developmentally disabled citizens statewide, which could increase networking opportunities and facilitate the use of best practices learned from local experiences.

Recommendations

The Governor's Council on Developmental Disabilities should continue its efforts to enhance contract monitoring by:

1. Reviewing its district council contracts to ensure that all Council goals and objectives are addressed.
2. Holding its district councils to all contract specifications by continuing to:
 - a. Review and compare district council quarterly reports against contract specifications;
 - b. Conduct regular site visits of its district councils; and
 - c. Review district council independent audit reports.
3. Continuing to withhold district council funding for nonperformance of contract specifications.
4. Revising district council contracts to reflect more outcome-based performance measures.
5. Considering a Request for Proposal (RFP) process to ensure contract specifications are effectively met.

* NO STATUTORY RECOMMENDATIONS

(This Page Intentionally Left Blank)

SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Governor's Council on Developmental Disabilities (Council) should be continued or terminated.

1. **The objective and purpose in establishing the Council.**

The Council is Arizona's advocacy and planning body for persons with developmental disabilities. The Council consists of no more than 23 members appointed by the Governor for three-year terms. The Council 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 addresses this responsibility in the following ways:

- Identifying unmet needs for providing services to the developmentally disabled through public input via Council meetings and district council feedback.
- Developing a three-year State Plan that establishes and prioritizes goals for addressing those issues or problems.
- Funding projects to meet goals outlined in its three-year State Plan.

In addition, A.R.S. §41-2454 lists the Council's duties, which include serving as a forum for issues concerning the developmentally disabled, advising private and public officials on current programs and policies, reviewing Arizona's service plans, and monitoring programs and services to the developmentally disabled population. The Council also facilitates a statewide community information and advocacy network through its contracts with six regional district councils. These district councils serve as the Council's primary contact with developmentally disabled citizens and their families at the local level. Under contract specifications, the district councils serve developmentally disabled citizens and their families by providing information on local services and service providers; employment and rights training workshops; coordination with other agencies and organizations, such as the Department of Economic Security; and advocacy for problems arising in their local communities.

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

The Council can increase its effectiveness in meeting its mission and goals specified in its State Plan through continued improvements in oversight of its district council contracts. Although the Council contracts with six regional district councils to provide advocacy, information, and referral services to local developmentally disabled citizens, the Council has not historically ensured that contracts, collectively, reflect all of the Council's goals. Further, until recently, the Council has provided inadequate oversight of its contracts by not ensuring district councils perform all contractual mandates. Although the Council has several useful sources of information, it has not adequately used this information to evaluate district council performance in the past (see Finding I, pages 5 through 11).

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

Generally, the Council has operated within the public interest by assisting developmentally disabled citizens and their families through promoting changes in the developmental disabilities service delivery system, advocacy, and increased independence. Specifically, the Council works toward four principal goals:

Self-Determination/Leadership Development—Providing increased independence for individuals and their families through participation in self-advocacy training so they have knowledge and control over their own lives.

Education—Providing advocacy for a free appropriate public education for all students with disabilities, including adequate funding for related services. Provides training in education advocacy and promotes a fair due process system and dispute resolution when students are not receiving appropriate education and necessary related services.

Employment—Increasing opportunities for individuals to become employed through changes in public policy and demonstration of an entrepreneurship project.

Family Support—Providing advocacy for increased implementation of family and individual supports within the community and through grassroots involvement of families in formal Family Support Groups.

Additionally, the Council has shown significant involvement in legislative advocacy, and has funded projects to address unmet needs of developmentally disabled individuals, and co-sponsored or partnered many conferences pertaining to developmental disability issues.

4. The extent to which rules adopted by the Council are consistent with the legislative mandate.

According to the Governor's Regulatory Review Council, the Council does not have rule-making authority.

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

Although the Council does not have rule-making authority, it is required to seek public input on the three-year State Plan it sends to the federal government. The Council has used various methods to seek input, including newsletters, public forums, and special meetings to inform the public and get input on Council priorities and activities.



Finally, the Board has generally complied with the Open Meeting Law. However, the Council's Executive Committee has violated the Open Meeting Law on two occasions. In 1997, the Executive Committee held two conference calls to discuss funding of its district council contracts. These meetings violated A.R.S. §38-431.01(A) and (B) by failing to provide public notice of the meeting times and places and by not retaining any documentation of the meetings or decisions reached.

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

The Council's enabling statute does not establish a formal complaint investigation and resolution process. However, according to the Executive Director, the Council does handle concerns and complaints received from consumers and family members. Since the investigation and resolution is most often handled with a few phone calls, the Council does not formally track concerns and complaints it receives. More in-depth situations require letters being sent or meetings with stakeholders. Additionally, most of its district councils also handle complaints through individual advocacy calls, meetings, and training sessions.

7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

This factor is not applicable to the Council.

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

The Council has sought technical and administrative changes to Board statutes over the years. However, the most recent legislation was passed in 1986, which increased the number of council members from 17 to no more than 23.

- 9. The extent to which changes are necessary in the laws of the Council to adequately comply with the factors listed in this subsection.**

Based on our audit work, no statutory changes related to the Council's laws are recommended.

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

Termination of the Council would not significantly harm the health, safety, or welfare of the State's developmentally disabled population. However, if the Council were terminated, Arizona's developmentally disabled citizens would lose a resource that serves 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, independent of service providers such as the Department of Economic Security, to receive its allotted share of federal money, which amounted to approximately \$853,000 for fiscal year 1998, according to Council estimates.

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

Since the Council is not a regulatory body, this factor does not apply.

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

The Council relies on private contractors to assist in performing several important duties. For example, the Council funds the six nonprofit district councils to assist it in achieving its goals for persons with developmental disabilities. Additionally, it gives the Arizona Center for Disability Law funding to provide statewide legal advocacy services to the developmentally disabled. Periodically, the Council also funds other private contractors for a variety of services.

Agency Response

(This Page Intentionally Left Blank)



**Governor's Council
on Developmental Disabilities**

Getting the Job Done

Jane Dee Hull
Governor
Helen Baldino, Esq.
Council Chairperson
Susan Madison
Executive Director

1717 West Jefferson (SC074Z)
Phoenix, AZ 85007
Telephone (602) 542-4049
FAX (602) 542-5320
1-800-889-5893

September 14, 1998

Mr. Douglas Norton
Office of the Auditor General
2910 N. 44th St., Suite 410
Phoenix, AZ 85018

Dear Mr. Norton:

The Governor's Council on Developmental Disabilities has reviewed the revised draft report from your office. The Governor's Council wishes to thank all audit staff for reflecting changes discussed during the August 26, 1998 meeting.

The Governor's Council on Developmental Disabilities will continue its efforts to enhance contract monitoring. From the report, the following recommendations follow:

1. **The Council will review its District Council contracts to ensure all Council goals and objectives are addressed.**

The finding of the Auditor General is agreed to and the audit recommendation will be implemented. ✓

2. **Holding its District Councils to all contract specifications by continuing to:**
 - a) **Review and compare District Council quarterly reports against contract specifications**
 - b) **Conduct regular site visits of its District Councils; and**
 - c) **Review District Council independent audit reports.**

The finding of the Auditor General is agreed to and the audit recommendations will be implemented. ✓

3. **Continuing to withhold District Council funding for non-performance of contract specifications.**

The finding of the Auditor General is agreed to and the audit recommendation will continue to be implemented. ✓

4. Revising District Council contracts to reflect more outcome-based performance measures.

The finding of the Auditor General is agreed to and the audit recommendation will be implemented. ✓

5. Considering a Request for Proposal (RFP) process to ensure contract specifications are effectively met.

The finding of the Auditor General is agreed to and the audit recommendation will be implemented. ✓

The Governor's Council members and staff again wishes to thank the Auditor General's Office staff for their professional and thorough job during the performance audit. The audit team was receptive and kept staff well informed during the various stages of the audit.

Sincerely,

Helen Baldino

Helen Baldino
Chairperson

Susan Madison

Susan Madison
Executive Director

(This Page Intentionally Left Blank)

Appendix

Table 2

**Governor's Council on Developmental Disabilities
District Council Contracts
Year Ended September 30, 1996**

District Councils	Governor's Council Contract Amounts	Other Contract Amounts	District Council Total Contract Amounts	Other Contracts as Percentage of Total	Source of Other Contracts
1	\$ 78,977	\$208,116	\$ 287,093	72%	AZ Early Intervention Program (DES)
2	115,573		115,573	N/A	
3	83,095	86,509	169,604	51	Rural Public Transportation (ADOT) and Easter Seals Project ACTION
4	83,349	284,963	368,312	77	Community Development Grant and Interagency Co-ordinating Council
5	62,415	46,720	109,135	43	Rehabilitative Services Administration (DES)
6	<u>69,018</u>	_____	<u>69,018</u>	N/A	
Total amounts	<u>\$492,427</u>	<u>\$626,308</u>	<u>\$1,118,735</u>		
Total other contract amounts as a percentage of the total contract amounts for Districts 1, 3, 4, and 5				67%	

Source: Auditor General staff analysis of district council contracts for the year ended September 30, 1996.