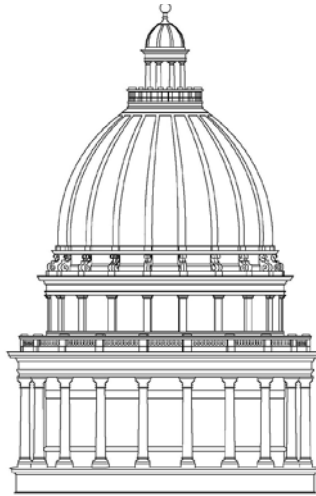


REPORT TO THE
UTAH LEGISLATURE
Number 2014-07



**A Performance Audit
Of Interlocal Entities**

August 2014

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah



STATE OF UTAH

Office of the Legislative Auditor General

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JOHN M. SCHAFF, CIA
AUDITOR GENERAL

Audit Subcommittee of the Legislative Management Committee
President Wayne L. Niederhauser, Co-Chair • Speaker Rebecca D. Lockhart, Co-Chair
Senator Gene Davis • Representative Jennifer M. Seelig

August 2014

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, A Performance Audit of Interlocal Entities (Report #2014-07). We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

A handwritten signature in black ink that reads "John M. Schaff" with a stylized flourish at the end.

John M. Schaff, CIA
Auditor General

JMS/lm

REPORT TO THE
UTAH LEGISLATURE

Report No. 2014-07

**A Performance Audit
Of
Interlocal Entities**

August 2014

Audit Performed By:

Audit Manager Tim Osterstock, CIA

Audit Supervisor David Gibson, CISA

A Performance Audit Of Utah Interlocal Entities

Utah's interlocal entities appear to be in compliance with the registration process that is overseen by the Lieutenant Governor's office. In addition, interlocal entities are required to register with the county recorder where they reside. Our review of six interlocal entities found that they appear to have adequate oversight provided by their governing boards. This review was generated, in part, as a result of oversight and control concerns we raised in separate 2012 reports on two different interlocal entities.

We do believe, however, that changes in the Office of the Lieutenant Governor's interlocal entity certification process are possible and the process can be improved. Much of the state's current oversight efforts are either extraneous or redundant to county-level controls that appear to have been sufficient prior to the increased state involvement.

Prior to 2005, the state-required process to operate as an interlocal entity required document filing with the Utah Tax Commission at the state level and with each county recorder in which the new entity resided. In 2005, *Utah Code* 67-1a-6.5 assigned the Lieutenant Governor's office the responsibility of issuing certificates of creation for interlocal entities and distributing notifications to a variety of state and county offices. The statute further declared that certification was required within ten days of receiving the entity's county-developed documentation.

State Registration Process of Interlocal Entities Can Be Improved

The Office of the Lieutenant Governor's current process for issuing certificates of creation for interlocal entities has insufficient information-tracking ability and, in some cases, duplicative processing. First, the process for emailing certificates of creation to the required

The Lt. Governor's office has been responsible for the certification process of interlocal entities since 2005.

county officials should be changed to provide a functional tracking system. Currently, it is not possible to track document distribution. Second, if plat or map changes are involved in the creation of an interlocal entity, the Lieutenant Governor's office should first send this information to the Automated Geographic Reference Center (AGRC) for verification before certifying the interlocal entity. Third, while filing of entity documentation appears to be taking place, the need for some of the document filing is questionable. Lastly, some state and local county officials have found that there have not been very many requests from the public to review interlocal entity documentation.

Program-Specific Email Accounts Should Be Used For Interlocal Entity Information

Interlocal entities submitting documents to the Lieutenant Governor's office send them to the email account of the employee who oversees the process. We found the Lieutenant Governor's office did not have the ability to determine when documents were sent to county officials, because the employee who oversaw the interlocal entity process had left the office. The email account had been deleted and thus all interlocal entity correspondence, inclusive of interlocal certificates, was lost.

Since 2005, the Lieutenant Governor's office has issued eight interlocal entity certificates. Because the records on certificates sent no longer existed, we verified whether the certificates had been sent by reviewing documentation received by the State Auditor's office. Our review found that one certificate had not been received. The Lieutenant Governor's staff could not determine whether the certificate had been sent, so the office resent the certificate to the State Auditor's office.

To remedy further documentation loss, an email account that is unassigned to a specific employee would not be deleted when an employee left. Such a program-specific account would enable the Lieutenant Governor's office to maintain a record of documents received as well as sent to the various agencies and county officials, as required by statute.

Only eight interlocal entities have been created since 2005.

Better Use of the Automated Geographic Reference Center Would Be Beneficial

When a new interlocal entity sends its documentation to the Lieutenant Governor's office, staff verify that the following documents are included:

- A letter requesting certification
- The specific ordinance the entity is trying to comply with
- A plat number or map (not all interlocal entities' documentation requires these items)

After staff verify that the needed documents are included, the Lieutenant Governor's office creates a certificate. All documentation is then scanned into a pdf document and emailed to the county officials where the interlocal entity resides. According to *Utah Code 67-1a-6.5(2)*, the Lieutenant Governor's office has ten days to complete this process. Statute also requires that a copy of the certificate and final local entity plat be sent to the following entities:

- State Tax Commission
- State Auditor
- Automated Geographic Reference Center (AGRC)
- County assessor
- County auditor
- County attorney
- County surveyor

Notification includes all counties where the interlocal entity's property is located. Staff send the documents via email to the relevant offices. At this time, the AGRC first has the opportunity to review the information. If the AGRC cannot verify that the plat or map is correct, the certificate and all related mailings are invalidated and the process begins again. AGRC's manager said that it would be more efficient for them to receive the data before a certificate is created, ensuring that the Lieutenant Governor's office gets correct information and eliminating duplication of work. AGRC indicated there have been occasions where the submitted plat numbers or maps were incorrect.

The Lieutenant Governor's office sends the certification of creation to various state and county officials.

Requiring Surveyor's Files Could Reduce Certification Time

As noted, interlocal entity map and plat documents are currently sent by the Lieutenant Governor's office to the AGRC for verification after the certificate has been created. The information concerning plat or map changes then has to be transposed from the documents to AGRC's CAD system. Transferring this information manually into AGRC's system increases the chances for errors. Requiring interlocal entities to include surveyor files (CAD files) with their submitted documents would reduce the amount of time it takes the AGRC to verify the information and also ensure data accuracy.

Sending CAD files to AGRC could help reduce errors and ensure data accuracy.

AGRC's manager believes that including the surveyor files with the documentation would dramatically decrease the time it takes to verify the plats or maps. The manager also stated that, because the interlocal entity pays a surveyor to have this work done, the CAD files have already been created. The interlocal entity could include the files with the other information sent to the Lieutenant Governor's office, which could then be forwarded to AGRC for verification.

Some State and Local Entities Have Minimal Use for Interlocal Entity Documents Sent to Them

Current statute calls for wide disbursal of interlocal entity documentation to a number of state and local offices. Our review found that county officials file the documents and then rarely have need to retrieve them. These officials said that, while the county recorder might need the documentation, their offices did not have a use for it. Perhaps reflecting their infrequent use, interlocal entity documents are filed in various ways, some of which might hinder retrieval should they ever be needed. For example, one county files the documents according to the city or town it is located in while another county files them according to the plat or map number.

At the state level, the Tax Commission has always received the documents but, in discussions with us, could not identify why. Staff said that interlocal entities are entities of the state's subdivisions and, as such, are not taxed. Tax Commission staff could not recall a need to retrieve any interlocal entity's documents.

State Oversight and Control Of Interlocal Entities Have Not Reported Significant Issues

Prior to the 2005 statutory change, interlocal entities were required to file annual financial audits with the Office of the State Auditor and provide information to the State Tax Commission. Before the 2005 statutory change, at least 57 interlocal entities had been created. It is possible, however, that additional entities exist that were never reported or recorded. Neither state agency has reported any significant oversight issues with these interlocal entities, whose primary oversight has been locally appointed board members and interlocal entity staff.

Complete Listing of Interlocal Entities May Not Exist

The first attempt to track new interlocal entities came after a 2005 statutory change gave the Lieutenant Governor's office the responsibility to "...keep, index, maintain, and make available to the public certificates, notices, maps, and other documents..." related to interlocal entities. In 2009, the additional charge to "...make a copy of each document...available on the Internet for 12 months after the lieutenant governor receives or generates the document..." furthered the state's tracking ability. Ultimately, all interlocal entities should be added to the list as older existing organizations recertify when their 50-year time periods begin lapsing.

According to *Utah Code* 51-2a-201(1) and (2), all governing boards' entities with revenues or expenditures over \$500,000 must file an annual in-depth financial audit with the State Auditor's office. Those entities whose revenues and expenditures are \$100,000 to \$499,999 are required to file an annual financial report prescribed by the State Auditor. Lastly, those entities whose revenues and expenditures are below \$100,000 must annually file a report prescribed by the State Auditor's office. Because of this reporting requirement, the State Auditor's office has compiled a list of 65 interlocal entities in the state, although staff do not know if this total is accurate nor is there a requirement to compile a complete list. As stated earlier, the State Auditor's office was aware of seven of the eight entities established under the new rules.

**The State Auditor's office
has compiled a list of
interlocal entities that
totals 65.**

According to *Utah Code* 11-13-204(3)(a), interlocal entities may exist for fifty years. Since the statute came into effect in 1965, the older entities will eventually need to go through the Office of the Lieutenant Governor's certification process, which will add them to the list required since 2005.

Interlocal Entities Have Appropriately Relied on Local Control

The Interlocal Cooperation Act became law in 1965. Since that time, statute has maintained local control but various statutory revisions have changed how an interlocal reports or registers its creation. According to statute, interlocal entities are required in their agreements to specify the powers delegated to the entity, the manner in which the entity is to be governed, and the manner in which the members of its governing body are to be appointed or selected. Our conversations with state oversight offices and local government officials did not identify any major concerns with the operations of interlocal entities.

The exceptions to these conversations were two interlocal entities reviewed by our office in 2012. In the first review, board oversight was clearly lax and the member organization with fiscal responsibilities was slow to respond to concerns. Once the controlling agent did respond, a financial audit identified a number of critical weaknesses. In the second case, the interlocal entity, while subject to oversight by its members and maintaining its own internal controls, had serious management problems that were not being acted upon. For both these examples, audits were initiated because a concerned competitor and the organization's users alerted state officials of the need for an audit. Our reviews were not initiated because of the interlocal entity registration process or oversight from state or county officials.

In 2012, our office audited two different interlocal entities where control and oversight issues existed.

We contacted six interlocal entities to determine the level of local oversight and control that exists for these organizations. We contacted three interlocal entities created to benefit member school districts and three rural Utah entities created to benefit member county and city operations. The following material summarizes the local oversight and control of these six interlocal entities.

- **Central Utah Education Services** – This interlocal entity's mission is to identify needs and provide educational services that support student achievement. This interlocal entity's

members include Piute, Wayne, South Sanpete, North Sanpete, Tintic, Sevier, and Juab school districts. The executive board members consist of a superintendent from each school district, as well as a nonvoting member from Snow College. The board meets eight times a year to discuss budget as well as operations issues. All budgets are approved on an annual basis by the executive board; policies and procedures are modeled after those of the Sevier School District, which acts as its fiscal agent.

- **Southwest Education Development Center** – This interlocal entity is an educational cooperative, providing services requested by the member schools in order to better serve students. This interlocal entity’s members include Beaver, Garfield, Iron, Kane, Millard, and Washington school districts, as well as six charter schools. The executive board consists of a superintendent from each school district as well as one person representing all the charter schools. The executive board meets eleven times a year to discuss the budget as well as operations. The overall budget is approved on an annual basis by the executive board; policies and procedures are modeled after those of the Iron School District, which acts as its fiscal agent.
- **Southeast Education Service Center** – This interlocal entity is a not-for-profit service center that supports four public education school districts in Southeast Utah and exists to provide services needed and requested by the schools/districts served. This interlocal entity’s members include Carbon, Emery, Grand, and San Juan school districts. The executive board consists of a superintendent from each school district and a representative from Utah State University. The executive board meets every other month (because of travel distances) to discuss and review the budget as well as operations. The overall budget is approved on an annual basis by the executive board; policies and procedures modeled after those of the Carbon School District, which acts as its fiscal agent.
- **Ashley Valley Sewer Management** – This interlocal entity provides consistent, cost-effective, and reliable wastewater treatment to the communities of Vernal, Maeser, Glines, Naples, and Davis. This interlocal entity’s members include

Vernal City, Ashley Water and Sewer District, and Maeser Water Improvement District. The executive board consists of five members, all of whom are to be residents with the boundaries of the district. The executive board meets monthly to review expenditures and operations. The overall budget is approved on an annual basis by the executive board; policies and procedures are modeled after those of Ashley Water and Sewer District.

- **The Five County Association of Governments** – The purpose of this interlocal entity is to plan, prepare, and partner with federal, state, and local governments to strengthen the role of southwestern Utah local officials in the execution of state and federal programs at the local level. This interlocal entity's members include Beaver, Garfield, Iron, Kane, and Washington counties. The entity also represents Dixie State University and Southern Utah University. The 15-member executive board consists of five county commissioners (one from each county), five mayors (one from each town), and one school board member from each of the five county school districts. There are also two nonvoting members from Dixie State University and Southern Utah University. The executive board meets eight times a year and oversees all budgets and programs; the overall budget is approved on an annual basis. Their policies and procedures are modeled after those of Washington County.
- **Eastern Utah Television & Technology Association** – The original purpose of this local entity was to install and maintain the conversion from analog to digital signal for six counties. Since the conversion has been completed, the association now operates in a maintenance mode, meaning that operations and expenditures only occur when equipment fails and needs to be replaced. This interlocal entity's members include the following counties: Carbon, Emery, Uintah, Daggett, Duchesne, and San Juan. The executive board consists of six county commissioners, one from each county. The executive board meets once a year to approve the annual budget. The director of the Association of Governments of Southern Utah acts as the fiscal agent and is responsible for reimbursing any expenses that occur at the county level if equipment needs to be

replaced. This interlocal has by-laws that specify policies and procedures.

It appears that these six interlocal entities are following statutory requirements and each of them has local mechanisms for oversight and control. A review of their annual board meeting minutes and budgets found that all had been appropriately approved. All six have policies and procedures, inclusive of purchasing policies. In addition, all six interlocal entities are in compliance with the State Auditor's requirements, having submitted the required financial reports each of the last three years.

Recommendations

1. We recommend that the Lieutenant Governor's office use a generic email address for sending and receiving interlocal entity correspondence in order to maintain a history of communications.
2. We recommend that the Lieutenant Governor's office change its process to send interlocal entity information to the Automated Geographic Reference Center (AGCR) to ensure that the plat or map is correct before a certificate is created.
3. We recommend that the Legislature consider requiring interlocal entities to submit surveyor files (CAD files) with their initial documentation to the Lieutenant Governor's office and reconsider legislated response times to recognize the need for plat verifications.

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Agency Response

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STATE OF UTAH
OFFICE OF THE LIEUTENANT GOVERNOR



SPENCER J. COX
LIEUTENANT GOVERNOR

July 22, 2014

John M. Schaff, CIA
Office of the Legislative Auditor General
W315 Utah State Capitol Complex
Salt Lake City, UT 84114

Mr. Schaff,

The Lieutenant Governor's Office has reviewed the report from the Office of the Legislative Auditor General regarding the performance audit of interlocal entities. The Lieutenant Governor's Office agrees with the recommendations and will work the Automated Geographic Reference Center (AGRC) to implement a more efficient certification process for the public.

The report made two specific recommendations: 1) use a generic email address for sending and receiving interlocal entity correspondence in order to maintain a history of communications, and 2) send interlocal entity information to AGRC to ensure that the plat or map is correct before a certification is created.

Generic email. While paper copies are still accepted, emails provide a trackable transmittal history. In the process of the legislative audit, it was evident that emails to and from former employees may not be available after termination of employment. Therefore, the Lieutenant Governor's Office recently created a separate email address (annexations@utah.gov) specifically designated to track transmittals of documents related to annexations, interlocal agreements, new municipal incorporations, and similar requests. With this new email, electronic copies of interlocal entity correspondence can be tracked by date and content.

AGRC verification. The Lieutenant Governor's Office also agrees plat maps should be sent to AGRC for review before certification is applied. This recommendation fits well with recommendation #3 which suggests surveyor files (CAD files) be submitted for AGRC's benefit. It also seems appropriate to secure AGRC's review of both the plat and CAD files before moving forward with the final certification. Thank you for your review and associated report. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Spencer Hadley".

Spencer Hadley
Office Administrator
Lieutenant Governor's Office