



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

FINANCIAL AUDIT DIVISION REPORT

Department of Commerce

Federal Compliance Audit

Fiscal Year 2011

March 23, 2012

Report 12-06

FINANCIAL AUDIT DIVISION

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OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

March 23, 2012

Representative Michael Beard, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Michael Rothman, Commissioner
Department of Commerce

This report presents the results of our audit of certain federal financial assistance programs administered by the Department of Commerce during fiscal year 2011. We conducted this audit as part of our audit of the state's compliance with federal program requirements. We emphasize that this has not been a comprehensive audit of the Department of Commerce.

We discussed the results of the audit with department staff at an exit conference on March 13, 2012. This audit was conducted by Brad White, CPA, CISA, CFE, (Audit Manager) and Kayla Borneman, CPA, (Auditor-in-Charge), assisted by auditors Reidar Gullicksrud, CPA, and Melissa White.

This report is intended for the information and use of the Legislative Audit Commission and the management of the Department of Commerce. This restriction is not intended to limit the distribution of this report, which was released as a public document on March 23, 2012.

We received the full cooperation of the department's staff while performing this audit.

Handwritten signature of James R. Nobles in black ink.

James R. Nobles
Legislative Auditor

Handwritten signature of Cecile M. Ferkul in black ink.

Cecile M. Ferkul, CPA, CISA
Deputy Legislative Auditor

Table of Contents

	<u>Page</u>
Report Summary	1
Federal Program Overview	3
Objective, Scope, and Methodology	3
Conclusion	4
Findings and Recommendations	5
1. The Department of Commerce did not adequately monitor a local service provider that inappropriately provided \$1.35 million to households who did not meet the eligibility requirements for the crisis emergency benefits they received from the Low-Income Home Energy Assistance Program	5
2. Prior Finding Partially Resolved: The Department of Commerce did not have adequate control procedures to ensure that local service providers and their contractors were in compliance with the Davis-Bacon Act	6
3. Prior Finding Not Resolved: The Department of Commerce did not maintain accurate inventory records for equipment acquired by local service providers using funds from the federal Weatherization Assistance for Low-Income Persons Program	6
Agency Response	9

Report Summary

Conclusion

The Department of Commerce generally complied with and had controls to ensure compliance with provisions of laws, regulations, contracts, and grants applicable to the major federal programs we audited for fiscal year 2011. However, the department had control weaknesses and noncompliance with federal requirements, as noted in the three findings presented in this report.

Findings

- The Department of Commerce did not adequately monitor a local service provider that inappropriately provided \$1.35 million to households who did not meet the eligibility requirements for the crisis emergency benefits they received from the Low-Income Home Energy Assistance Program. ([Finding 1, page 5](#))
- Prior Finding Partially Resolved: The Department of Commerce did not have adequate control procedures to ensure that local service providers and their contractors were in compliance with the Davis-Bacon Act. ([Finding 2, page 6](#))
- Prior Finding Not Resolved: The Department of Commerce did not maintain accurate inventory records for equipment acquired by local service providers using funds from the federal Weatherization Assistance for Low-Income Persons Program. ([Finding 3, page 6](#))

Audit Scope

Our scope included the Low-Income Home Energy Assistance Program and the Weatherization Assistance for Low-Income Persons Program, which were major federal programs for the State of Minnesota for fiscal year 2011.

Department of Commerce

Federal Program Overview

The Department of Commerce administered two federal programs that we considered major federal programs for the State of Minnesota, subject to audit under the federal Single Audit Act.¹ Table 1 identifies these major federal programs.

Table 1
Major Federal Programs
Department of Commerce
Fiscal Year 2011
(in thousands)

CFDA¹	Program Name	Federal Expenditures	Federal ARRA² Expenditures	Total
81.042	Weatherization Assistance for Low-Income Persons	\$ 4,812	\$68,996	\$ 73,808
93.568	Low-Income Home Energy Assistance	\$155,515	\$ 0	\$155,515

¹ The Catalog of Federal Domestic Assistance (CFDA) is a unique number assigned by the federal government to identify its programs.

² American Recovery and Reinvestment Act.

Source: Minnesota Accounting and Procurement System for fiscal year 2011.

Objective, Scope, and Methodology

The objective of our audit was to determine whether the Department of Commerce complied with federal program requirements in its administration of these federal programs for fiscal year 2011. This audit is part of our broader federal single audit to obtain reasonable assurance about whether the State of Minnesota complied with the types of compliance requirements that are applicable to each of its federal programs.² In addition to specific program requirements, we examined the department's general compliance requirements related to federal assistance, including its cash management practices.

¹ We defined a major federal program for the State of Minnesota in accordance with a formula prescribed by the federal Office of Management and Budget as a program or cluster of programs whose expenditures for fiscal year 2011 exceeded \$30 million.

² The State of Minnesota's single audit includes both the financial statements and the expenditures of federal awards by all state agencies. We issued an unqualified audit opinion, dated December 20, 2011, on the State of Minnesota's basic financial statements for the year ended June 30, 2011. In accordance with *Government Auditing Standards*, we also issued our report on our consideration of the State of Minnesota's internal control over financial reporting and our tests of compliance with certain provisions of laws, regulations, contracts, and grants. (Office of the Legislative Auditor's Financial Audit Division Report 12-03, *Report on Internal Control Over Statewide Financial Reporting*, issued February 16, 2012.)

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States of America and with the U.S. Office of Management and Budget's *Circular A-133* and its *Compliance Supplement*.

Conclusion

The Department of Commerce generally complied with and had controls to ensure compliance with certain provisions of laws, regulations, contracts, and grants applicable to its major federal programs for fiscal year 2011. However, the department had some weaknesses, as noted in the following *Findings and Recommendations* section.

We will report these weaknesses to the federal government in the *Minnesota Financial and Compliance Report of Federally Assisted Programs*, prepared by the Department of Management and Budget. This report provides the federal government with information about the state's use of federal funds and its compliance with federal program requirements. The report includes the results of our audit work, conclusions on the state's internal controls over and compliance with federal programs, and findings about control and compliance weaknesses.

Findings and Recommendations

The Department of Commerce did not adequately monitor a local service provider that inappropriately provided \$1.35 million to households who did not meet the eligibility requirements for crisis emergency benefits they received from the Low-Income Home Energy Assistance Program.

Finding 1

In October 2011, an energy vendor alerted the Department of Commerce about concerns with crisis emergency benefits paid to one household from the Low-Income Home Energy Assistance Program (CFDA 93.568³). Upon review, the department found that one local service provider⁴ inappropriately provided \$1.35 million of crisis emergency benefits⁵ to several thousand households that were either ineligible to receive crisis funds or received more crisis funding than they were eligible for. The service provider also did not sufficiently document eligibility for the crisis benefits paid, and the department's monitoring review of the service provider activities failed to detect these problems. For federal fiscal year 2011, the service provider awarded crisis emergency benefits totaling \$5.7 million to approximately 11,000 households. The department required the service provider to submit a written action plan to strengthen their policies and procedures before they were awarded any crisis emergency funding for federal fiscal year 2012. In response to the concerns, the department developed plans to improve its monitoring of all service providers to ensure all future crisis emergency benefit payments comply with applicable program requirements.

Recommendations

- *The Department of Commerce should recover the ineligible crisis emergency benefits made by the service provider, as required by the federal Department of Health and Human Services.*
- *The department should improve its monitoring procedures to address risks with crisis emergency benefits and ensure compliance with program policies and procedures.*

³ Federal Grant Award #G-11B1MNLIEA.

⁴ Service providers are agencies that serve Low-Income Home Energy Assistance Program (or Weatherization Assistance) clients at the local level, including community action programs, tribal boards, and nonprofit organizations. Currently, the department has 36 service providers geographically dispersed around the State of Minnesota.

⁵ Local service providers award crisis emergency benefits to households who otherwise cannot fulfill their current or past due heating bill. Crisis benefits also cover households who are in danger of having their heat shut off or running out of fuel.

Finding 2

Prior Finding Partially Resolved: The Department of Commerce did not have adequate control procedures to ensure that local service providers and their contractors were in compliance with the Davis-Bacon Act.

The Department of Commerce did not adequately ensure local service providers and their contractors paid workers the prevailing wage, as required by the Davis-Bacon Act,⁶ while providing services for the Weatherization Assistance for Low-Income Persons Program (CFDA 81.042 ARRA⁷). The department developed a weekly wage reporting process to monitor compliance with the Davis-Bacon Act. The department required local service providers to submit weekly certified payroll reports completed by the contractors working on the weatherization project.

However, the department did not have effective procedures to ensure that certified payroll reports it rejected were corrected and resubmitted by the local service providers. The department reviewed the reports for completeness and to ensure that the wages paid were equal to or greater than the prevailing wage for the area and work classification. If department staff noted errors or omissions, they sent the certified payroll reports back to the local service providers for correction, but the department did not monitor whether the rejected reports were properly corrected and resubmitted. Our review of the department's records showed that more than half of the 413 certified weekly payroll reports the department rejected during fiscal year 2011 were still outstanding and unresolved as of February 2012.

Recommendation

- *The Department of Commerce should improve its internal controls to ensure compliance with federal Davis Bacon requirements for the Weatherization Assistance for Low-Income Persons Program.*

Finding 3

Prior Finding Not Resolved: The Department of Commerce did not maintain accurate inventory records for equipment acquired by local service providers using funds from the federal Weatherization Assistance for Low-Income Persons Program.

The department did not accurately update its equipment inventory records with specific information for certain vehicles and other weatherization equipment purchased by local service providers with funds from the federal Weatherization Assistance for Low-Income Persons Program (CFDA 81.042⁸ and 81.042 ARRA⁹). When the federal government approved the purchase of program

⁶ The federal Davis-Bacon Act requires contractors and subcontractors receiving federal grants to pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

⁷ Federal Grant Award #DE-EE0000103.

⁸ Federal Grant Award #DE-EE0000653.

⁹ Federal Grant Award #DE-EE0000103.

vehicles or equipment, the department identified the service provider and type of equipment on its inventory system; however, the department did not update its inventory records with accurate vehicle identification or equipment serial numbers, actual date of purchase, and the final purchase price, as called for in federal regulations.¹⁰

Although the department correctly recorded equipment purchases in fiscal year 2011, it did not accurately correct some errors it had made in prior years.¹¹ For example, in our review of vehicles recorded in inventory, eight had incomplete vehicle identification numbers, and eight had the same vehicle identification (we determined three of these were duplicate entries and not actual vehicles.) In addition, nine other pieces of equipment had missing inventory information (such as purchase price, purchase date, identification numbers, and other descriptive information). An independent review of data entry of equipment items would improve accuracy. Without accurate equipment inventory records, the department cannot identify and track the specific equipment items purchased with federal funds and cannot periodically verify that the local service provider is still in possession of the specific weatherization equipment.

Recommendation

- *The Department of Commerce should improve controls to ensure that it accurately updates its equipment inventory records with specific identification of weatherization vehicles and equipment acquired with federal program funds.*

¹⁰ 10 CFR 600.232 (2010).

¹¹ During fiscal year 2011, the department had one equipment purchase totaling \$24,748.



March 19, 2012

James R. Nobles
Legislative Auditor
Office of the Legislative Auditor
Centennial Office Building, Room 140
658 Cedar Street
St. Paul, MN 55155-1603

Dear Mr. Nobles:

I would like to thank the Office of Legislative Auditor and your financial audit team for their work reviewing the Minnesota Department of Commerce's administration in fiscal year 2011 of the Low Income Home Energy Assistance Program and the Weatherization Assistance for Low Income Persons Program. Your team provided a professional review of the Department's general compliance requirements related to federal assistance, and provided valuable recommendations based on the review. I welcome the opportunity to take positive action on those recommendations.

As the Commissioner of the Department of Commerce, I am committed to effective internal controls. This audit will assist the Department's efforts to further strengthen its program and financial management.

Specific responses to the audit findings follow.

Finding #1:

The Department of Commerce did not adequately monitor a local service provider that inappropriately provided \$1.35 million to households who did not meet the eligibility requirements for the crisis emergency benefits they received from the Low-Income Home Energy Assistance Program.

Recommendations:

- *The Department of Commerce should recover the ineligible crisis emergency benefits made by the service provider, as required by the federal Department of Health and Human Services.*
- *The department should improve its monitoring procedures to address risks with crisis emergency benefits and ensure compliance with program policies and procedures.*

Response:

The Department agrees. We are working to recover the ineligible benefits as required by the federal Department of Health and Human Services.

Upon learning of the issue last fall, the Department took immediate action to ensure federal FY12 funds were safeguarded and required the service provider to implement an approved corrective action plan. The Department also heightened oversight of the service provider to ensure compliance with policy application and accounting procedures. As remediation steps were identified and implemented with the service provider, the Department also launched an investigation and sampled other crisis program providers, and did not identify other such issues.

The Department is working with energy vendors on strengthening their internal controls for payment processing to help prevent and detect issues in the future. The Department also is taking steps to implement structural changes in service provider monitoring to ensure compliance with program policies and procedures. Options being considered include: formal risk assessments, enhanced training and compliance standards, and external audits.

Staff Responsible for implementation: John Harvanko

Expected date of completion: June 30, 2012

Finding 2:

Prior Finding Partially Resolved: The Department of Commerce did not have adequate control procedures to ensure that local service providers and their contractors were in compliance with the Davis-Bacon Act.

Recommendation:

- *The Department of Commerce should improve its internal controls to ensure compliance with Federal Davis Bacon requirements of the Weatherization Assistance of Low-Income Persons Program.*

Response:

The department agrees. The department has set in place a new procedure for assuring that wage reports with errors are completed and returned to the department in a timely manner.

Staff responsible for implementation: Marilou Cheple

Expected date of completion: July 31, 2012

Finding 3:

Prior Finding Not Resolved: The Department of Commerce did not maintain accurate inventory records for equipment acquired by local service providers using funds from the federal Weatherization Assistance for Low-Income Persons Program.

Recommendation:

- *The Department of Commerce should improve controls to ensure that it accurately updates its equipment inventory records with specific identification of weatherization vehicles and equipment acquired with federal program funds.*

Response:

The department agrees. The department has made corrections to the equipment inventory list, and will update the list when the status of each Service Providers' equipment has been verified.

Staff responsible for implementation: Marilou Cheple

Expected date of completion: June 30, 2012

I appreciate the work of your agency to identify areas within the Department of Commerce needing improvement. We are committed to taking appropriate action to further strengthen our programs and internal controls.

Sincerely,



Mike Rothman
Commissioner