



**OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA**

FINANCIAL AUDIT DIVISION REPORT

**Department of
Commerce**

Federal Compliance Audit

Year Ended June 30, 2012

May 23, 2013

Report 13-07

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OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

May 23, 2013

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 a major federal financial assistance program administered by the Department of Commerce during fiscal year 2012. 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 May 13, 2013. This audit was conducted by Brad White, CPA, CISA, CFE, (Audit Manager) and Kayla Borneman, CPA, (Auditor-in-Charge), assisted by auditor Jessie Hon.

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 May 23, 2013.

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

A handwritten signature in black ink that reads "James R. Nobles".

James R. Nobles
Legislative Auditor

A handwritten signature in black ink that reads "Cecile M. Ferkul".

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	3
Finding and Recommendations.....	5
1. The Department of Commerce did not obtain federal approval for the indirect cost rate it used for fiscal year 2012; it used the rate approved for the previous year as a basis for the \$949,338 of indirect costs it recovered from all federal programs, including \$240,914 from the Low-Income Home Energy Assistance Program	5
Agency Response.....	7

Report Summary

Conclusion

The Department of Commerce generally complied with and had internal controls to ensure compliance with certain provisions of laws, regulations, contracts, and grants applicable to its major federal program for fiscal year 2012. However, the department had an internal control weakness that resulted in noncompliance with a federal requirement, as noted in the finding presented in this report.

Finding

- The Department of Commerce did not obtain federal approval for the indirect cost rate it used for fiscal year 2012; it used the rate approved for the previous year as a basis for the \$949,338 of indirect costs it recovered from all federal programs, including \$240,914 from the Low-Income Home Energy Assistance Program. ([Finding 1, page 5](#))

Audit Scope

Our scope included the Low-Income Home Energy Assistance Program, which was a major federal program for the State of Minnesota for fiscal year 2012.

Department of Commerce

Federal Program Overview

The Department of Commerce administered one federal program that we considered a major federal program for the State of Minnesota, subject to audit under the federal Single Audit Act.¹ The department expended approximately \$107 million for the Low-Income Home Energy Assistance Program (Catalog of Federal Domestic Assistance number 93.568) during fiscal year 2012.

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 this federal program for fiscal year 2012. 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.

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 internal controls to ensure compliance with certain provisions of laws, regulations, contracts, and grants applicable to its major federal program for fiscal year 2012. However, the department had an internal control weakness that resulted in noncompliance with

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 2012 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 March 20, 2013, on the State of Minnesota's basic financial statements for the year ended June 30, 2012. 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 13-06, *Report on Internal Control Over Statewide Financial Reporting*, issued May 17, 2013.)

a federal requirement, as noted in the following *Finding and Recommendations* section.

We will report this weakness 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.

Finding and Recommendations

The Department of Commerce did not obtain federal approval for the indirect cost rate it used for fiscal year 2012; it used the rate approved for the previous year as a basis for the \$949,338 of indirect costs it recovered from all federal programs, including \$240,914 from the Low-Income Home Energy Assistance Program.

The department did not create and submit an indirect cost rate proposal to the Division of Cost Allocation of the U.S. Department of Health and Human Services for fiscal year 2012. The federal government requires annual proposals to be developed and submitted within six months after the close of the fiscal year for approved use in the next funding period.³ However, the department failed to submit a proposal or obtain provisional approval and continued to use the indirect cost rate of 14 percent that the federal government approved for fiscal year 2011. Indirect cost rates can fluctuate year-to-year, and the annual proposal is intended to justify the rate in effect for each fiscal year.

As shown in Table 1, on the following page, the department used the approved fiscal year 2011 14 percent indirect cost rate to recoup \$949,338 for fiscal year 2012 from all federal programs administered by the department, including \$240,914 from the Low-Income Home Energy Assistance Program. If the federal government approves a lower rate for fiscal year 2012, the department may have to repay the excess indirect cost charges already claimed.⁴

In addition, as of February 2013, the department had not prepared and submitted indirect cost rate proposals for fiscal years 2013 or 2014; these proposals should have been submitted by December 31, 2011, and December 31, 2012, respectively.

Recommendations

- *The Department of Commerce should work with the federal government to obtain approval for annual indirect cost rates for fiscal years 2012, 2013, and 2014, and to resolve differences caused by using the approved fiscal year 2011 indirect cost rate during fiscal years 2012 and 2013.*
- *The Department of Commerce should improve internal controls to ensure it submits indirect cost rate proposals by the federal deadline.*

³ Office of Management and Budget, Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, Attachment E *State and Local Indirect Cost Rate Proposals*.

⁴ If the federal government approves a higher rate, the department will not be able to claim additional indirect costs because it had already expended the full federal award amount.

Finding 1

Table 1
Department of Commerce
Indirect Costs Charged to Federal Programs
Fiscal Year 2012

<u>CFDA¹</u>	<u>Program Name</u>	<u>Amounts</u>
<i>Major Programs:</i>		
93.568	Low-Income Home Energy Assistance ²	\$240,914
<i>Non-Major Programs:</i>		
81.041	State Energy Program ³	\$ 49,808
81.041	ARRA – State Energy Program ⁴	<u>281,248</u>
	Total State Energy Program	<u>\$331,056</u>
81.042	Weatherization Assistance for Low-Income Persons ⁵	\$ 42,326
81.042	ARRA – Weatherization Assistance for Low-Income Persons ⁶	<u>131,655</u>
	Total Weatherization Assistance	<u>\$173,981</u>
81.128	ARRA – Energy Efficiency and Conservation Block Grant Program ⁷	\$ 18,181
93.525	State Planning and Establishment Grants for the Affordable Care Act's Exchanges ⁸	\$172,417
N/A	Other Non-Major Federal Programs	<u>\$ 12,789</u>
	Total	<u>\$949,338</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-10B1MNLIEA, #G-11B1MNLIEA and #G-12B1MNLIEA.

³ Federal Grant Award #DE-FG26-07NT43166.

⁴ Federal Grant Award #DE-EE0000164.

⁵ Federal Grant Award #DE-EE0000653.

⁶ Federal Grant Award #DE-EE000103.

⁷ Federal Grant Award #DE-EE0000757.

⁸ Federal Grant Award #HBEIE110058 and #HBEIE120107.

Source: Auditor created from the Department of Commerce's accounting records for fiscal year 2012.



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May 16, 2013

James Nobles, Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155-1603

Dear Mr. Nobles:

Thank you for your recent audit of a major federal financial assistance program administered by the Department of Commerce. We realize the importance of regularly auditing significant aspects of our business and we appreciate the effort you and your staff invested in the review. As with all audits and reviews, we welcome your guidance and will do our best to implement your recommendations. The department's response to the audit finding is below.

Finding 1:

The Department of Commerce did not obtain federal approval for the indirect cost rate it used for fiscal year 2012; it used the rate approved for the previous year as a basis for the \$949,338 of indirect costs it recovered from all federal programs, including the \$240,914 from the Low-Income Home Energy Assistance Program.

Recommendations:

- *The Department of Commerce should work with the federal government to obtain approval for annual indirect cost rates for fiscal years 2012, 2013, and 2014, and to resolve differences caused by using the approved fiscal year 2011 indirect cost rate during fiscal years 2012 and 2013.*
- *The Department of Commerce should improve internal controls to ensure it submits indirect cost rate proposals by the federal deadline.*

Response:

The department agrees. An updated indirect cost proposal has been submitted to the federal government. The department will follow any and all guidance and recommendations offered by our federal regulators.

Updated procedures have been set in place to timely submit indirect cost plan proposals annually. All plans will be submitted prior to January 1, to take effect in the next fiscal year.

Sincerely,

A handwritten signature in black ink that reads "Mike Rothman".

Mike Rothman
Commissioner