



DEPARTMENT OF COMMUNITY AND CULTURE

Management Letter
For the Year Ended June 30, 2007

Report No. 07-29

*Keeping Utah
Financially Strong*

AUSTON G. JOHNSON, CPA
UTAH STATE AUDITOR



Auston G. Johnson, CPA
UTAH STATE AUDITOR

STATE OF UTAH
Office of the State Auditor

UTAH STATE CAPITOL COMPLEX
EAST OFFICE BUILDING, SUITE E310
P.O. BOX 142310
SALT LAKE CITY, UTAH 84114-2310
(801) 538-1025
FAX (801) 538-1383

DEPUTY STATE AUDITOR:
Joe Christensen, CPA

FINANCIAL AUDIT DIRECTORS:
H. Dean Eborn, CPA
Deborah A. Empey, CPA
Stan Godfrey, CPA
Jon T. Johnson, CPA

MANAGEMENT LETTER NO. 07-29

January 18, 2008

Palmer DePaulis, Executive Director
Utah Department of Community and Culture
324 South State Street, Suite 500
Salt Lake City, UT 84111-2388

Dear Mr. DePaulis:

We have completed our audit of the basic financial statements of the State of Utah as of and for the year ended June 30, 2007 in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our report thereon, dated November 20, 2007, was issued under separate cover. We have also completed the Department of Community and Culture's (the Department's) portion of the statewide federal compliance audit for the year ended June 30, 2007. The federal programs tested as major programs at the Department were the Low-Income Home Energy Assistance Program (LIHEAP) and the Community Services Block Grant (CSBG). Our report on the statewide federal compliance audit for the year ended June 30, 2007 should be issued in January 2008.

In planning and performing our audit we considered the Department's internal control over financial reporting and compliance as a basis for designing our auditing procedures for the purpose of expressing our opinions on the basic financial statements and on the State's compliance with the requirements of its major programs, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. However, we identified certain deficiencies in internal control that we consider to be significant deficiencies and another deficiency that we consider to be a material weakness. These deficiencies are identified in the accompanying table of contents and are described in the accompanying schedule of findings and recommendations.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements or noncompliance with a type of compliance requirement of a federal program on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to 1) initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles or 2) administer a federal program such that there is more than a remote likelihood that a misstatement of the entity's financial statements or that noncompliance with a type of compliance requirement of a federal program that are more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements or that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by the entity's internal control.

During our audit, we also noted another matter involving internal control deficiencies and noncompliance. 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 communication is intended solely for the information and use of management of the Department and others within the organization, and is not intended to be and should not be used by anyone other than these specified parties. However, the report is a matter of public record and its distribution is not limited.

The Department's written responses to the findings and recommendations identified in our audit have not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

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 (801) 538-1359.

Sincerely,

Auston G. Johnson, CPA
Utah State Auditor

cc: Allyson Isom, Deputy Director
Kimbal W. Hale, Finance Director
Man Diep, Internal Auditor
Gordon D. Walker, Director, Division of Housing and Community Development
Glenn McMurtrey, Financial Manager, Division of Housing and Community Development
Sherman Roquero, LIHEAP Program Manager, Division of Housing and Community Development
Jonathan Hardy, CSBG Program Manager, Division of Housing and Community Development
Mike Glenn, Director, State Housing Programs, Division of Housing and Community Development

DEPARTMENT OF COMMUNITY AND CULTURE
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

TABLE OF CONTENTS

	<u>Type/Applicability</u>	<u>Page</u>
FINDINGS AND RECOMMENDATIONS:		
<u>COMMUNITY SERVICES BLOCK GRANT (CSBG):</u>		
1. NONCOMPLIANCE WITH SUBGRANTEE ELIGIBILITY REQUIREMENTS	MW-f; MN-f SD-f; RN-f	1
2. POTENTIAL UNALLOWABLE POLITICAL ACTIVITIES IN SUBGRANTEE CONTRACTS (Repeat Finding)	SD-f; RN-f	3
<u>LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP):</u>		
3. WEAKNESSES IN DURING-THE-AWARD MONITORING OF LIHEAP SUBRECIPIENTS (Repeat Finding)	SD-f; RN-f	6
4. LIHEAP ELIGIBILITY DETERMINATION AND ASSISTANCE AMOUNT CALCULATION ERRORS (Repeat Finding)	SD-f; RN-f	7
5. NONCOMPLIANCE WITH TREASURY-STATE AGREEMENT		9

Finding Type:

MW Material Internal Control Weakness
SD Significant Deficiency of Internal Control
MN Material Noncompliance
RN Reportable Noncompliance or Illegal Acts

Applicable To:

s State Financial Statements
f Federal Program

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

COMMUNITY SERVICES BLOCK GRANT (CSBG)

1. NONCOMPLIANCE WITH SUBGRANTEE ELIGIBILITY REQUIREMENTS

Federal Agency: **DHHS, ACF**
CFDA Number and Title: **93.569 Community Services Block Grant**
Federal Award Number: **G-06B1UTCOSR**
Questioned Cost: **N/A**
Pass-through Entity: **N/A**

We examined all 10 Community Services Block Grant (CSBG) subgrantee files at the Department of Community and Culture (the Department) for compliance with federal eligibility regulations and noted three subgrantees that did not have low-income individuals serving on their boards or any other mechanism to assure decision making and participation by low-income individuals, as required by 42 USC 9910(b). The Department noted this noncompliance during monitoring reviews that they performed prior to our audit; however, they did not take appropriate action with these three subgrantees.

As a result, the Department did not follow applicable federal regulations upon determining that the subgrantees were not complying with CSBG eligibility requirements. According to 42 USC 9915, if the State determines that a subgrantee fails to meet appropriate standards, “the State shall require the entity to correct the deficiency.” If the entity does not correct the deficiency after providing adequate notice and an opportunity for a hearing, the State shall “initiate proceedings to terminate the designation of or reduce the funding” of the entity. As of November 15, 2007, the Department had not initiated termination proceedings.

Because the subgrantees’ designation as eligible entities has not yet been terminated, we have not questioned CSBG payments made by the Department to these subgrantees during State fiscal year 2007, totaling \$393,868.

Recommendation:

We recommend that the Department follow applicable federal regulations to require subrecipients to correct eligibility deficiencies or initiate procedures to terminate or reduce funding to those subrecipients.

Department’s Response:

We concur that applicable federal regulations should be observed to ensure that subrecipients correct program deficiencies. However, we respectfully maintain that the department was not out of compliance with 42 USC 9910(b). This provision allows for the State, at its discretion, to allow public entities to use another mechanism to assure low-income participation other than

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

the tripartite board structure. This is necessary because public organizations have a governing board which legally has the charge of overseeing the administration of the agency. As such, it has been a requirement for these agencies prior to applying for CSBG funds to conduct public hearings each year in their respective communities regarding the planning, implementation, and evaluation of low-income programs funded by CSBG. These public hearings have, in fact, satisfied the State's basic requirements for this participation.

Although this does satisfy basic requirements of the federal code, we are nonetheless mindful of the need for ongoing and consistent input from low-income individuals regarding CSBG programs. As such, we have notified agencies that they must form a tri-partite advisory board, which shall include low-income representatives. While we have included this as a corrective action item for agencies in our monitoring reports, we do not believe the deficiency warranted anything more than technical assistance and training, which we continue to provide, because the agency was in compliance with the code. We further believe termination proceedings were not warranted.

To date, with guidance from our division, these agencies have formed advisory boards with low-income participation.

With respect to the assertion that the State was not in compliance with 42 USC 9915, the State Auditor omitted additional qualifying language that indicated further actions shall be based on the State's "final decision in a review pursuant to section 678B." No such final decision of subrecipient non-compliance was made by the State. Rather, the State has performed the following actions with respect to the entities in question, in accordance with section 9915:

- 1. Informed each entity of the deficiency to be corrected;*
- 2. Advised each entity to correct the deficiency; and*
- 3. Provided technical assistance to the entity, including assistance with the drafting of by-laws for the respective advisory boards (by providing samples of by-laws obtained from other entities); offered suggestions and examples for identifying low-income sector representatives; and promoted and/or provided training, including the National Community Action Management Academy workshops and board trainings conducted by State CSBG fiscal and program staff at entity board meetings.*

42 USC Section 9915(a)(4)(A) further states: "at the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State."

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

The three entities that are the subject of this finding are rural, public entities. The State is unaware of any private, nonprofit organization capable of qualifying as an eligible entity to administer the CSBG program in any of the three geographical areas currently served by the designated entities. Based on the State's fiscal and programmatic reviews, the services that are provided by the three entities benefit low-income individuals and families--those targeted by the CSBG Act. Should any one of these entities be terminated, the State believes that vital services provided would be seriously, negatively impacted. Thus, the State has elected to continue working with these entities to ensure continued services to the low-income citizens in these areas, as well as compliance with the letter of the law. As mentioned above, these agencies have, since receiving our notice of corrective action and subsequent technical assistance, formed advisory boards with low-income representation and are now in compliance with 42 USC 9910(b).

*Contact Person: Jonathan Hardy, Director, State Community Services Office, (801) 538-8650
Anticipated Correction Date: March 31, 2008*

2. **POTENTIAL UNALLOWABLE POLITICAL ACTIVITIES IN SUBGRANTEE CONTRACTS** (Repeat Finding)

Federal Agency: **DHHS, ACF**
CFDA Number and Title: **93.569 Community Services Block Grant**
Federal Award Number: **G-06B1UTCOSR**
Questioned Cost: **Undeterminable**
Pass-through Entity: N/A

We examined all 10 CSBG subgrantee contracts at the Department for compliance with federal regulations and noted that one subgrantee contract included a budget for legislative advocacy in its approved scope of work. According to the scope of work, the subgrantee's advocacy was intended to increase resources for affordable housing as well as change laws and policies that affect housing for low income Utahns, increase resources for safe and affordable child care through policy development and changes, and increase the minimum wage. This same issue was noted for this subgrantee contract in our prior year audit. Because the subgrantee contract spanned two State fiscal years, there were additional expenditures by the Department under this contract during State fiscal year 2007. According to federal regulations (42 USC 9918(b)), CSBG funds may not be used to support any partisan or non-partisan political activity. The Department should examine all scope of work documents associated with CSBG contracts to ensure only allowable activities are funded. Not verifying the scope of work for subgrantees could result in unallowable political activities being charged to the CSBG grant. We were unable to determine the actual dollar amount of CSBG funds spent by the subgrantee on political activities but the potential unallowable costs would not be material to the program.

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

Recommendation:

We recommend that the Department authorize subgrantees to perform only activities which are allowable according to federal regulations.

Department's Response:

We concur with the recommendation and believe appropriate corrective action was taken in August 2006. The contract in question for the Community Services Block Grant was a discretionary grant made to Utah Issues in Federal Fiscal Year 2006. As mentioned, this was reviewed and addressed in the Fiscal Year 2006 Single Audit. Regrettably, because the Management Letter for that year, which identified this deficiency, was not provided to the Department until the second year of the CSBG contract with Utah Issues, the deficiency did indeed continue into Fiscal Year 2007, but was corrected promptly. Our response to the 2006 finding identified the corrective action taken, as follows:

"We concur with the recommendation and believe that we are already in compliance with this requirement.

"The contract referenced in the finding uses CSBG discretionary funding in a grant to Utah Issues, an agency whose primary objectives are to research and report on poverty issues. For many years, DHCD has elected to use their discretionary funding to support these very necessary objectives, with the intent to share this information with a wide variety of constituencies. Although the scope of work in the contract may have been ambiguous, DHCD's State Community Services Office (SCSO) has received and documented the actual products provided as a result of the agency's efforts, including publication, distribution and explanation of the Utah Poverty Report, coordination of Citizens Day on the Hill and the Utah Poverty Conference to educate leaders and citizens about poverty issues in Utah, as well as the publication of fact sheets and research papers related to a variety of low-income issues. The intent and the products produced are supported by OMB Circular A-122 as follows:

'b. The following activities are excepted from the coverage of § a: (1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

Ranking Minority Member of the Committee or Subcommittee conducting such hearing.'

"Furthermore, per the state CSBG statute defined in the Utah Code, UCA 9-4-1404, SCSO is required to

'(4) receive and expend funds for the purposes outlined in this part;

(12) convene public meetings which provide citizens the opportunity to comment on public policies and programs to reduce poverty;

(13) advise the governor and Legislature of the nature and extent of poverty in the state and make recommendations concerning changes in state and federal policies and programs....'

"It is according to these directives and within the context of these regulations that the contract and services rendered by Utah Issues have been performed to date, and we believe they are eligible activities within the CSBG program.

"Lobbying has always been, and continues to be, strictly prohibited as an ineligible expenditure of federal funds. Every CSBG contract, including those reviewed by the State Auditor's Office, includes language specifically prohibiting lobbying."

The contract with Utah Issues was not scheduled for closure until March 31, 2007. The process for conducting routine monitoring, which includes determining ineligible expenditures as outlined in our monitoring procedures, was not completed until after the closure of the contract. At that time, we found that no rules regarding lobbying were violated.

Finally, recognizing the ambiguousness of the contract language might lend to ineligible activities, we also eliminated the term "advocacy" from our RFP (prior to it being issued in August, 2006) as well as in our contracts. The RFP for the grant and the contract scope of work focus efforts on eligible "research, reporting and education" activities.

*Contact Person: Jonathan Hardy, Director, State Community Services Office, (801) 538-8650
Anticipated Correction Date: January 31, 2008*

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

3. **WEAKNESSES IN DURING-THE-AWARD MONITORING OF LIHEAP SUBRECIPIENTS** (Repeat Finding)

Federal Agency: **DHHS, ACF**

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

Federal Award Number: **G-06B1UTLIEA**

Questioned Cost: **N/A**

Pass-through Entity: **N/A**

The Department is not performing adequate during-the-award monitoring of its Low-income Home Energy Assistance Program (LIHEAP) subrecipients related to case management and administration expenditures. We sampled 16 reimbursement requests for case management and administration expenditures, none of which included adequate documentation to support the breakout of the subrecipient's costs. The Department has not performed on-site monitoring of the subrecipients and is relying on desk reviews to function as their during-the-award monitoring of these program costs.

Recommendation:

We recommend that the Department improve the during-the-award monitoring procedures, either by improving the desk reviews or by establishing appropriate on-site monitoring, to ensure that case management and administrative expenditures reimbursed to subrecipients are adequately supported by financial records or other appropriate supporting documentation and are for allowable activities.

Department's Response:

We concur with the recommendation. The Department has hired an additional financial auditor who is responsible for visiting subrecipients and monitoring their LIHEAP financial records periodically throughout the year. He will also provide training and technical assistance on maintaining financial records.

Contact Persons: Sherman Roquero, LIHEAP Program Manager, (801) 538-8644

Mike Glenn, Director, State Housing Programs, (801) 538-8666

Anticipated Correction Date: June 30, 2008

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

4. LIHEAP ELIGIBILITY DETERMINATION AND ASSISTANCE AMOUNT CALCULATION ERRORS (Repeat Finding)

Federal Agency: **DHHS, ACF**

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

Federal Award Number: **G-07B1UTLIEA**

Questioned Cost: **\$1,667**

Pass-through Entity: **N/A**

We reviewed the case files for 65 LIHEAP heating, crisis, and/or weatherization assistance expenditures at the Department and noted eligibility determination and benefit calculation errors with 4 of the cases, as described below:

- For one case, the eligibility worker determined that the applicant was eligible even though the applicant's countable income exceeded 125% of the federal poverty level for the applicable household size. Section 310.A. of the Department's H.E.A.T. Policy Manual (the Policy Manual) states, "Countable income is gross income minus exclusions, disregards, and deductions. This amount must be at or below 125% of poverty for the household size." Because the applicant's countable income exceeded the applicable threshold, the eligibility worker should have denied the application. We have questioned \$1,580 for this case, which represents the crisis assistance amount paid on behalf of the applicant during State fiscal year 2007.
- For one case, the eligibility worker calculated the heating assistance amount incorrectly. The error occurred because the worker determined the applicant's eligibility and calculated the applicant's assistance amount based on the applicant having zero income. The applicant's employment terminated in the month preceding the month of application. However, we determined that the applicant began receiving a new source of income in the month of application. Therefore, the eligibility worker should have counted the income received by the applicant in the month preceding the month of application as described in Section 320.K. of the Policy Manual which states, "Count the prior month's income when a household has a new source of income immediately following (in the prior month or month of application) a terminated source." Therefore, we have questioned \$87 for this case, which represents the difference between actual heating assistance paid by the Department during State fiscal year 2007 and the correct assistance amount.
- For one case, the eligibility worker did not include proper documentation to support the benefit amount paid. The Policy Manual Section 700.A states, "All documentation upon which the eligibility decision and amount of H.E.A.T assistance is based must be kept in the households H.E.A.T folder." The eligibility worker used the actual energy burden for calculating the benefit payment but did not include supporting

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

documentation. Therefore, we have calculated the excess benefit paid, totaling \$21, based on the standard rate, as established by Policy Manual Section 330.a and Table II from the Monthly Energy Cost Standards. Since the excess amount is less than \$75 and would not require reimbursement based on Policy Manual Section 700.4.d, we have not questioned any costs.

- For one case, the eligibility worker calculated the benefit amount incorrectly and thereby underpaid the benefit by less than \$10.

Based on our projections of the questioned costs noted in this statewide sample, we believe that the resulting noncompliance is not material to the program.

Recommendation:

We recommend that the Department strengthen existing internal controls to ensure that LIHEAP eligibility determinations and assistance amount calculations are correct and comply with policy.

Department's Response:

We concur with the recommendation.

As a matter of record, in the first case, the eligibility determination was not conducted by a HEAT Eligibility Worker, but by the agency manager in charge of several program areas, including the HEAT Program. He committed the error in the process of using Crisis Assistance funds along with matching funds from other programs to help prevent imminent heat loss in a home. This error was identified during monitoring and the \$1,580 was repaid to the HEAT Program.

Because the program is seasonal in nature and new temporary workers are hired each year, the Department works diligently and consistently with intake workers throughout the year to reduce their error rate. Eligibility and policy training, customized for each regional provider, is conducted at the beginning of each program year. HEAT Specialists in the Department conduct off-site case file reviews early in the season to identify problems. The Specialists also identify potentially problematic offices and workers who appear to need further training, possibly one-on-one. The Specialists conduct on-site monitoring visits to these offices and review a larger sample of case files in an effort to catch and correct errors. Technical assistance is provided throughout the term of the program as problems are identified.

Finally, the Department has hired an additional financial auditor who is responsible for visiting the subrecipients and monitoring their LIHEAP financial records periodically throughout the year. It is anticipated that during these financial reviews, additional errors

DEPARTMENT OF COMMUNITY AND CULTURE

FINDINGS AND RECOMMENDATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 2007

that were made during intake may be identified and appropriate technical assistance offered at that time.

*Contact Persons: Sherman Roquero, LIHEAP Program Manager, (801) 538-8644
Mike Glenn, Director, State Housing Programs, (801) 538-8666
Anticipated Correction Date: April 30, 2008*

5. **NONCOMPLIANCE WITH TREASURY-STATE AGREEMENT**

Federal Agency: **DHHS, ACF**
CFDA Number and Title: **93.568 Low-income Home Energy Assistance Program**
Federal Award Number: **G-06B1UTLIEA**
Questioned Cost: **N/A**
Pass-through Entity: **N/A**

Of 21 cash draws tested, 15 were not in compliance with the Treasury-State Agreement. The Treasury-State Agreement requires draws for the LIHEAP grant to be made such that federal funds are received four days after expenditures are made. However, the 15 draws were between 1 and 18 days late. Not complying with the Treasury-State Agreement may result in interest being owed to the State from the Federal Government.

Recommendation:

We recommend that the Department comply with the Treasury-State Agreement when drawing federal funds for the LIHEAP grant.

Department's Response:

We concur with the recommendation. Following the untimely death of the financial analyst assigned to the LIHEAP program, the workload became a significant challenge for the Accounting group. The workload was redistributed and another financial analyst hired. In the future, it is our intent to manage the Federal draw downs as agreed to in the Cash Management Information Act and the Treasury-State Agreement.

*Contact Person: Glenn McMurtrey, HCD Accounting Director, (801) 538-8739
Anticipated Correction Date: January 31, 2008*