



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

FINANCIAL AUDIT DIVISION REPORT

**Department of
Commerce**

Federal Compliance Audit

Year Ended June 30, 2013

March 21, 2014

Report 14-08

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OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

March 21, 2014

Senator Roger Reinert, 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 2013. 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 the department's staff at an exit conference on March 11, 2014. This audit was conducted by Brad White, CPA, CISA, CFE (Audit Manager), Kelsey Nistler, CPA (Auditor-in-Charge), and Jordan Bjonfald, CPA.

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

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Report Summary

Conclusion

The Department of Commerce generally complied with and had internal controls to ensure compliance with certain legal requirements applicable to the Low-Income Home Energy Assistance program, a major federal program for fiscal year 2013. However, the department had some internal control weaknesses and noncompliance with federal requirements, as noted in the findings presented in this report.

Findings

- The Department of Commerce did not submit complete and accurate financial reports to the federal government for the Low-Income Home Energy Assistance program. ([Finding 1, page 5](#))
- The Department of Commerce did not pay accurate indirect cost amounts from some federally-funded programs, including the Low-Income Home Energy Assistance program. This finding includes an unresolved prior issue. ([Finding 2, page 6](#))

Audit Scope

Our scope included the Low-Income Home Energy Assistance program (CFDA¹ 93.568), which was a major federal program for the State of Minnesota. The program's fiscal year 2013 expenditures totaled approximately \$118 million.

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

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.² During fiscal year 2013, the department expended approximately \$118 million for the Low-Income Home Energy Assistance program (CFDA 93.568), and approximately \$40.4 million for the State Planning and Establishment Grants for the Affordable Care Act's Exchanges (CFDA 93.525).

The Low-Income Home Energy Assistance program provides financial assistance to eligible low-income homeowners to pay home heating costs and conserve energy, and provides funding to local service providers to administer the program. The department used 34 service providers (counties, tribal governments, community action programs, and nonprofit organizations) throughout the state to verify homeowner eligibility. The department paid heating assistance for eligible homeowners directly to utility companies.

The state used the State Planning and Establishment Grants for the Affordable Care Act's Exchanges to help fund the development of a Minnesota health insurance exchange that would comply with the requirements of the Patient Protection and Affordable Care Act.

Objective, Scope, and Methodology

The objective of our audit was to determine whether the Department of Commerce complied with federal program requirements for fiscal year 2013. 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 major federal programs.³ In addition to specific program requirements, we examined the department's general

² We defined a major federal program for the State of Minnesota in accordance with a formula prescribed by the U.S. Office of Management and Budget Circular A-133 as a program or cluster of programs whose expenditures for fiscal year 2013 exceeded \$30 million.

³ 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 18, 2013, on the State of Minnesota's basic financial statements for the year ended June 30, 2013. 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 14-04, [Report on Internal Control Over Statewide Financial Reporting](#), issued February 14, 2014.)

compliance requirements related to federal assistance, including its cash management practices.

The conclusions and findings in this report relate only to the Low-Income Home Energy Assistance program.

In January 2014, we notified federal and state officials that we would not complete an audit of the State Planning and Establishment Grants for the Affordable Care Act's Exchanges program by March 31, 2014, the Single Audit deadline for fiscal year 2013. We will not meet the deadline because we decided to expand the scope of the audit to address difficulties the exchange experienced after opening on October 1, 2013, and questions about the state's development of the exchange. Once the audit is completed, we will issue a separate report on the federal grants and the exchange.

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*, dated March 2013.

Conclusion

The Department of Commerce generally complied with and had adequate internal controls to ensure compliance with certain legal requirements applicable to the Low-Income Home Energy Assistance program, a major federal program for fiscal year 2013; however, the department had internal control weaknesses and noncompliance with federal requirements, 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 on 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 submit complete and accurate financial reports to the federal government for the Low-Income Home Energy Assistance program.

Finding 1

The department had weaknesses in its financial reporting processes that resulted in incomplete and inaccurate reporting to the federal government. The department had the following problems:

- The department did not perform an adequate review of the September 30, 2013 Federal Financial Report to ensure the accuracy of information it reported for the Low-Income Home Energy Assistance program⁴ (CFDA 96.568). The department certified that the report was complete and accurate to the best of its knowledge. However, the audit detected that the department made the following errors:
 - The department understated the federal program’s unliquidated obligations by \$11,406,945. Instructions for the Federal Financial Report (SF-425) provide that “*unliquidated obligations on a cash basis are obligations incurred, but not yet paid.*” In the September 30, 2013, report submitted by the department in December 2013, it mistakenly reported \$2,578,822 of payments rather than reporting encumbrances (unpaid obligations) of \$13,985,767. The error caused the report to show the department had a greater amount of federal funds remaining than it actually had available as of September 30, 2013.
 - The department understated the reported indirect cost expenditures by \$2,026. It used an indirect cost rate of 11 percent, instead of the federally approved rate of 11.9 percent to calculate the indirect cost expense amount for the federal report. The error resulted in the report showing a smaller amount of indirect costs than the federal program actually incurred and paid.
- The department did not have an established process to ensure that it complied with the reporting requirements of the Federal Funding Accountability and Transparency Act.⁵ Federal reporting requirements are outlined in Title 2, Part 170 of the Code of Federal Regulations which

⁴ Federal Grant Awards #G-12B1MNLIEA and #G-13B1MNLIEA.

⁵ The Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282) requires the federal Office of Management and Budget to maintain a single, searchable Web site (<http://www.usaspending.gov/>) that contains information on all federal recipient spending awards.

states that an entity “*Must report each action that obligates \$25,000 or more in federal funds ... for a subaward to an entity ... no later than the month following the month in which the obligation was made.*” The department did not report any subaward information for 11 of 34 service providers that received over \$25,000 during fiscal year 2013.⁶ Additionally, for 6 of 7 reported subawards we tested, the department did not report subsequent amendments to the original subaward amount for additional obligations totaling \$347,000 paid to those six entities.

Recommendations

- *The department should strengthen its review of the Federal Financial Report to provide an effective review and to ensure the accuracy of the report prior to submission to the federal government.*
- *The department should strengthen its process to ensure that it completely and accurately reports information about subawards and subaward amendments for all recipients as required by the Federal Funding Accountability and Transparency Act.*

Finding 2

The Department of Commerce did not pay accurate indirect cost⁷ amounts from some federally-funded programs, including the Low-Income Home Energy Assistance program. This finding includes an unresolved prior issue.

The department did not resolve the \$19,936 it overcharged its federal programs for fiscal year 2012 indirect costs, including \$5,059 it overcharged to the Low-Income Home Energy Assistance program. The overcharge occurred because the 11.9 percent indirect cost rate approved by the federal government for fiscal year 2012 was less than the 14 percent rate the department used for that period.⁸ Our fiscal year 2012 report found that the department had continued to use the fiscal

⁶ Office of Management and Budget guidance specifies that a prime awardee must report information and location of the subaward recipient, the date of the subaward, the subawardee’s 9-digit Data Universal Numbering System (DUNS) number, the amount of federal funds awarded, including modifications, authorized date of the subaward agreement, date the information was submitted, and an assigned subaward identification number.

⁷ Office of Management and Budget Circular A-87 *Cost Principles for State, Local, and Indian Tribal Governments*, Attachment E, Section A defines indirect costs as “*those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified ... typical examples of indirect costs include certain state/local central service costs, general administration of the grantee department or agency, accounting and personnel services*”

⁸ Our fiscal year 2012 report (Office of the Legislative Auditor, Financial Audit Division Report 13-07, *Department of Commerce Federal Compliance Audit*, issued May 23, 2013) included a finding that the department had not obtained an approved indirect cost rate for fiscal year 2012.

year 2011 rate in fiscal year 2012, without approval from the federal government. The Office of Management and Budget, Circular A-87, Attachment E, Section E requires indirect cost rates be reviewed, negotiated and approved by the federal government. As a result, the department may be required to repay the additional indirect cost charges.

In addition, the department overcharged certain federal programs \$10,205 for fiscal year 2013 agency indirect costs, including \$3,774 overcharged to the Low-Income Home Energy Assistance program. The errors occurred because the department mistakenly billed and paid different amounts than each federal program owed based on calculations using its indirect cost rate. Table 1 shows the amounts overcharged, by federal program.

Table 1
Department of Commerce
Overcharged Indirect Costs for
Fiscal Year 2013
By Federal Program

<u>CFDA</u> ¹	<u>Program Name</u>	<u>Amount</u>
Major Programs:		
93.568	Low-Income Home Energy Assistance ²	\$ 3,774
Non-Major Programs:		
81.041	ARRA ³ – State Energy Program ⁴	\$ 5,214
81.042	Weatherization Assistance for Low-Income Persons ⁵	\$ 228
81.042	ARRA – Weatherization Assistance for Low-Income Persons ⁶	\$ 430
N/A	Other Non-Major Federal Programs	<u>\$ 559</u>
	Total	<u>\$10,205</u>

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

² Federal Grant Award # G-12B1MNLIEA and G-13B1MNLIEA.

³ American Recovery and Reinvestment Act.

⁴ Federal Grant Award # DE-EE0000164.

⁵ Federal Grant Award # DE-EE0000653.

⁶ Federal Grant Award # DE-EE0000103.

Source: Auditor created from the Department of Commerce accounting records for fiscal year 2013.

Recommendations

- *The department should work with the federal government to resolve differences caused by using an incorrect indirect cost rate during fiscal year 2012, and by incorrectly charging indirect costs to federal programs in fiscal year 2013.*
 - *The department should improve internal controls to ensure it accurately charges indirect costs for its federal programs.*
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March 17, 2014

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 fiscal year 2013 administration of the Low Income Home Energy Assistance 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 submit complete and accurate financial reports to the federal government for the Low-Income Home Energy Assistance Program.

Recommendations:

- *The department should strengthen its review of the Federal Financial Report to provide an effective review and to ensure the accuracy of the report prior to submission to the federal government.*
- *The department should strengthen its process to ensure that it completely and accurately reports information about subawards and subaward amendments for all recipients as required by the Federal Funding Accountability and Transparency Act.*

Response:

The U.S. Department of Health and Human Services (HHS) recently implemented a new On-Line Data Collection (OLDC) system for Low-Income Heating Energy Assistance Program (LIHEAP) reports. The Department's original submission of its SF-425 contained a manually entered typographical error. The supporting documentation submitted with the SF-425 contained the correct information. This error on the SF-425 itself was discovered and corrected prior to HHS reviewing and accepting the report. This user error had no financial impact. Also, at the time of report entry, the OLDC was not technically able to accept decimal places (the Department entered 11% rather than 11.9% as the Department's indirect cost rate). This technical limitation rendered it impossible for the Department to enter the correct indirect rate. The new OLDC application is continually being updated and modified.

Commerce made reasonable efforts to obtain sub-award information from our service providers. Our process for obtaining that information will be strengthened and a consequence management tool will be added that includes consequences up to and including suspension of funding for those not complying with the Federal Funding Accountability and Transparency Act.

Finally, Commerce remains committed to an environment of strong internal controls and will enhance existing controls in this area to ensure that accurate information is provided on federal reports.

Staff Responsible for implementation: Tim Jahnke and John Harvanko

Expected date of completion: June 30, 2014

Finding #2:

The Department of Commerce did not pay accurate indirect cost amounts from some federally-funded programs, including the Low-Income Home Energy Assistance program. This finding includes an unresolved prior issue.

Recommendation:

- *The Department of Commerce should work with the federal government to resolve differences caused by using an incorrect indirect cost rate during fiscal year 2012, and by incorrectly charging indirect costs to federal programs in fiscal year 2013.*
- *The department should improve internal controls to ensure it accurately charges indirect costs for its federal programs.*

James R. Nobles

March 17, 2014

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Response:

Since the last audit, Commerce has been in regular communication with the federal government to resolve the differences in the indirect rates. On February 18, 2014, after the on-site audit, Commerce received specific direction from the federal government on how to proceed in resolving the prior finding. Information was provided to the federal government for review and approval on March 13, 2014. Commerce is awaiting further instructions from its federal partners to resolve the audit finding.

Commerce pledges to continue enhancement of existing processes to better monitor indirect cost allocations. The process has already begun to cross-train staff so that additional resources are able to work on and verify indirect cost allocations and calculations.

Staff responsible for implementation: Tim Jahnke

Expected date of completion: June 30, 2014

I greatly appreciate the work of you and your staff 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,

A handwritten signature in cursive script that reads "Mike Rothman".

Mike Rothman

Commerce Commissioner