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UTAH STATE AUDITOR

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MANAGEMENT LETTER NO. 05-11

March 14, 2006

Yvette Diaz, Executive Director
Department of Community and Culture
324 So. State Street, Suite 500
Salt Lake City, UT 84111

Dear Ms. Diaz:

We have completed our audit of the financial statements of the State of Utah for the year ended June 30, 2005. Our report thereon, dated October 28, 2005, is issued under separate cover. We have also completed the Department of Community and Economic Development's (name changed to the Department of Community and Culture on July 1, 2005) portion of the statewide federal compliance audit for the year ended June 30, 2005. The federal programs tested as major programs at the Department were the Low-Income Home Energy Assistance Program (LIHEAP) and the Home Investment Partnership Program (HOME). Our report on the statewide federal compliance audit for the year ended June 30, 2005 should be issued by April 2006.

In planning and performing our audits, we considered the Department's internal control over financial reporting and the administration of major federal programs in order to determine our auditing procedures for the purpose of expressing our opinion on the State's financial statements and on the State's compliance with the requirements of its major programs and not to provide assurance on internal control. We noted certain matters involving the Department's internal control over financial reporting and the administration of federal programs that we consider to be reportable conditions. These conditions are identified in the accompanying table of contents and are described in the accompanying schedule of findings and recommendations. None of the reportable conditions is believed to be a material weakness.

Reportable conditions are defined as matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting and compliance that, in our judgment, could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements or administer a major federal program in accordance with the applicable requirements of laws,

regulations, contracts and grants. We have also identified as reportable conditions those instances of noncompliance that are required to be reported in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States and Federal OMB Circular A-133.

During our audit, we also noted another matter involving the internal control over financial reporting and compliance of the Department and its operations. We are submitting for your consideration a related recommendation designed to help the Department make improvements and achieve operational efficiencies. This matter is described in the accompanying schedule of findings and recommendations.

This report by its nature focuses on exceptions, weaknesses, and problems. This should not be understood to mean there are not also various strengths and accomplishments. Our consideration of the internal control over financial reporting and administration of federal programs would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses.

This report is intended solely for the information and use of the Department and is not intended to be and should not be used by anyone other than this specified party. However, the report is a matter of public record and its distribution is not limited.

We appreciate the courtesy and assistance extended to us by the personnel of the Department during the course of our audit, and we look forward to a continuing professional relationship. If you have any questions, please call Jon Johnson, Audit Director, at 538-1359.

Sincerely,

Auston G. Johnson, CPA
Utah State Auditor

cc: Kimbal Hale, Director of Finance
Gordon Walker, Director, Division of Housing and Community Development
Kimberley Brown Schmeling, Budget and Accounting Supervisor, Division of
Housing and Community Development
Sherm Roquero, LIHEAP Program Manager
Richard Walker, Housing Director
Mike Glenn, Housing Program Manager

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
FOR THE FISCAL YEAR ENDED JUNE 30, 2005

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DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2005

GENERAL

1. **NONCOMPLIANCE WITH PAYROLL POLICY** (Reportable Condition)

Federal Agency: **various**
CFDA Number and Title: **various**
Federal Award #: **various**
Questioned Cost: **\$-0-**
Pass-through Entity: n/a

As part of our annual audit of State payroll expenditures, we reviewed the reports associated with 42 payroll expenditures to ensure that they were properly reviewed and retained. For one of three expenditures selected from the Department of Community and Economic Development (the Department), the Department did not properly document the review and approval of at least one of the Payroll Management Reports (“Time Summary,” “Time Edit,” “Payroll Results Edit,” and “Time Entered After Cutoff”). State Accounting Policies and Procedures (FIACCT 11-17.00) require departments to generate, review, approve, and retain certain payroll reports each pay period to ensure the accuracy and document approval of the payroll transactions entered into the SAP Payroll System (the System). Noncompliance with the policy could allow errors or misappropriations related to payroll expenditures to occur without detection.

Recommendation:

We recommend that the Department generate, review, approve, and retain required payroll reports each pay period to document that payroll transactions entered in the System are accurate and approved in accordance with State Accounting Policies and Procedures.

Department’s Response:

We concur. The Department will comply with the requirements of FIACCT 11-17.00. The Time Edit and Time Summary reports will be generated and printed by the payroll tech and reviewed and signed by a designated accounting tech. The Time Entered After Cutoff and Payroll Results Edit reports will be generated and printed by the payroll tech and reviewed by the Department’s Director of Finance. A Payroll Review and Approval cover sheet will be completed and all reports, with the coversheet attached, will be filed and maintained for audit purposes by the Director of Finance. FY 2006 payroll reports generated prior to the anticipated correction date will be reviewed and signed by the Director of Finance as time allows.

*Contact Person: Kimbal Hale, Director of Finance, (801) 538-8707
Anticipated Correction Date: Pay period ending February 10, 2006*

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2005

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

2. **IMPROPER SPENDING OF PRIOR YEAR FUNDS** (Reportable Condition)

Federal Agency: **DHHS**

CFDA Number and Title: **93.568 Low-Income Home Energy Assistance**

Federal Award #: **G-01B1UTLIEA**

Questioned Cost: **\$128,981**

Pass-through Entity: n/a

The Department improperly spent \$128,981 of fiscal year 2001 grant funds during fiscal year 2005. These grant funds were originally obligated in a contract in fiscal year 2001 but were not expended in that contract. The funds were considered deobligated from the original contract and were not reobligated in the following year (fiscal year 2002). The period of availability requirement in the Compliance Supplement for the LIHEAP program states that "Funds not obligated by the end of the following fiscal year must be returned to ACF." Thus, the unused funds were no longer considered available and the Department should have returned the funds to the Federal Government instead of spending them in fiscal year 2005.

Recommendation:

We recommend that the Department properly monitor program funds and ensure that funds are expended in the appropriate period of availability.

Department's Response:

We concur with the recommendation. As stated in the audit report, the funds were originally obligated under contract, but were not fully expended. However, it was not known until 2005 that the contracted funds would not be spent, since the period of expenditure is up to five years. Subsequently, the funds were expended on benefit payments incurred in the current year and which are eligible program expenditures.

We have transferred the expenditures to the current year's grant and ACF has been contacted concerning the disposition of the 2001 grant funds that were not expended.

A policy has been put into place to increase control and monitoring of the funds, particularly in unique situations like the one that occurred, and ensure that funds are expended in the appropriate period of availability.

*Contact Persons: Kimberley Brown Schmeling, Budget and Accounting Supervisor,
Division of Housing and Community Development, (801) 538-8727, or
Sherm Roquero, LIHEAP Program Manager, (801) 538-8644*

Anticipated Correction Date: March 31, 2006

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2005

HOME INVESTMENT PARTNERSHIP PROGRAM (HOME)

3. **FINDINGS AND CONCERNS NOTED IN FEDERAL REVIEW** (Reportable Condition)

Federal Agency: **HUD**
CFDA Number and Title: **14.239 HOME Investment Partnership**
Federal Award #: **various**
Questioned Cost: **\$-0-**
Pass-through Entity: n/a

During fiscal year 2005, the U.S. Department of Housing and Urban Development (HUD) performed a review of certain aspects of the HOME Investment Partnerships (HOME) program. HUD noted various findings and concerns related to program income, on-site monitoring, conflict of interest, period of availability, and real property acquisition and relocation assistance requirements. As documented in correspondence from HUD, the Department has adequately resolved the noted issues; therefore, we have issued no further recommendation.

4. **FAILURE TO COMPLY WITH DAVIS-BACON ACT** (Reportable Condition)

Federal Agency: **HUD**
CFDA Number and Title: **14.239 HOME Investment Partnership**
Federal Award #: **various**
Questioned Cost: **\$-0-**
Pass-through Entity: n/a

Per federal regulations (24 CFR 92.354), the wage provisions of the Davis-Bacon Act apply to any construction contract that includes a total of 12 or more HOME assisted units. For fiscal year 2005, there were three HOME program projects to which this regulation applied. We tested one of these projects and noted that the Department did not perform a review of compliance with the Davis-Bacon Act for this project. This project had 26 HOME assisted units. The contractor on this project had not submitted the required weekly certified payrolls and the Department had not taken any follow-up action.

Recommendation:

We recommend that the Department implement controls to ensure that contractors with projects having 12 or more HOME assisted units submit the required weekly certified payrolls.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2005

Department's Response:

We concur. DHCD is implementing a corrective action plan that will include four procedural changes to ensure that contractors abide by the Davis-Bacon Act, including reporting requirements.

- 1. The standard contract language for all HOME fund recipients has been revised to better define when Davis-Bacon applies.*
- 2. The Housing program staff is now holding biennial training for multifamily partners/developers. The first training was held in September 2005 and a second training event is scheduled for April 2006. This ongoing training allows DHCD to reiterate Davis/Bacon responsibilities to entities receiving HOME funds.*
- 3. DHCD has implemented a process change that increases communication between staff before funding recommendations are made to the OWHLF Board. The underwriting/monitoring staff will also complete a "HOME Units Determination" sheet to ensure projects accurately reflect the number of HOME units and Davis-Bacon Act reporting thresholds. The State will identify which of the various funding providers will have Davis/Bacon compliance responsibility and what the specific requirements are. If the State has compliance responsibility, the staff will identify the general contractor and insure compliance requirements are understood and in place prior to the initiation of construction. The general contractor will be required to provide a construction schedule and a complete list of subcontractors to the State staff. The developer will have the responsibility to collect documentation of certified payrolls, interviews, and any wage restitution, as required, and make those documents available to site monitors as requested.*
- 4. The staff has developed a revised monitoring schedule for each multifamily project that includes at least four site visits: Preconstruction; 20% project construction; 50% project construction; and final inspection. This interaction between agency staff and contractors will allow State monitors to closely supervise Davis-Bacon Act compliance and reporting. The first visit will include a site survey and staff participation in the preconstruction meeting with the developer, architect, and contractor, at which DHCD will make known the responsibilities of the developer and contractor under the Davis-Bacon Act. During the subsequent monitoring visits, staff will utilize monitoring techniques including a review of certified payroll reports and interviews of workers on site to ensure compliance with the Davis-Bacon Act.*

*Contact Persons: Richard Walker, Housing Director, (801) 538-8730, or
Mike Glenn, Housing Program Manager, (801) 538-8666*

Anticipated Correction Date: June 30, 2006

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2005

5. ERRORS IN THE MONITORING LIST (Repeat Finding)

During our review of the monitoring listing used to identify applicable federal compliance requirements and track project reviews, we noted several errors in the reported project information.

- a. One project was not included on the monitoring list that should have been.
- b. For the project with IDIS #1526, the home loan number, the committed amount, the project total, and the number of HOME assisted units were incorrect on the monitoring list.
- c. Of the 66 projects on the monitoring list that received HOME funds and have been completed (and, therefore, are currently subject to monitoring), 17 projects had errors or missing information regarding the date the project was to be monitored next. Also, 22 projects had errors or missing information regarding how often the project was to be monitored.

Inaccurate information on the monitoring list may lead to improper identification of applicable federal requirements, inadequate compliance monitoring, and improper reporting and accountability of program funds.

Recommendation:

We recommend that the Department implement controls over the input of information on the monitoring list to ensure the accuracy and completeness of the monitoring list, proper identification of applicable federal requirements, and adequate monitoring procedures.

Department's Response:

The monitoring list referenced by the State Auditor's Office did contain some limited errors and omissions. The monitoring list available to the State Auditor's Office as the audit was initiated was later updated as staff were made aware of these issues.

Loan #1526 is specifically mentioned in the finding. This loan contained incorrect information due to miscommunication between staff regarding the funding source. This resulted in the loan having incorrect HOME units and HOME funding commitments in the loan file. DHCD has implemented a new internal check to insure that this miscommunication does not occur. As noted in our response to finding #4 above, we have implemented a "HOME Units Determination" sheet that staff will use to agree on funding for each project. This insures that HOME funded loans are actually monitored for HOME compliance.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2005

We agree that inaccurate information on the monitoring list may lead to improper identification of applicable federal requirements, inadequate compliance monitoring, and improper reporting and accountability of program funds. However, despite the omissions all loans were monitored in compliance with the HOME standard. We are implementing a process under the proposed WebGrants that allows staff to better verify funding sources verses monitoring requirements.

During the overall development of the Webgrants product, we are revisiting various loan processes to improve effectiveness, create redundancies to minimize errors, and increase accuracy in reporting and scheduling. The system will also better track loans to be monitored during construction processes as well as long term compliance monitoring.

*Contact Persons: Richard Walker, Housing Director, (801) 538-8730, or
Mike Glenn, Housing Program Manager, (801) 538-8666
Anticipated Correction Date: June 30, 2006*