



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued April 16, 2014

Berkshire Community Action Council, Inc.
For the period October 1, 2010 through April 30, 2013





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Making government work better

April 16, 2014

Mr. Mark Lincourt, Chair
Board of Directors of the Berkshire Community Action Council, Inc.
1531 East Street
Pittsfield, MA 01201

Dear Chairman Lincourt:

I am pleased to provide this performance audit of the Berkshire Community Action Council, Inc. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, October 1, 2010 through April 30, 2013. My audit staff discussed the contents of this report with management of the agency, and their comments are reflected in this report.

I would also like to express my appreciation to the Berkshire Community Action Council, Inc. for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SMBump'.

Suzanne M. Bump
Auditor of the Commonwealth

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EXECUTIVE SUMMARY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Berkshire Community Action Council, Inc. (BCAC) for the period October 1, 2010 through April 30, 2013. The objectives of our audit were to (1) analyze certain administrative expenses BCAC charged against its state contracts to determine whether they were reasonable and allowable, (2) assess BCAC's policies and procedures for the administration of its contracts to determine whether applicable laws and regulations were being followed, and (3) assess whether BCAC's board of directors was providing appropriate oversight over agency operations.

BCAC, located in Pittsfield, Massachusetts, was incorporated on December 8, 1966 under the provisions of Chapter 180 of the General Laws as a not-for-profit community action agency. It was formed for the purpose of eliminating poverty by helping the low-income, elderly, and working poor of Berkshire County achieve sustainability and self-sufficiency. During the fiscal year ended September 30, 2011,¹ BCAC incurred a loss of \$374,763 primarily because, according to information we obtained from the Commonwealth's Department of Housing and Community Development, BCAC did not effectively monitor and react to losses in several of its human-service programs and thus placed at risk its ability to continue to operate. A new management team was brought in during early 2012, and a number of changes were made that enabled BCAC to close out its fiscal year ended September 30, 2012 with an operating profit of \$111,080. However, despite the positive changes made by the board and the new management team, we identified two issues that BCAC should address.

Summary of Findings

- The former Executive Director received a severance package of \$24,533 during fiscal year 2012 that was unallowable according to regulations promulgated by the Commonwealth's Operational Services Division (OSD) and BCAC policies. Therefore, the severance package was nonreimbursable and should be recovered by the Commonwealth.
- BCAC's former management team did not follow OSD regulations and its own competitive-procurement policies and procedures when leasing vehicles to operate its transportation program. As a result, BCAC may not have obtained the best possible price for these leases at a time when its transportation program was operating at a financial loss. After the period covered

¹ BCAC's fiscal year ends on September 30 rather than the state fiscal year's end date, June 30.

by our audit, BCAC's current executive director contacted the leasing company and extended the leases for approximately one year (until August 2014) and also renegotiated each lease payment to a lower monthly amount, thereby saving \$20,100 per year.

Recommendations

- OSD should recover the \$24,533 in unallowable costs that BCAC charged against its state contracts for the severance compensation it provided to its former executive director. In the future, BCAC's board of directors should not charge any severance compensation to its state contracts unless it establishes a formal written policy that provides for this compensation or includes a provision for this compensation in an employee's contract.
- BCAC should take measures to ensure that it complies with OSD regulations and its own policies and procedures and should use a competitive-procurement process when leasing vehicles.

OVERVIEW OF AUDITED AGENCY

The Berkshire Community Action Council, Inc. (BCAC), located in Pittsfield, Massachusetts, was incorporated on December 8, 1966 under the provisions of Chapter 180 of the Massachusetts General Laws as a not-for-profit community action agency. It was formed for the purpose of eliminating poverty by helping the low-income, elderly, and working poor of Berkshire County achieve sustainability and self-sufficiency. Programs provided by BCAC include the Low Income Home Energy Assistance Program, weatherization, the Heating Emergency Assistance Retrofit Task Weatherization Assistance Program, homeless prevention and transitional housing assistance, food distribution, and a program called Project RECONNECT that, according to its website, offers “holistic mentoring supports to individuals in need of making positive choices or changes in order to become more productive and independent.” Its services include school dropout prevention, early intervention for youths who recently dropped out, and career-preparedness training. BCAC also provides transportation services as a subcontractor for the Berkshire Regional Transit Authority. BCAC’s programs serve the 32 cities and towns in Berkshire County. During our audit period, BCAC had approximately 100 employees; in fiscal year 2012, it provided services to over 16,000 individuals and families.

During the fiscal years ended September 30, 2011 and September 30, 2012, BCAC received revenue from the following sources:

BCAC Summary of Revenue

Revenue Source	Fiscal Year 2011	Fiscal Year 2012
Department of Housing and Community Development	\$ 9,713,201	\$ 8,083,421
Purchase of Service Subcontract	1,181,331	1,323,061
Other Massachusetts State Agency Purchases of Service	3,250	-
Office for Refugees and Immigration	12,892	26,593
Massachusetts Local Government	109,631	74,497
Direct Federal Grants	175,871	248,224
Private Client Fees	743,126	1,049,716
Federated Fundraising	179,183	115,417
Other Revenue	246,143	193,635
Total	<u>\$ 12,364,628</u>	<u>\$ 11,114,564</u>

For the same periods, BCAC reported changes in net assets as follows:

BCAC Statement of Activities and Change in Net Assets

Description	Total Fiscal Year 2011	Total Fiscal Year 2012
Revenues and Other Support		
Program Service Fees	\$ 11,939,302	\$ 10,805,512
Contributions and Gifts	245,892	131,782
Federated Fundraising	179,183	115,417
Other	251	61,853
Total Revenues and Other Support	<u>\$ 12,364,628</u>	<u>\$ 11,114,564</u>
Expenses		
Program Services	\$ 12,250,893	\$ 10,377,752
Administration	487,831	625,732
Fundraising	667	-
Total Expenses	<u>\$ 12,739,391</u>	<u>\$ 11,003,484</u>
Change in Net Assets	<u>-\$ 374,763</u>	<u>\$ 111,080</u>
Net Assets Beginning of Year	<u>\$ 486,435</u>	<u>\$ 111,672</u>
Net Assets End of Year	<u>\$ 111,672</u>	<u>\$ 222,752</u>

BCAC incurred a loss of \$374,763 during the fiscal year ended September 30, 2011 because, according to information we obtained from the Commonwealth's Department of Housing and Community Development, BCAC did not effectively monitor and react to losses in several of its human-service programs and thus placed at risk its ability to continue to operate. As a result, the BCAC board of directors determined that changes in operations were needed. As an initial step, the board asked the former executive director to retire. A new management team was brought in and a number of changes were made, including having the board and management closely monitor financial operations and allowing program managers and staff to provide input on developing and monitoring their own program budgets. A cost-reduction program was initiated; it included the discontinuance of certain programs and reduction of staffing levels, resulting in more than \$400,000 of cost savings. These actions enabled BCAC to close out the fiscal year ended September 30, 2012 with an operating profit of \$111,080. However, despite the positive changes made by board and the new management team, we identified two issues that BCAC should address.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Berkshire Community Action Council, Inc. (BCAC) for the period October 1, 2010 through April 30, 2013. The objectives of our audit were to (1) analyze certain administrative expenses BCAC charged against its state contracts to determine whether they were reasonable and allowable, (2) assess BCAC's policies and procedures for the administration of its contracts to determine whether applicable laws and regulations were being followed, and (3) assess whether BCAC's board of directors was providing appropriate oversight over agency operations.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To accomplish our objectives, we:

- Examined BCAC's financial records, both electronic and hardcopy, including pertinent source documents and its Uniform Financial Statements and Independent Auditor's Reports, which BCAC is required to file with the Commonwealth's Operational Services Division (OSD) annually.
- Identified and reviewed applicable laws, rules, and regulations pertinent to our audit objectives, including regulations published by OSD's Division of Purchased Services (808 Code of Massachusetts Regulations); the Commonwealth Terms and Conditions for Human and Social Services; and Federal Office of Management and Budget Circular A-122, "Cost Principles for Non-Profit Organizations."
- Reviewed board meeting minutes, organizational charts, policies and procedures, and internal financial reports.
- Selected certain transactions, primarily by using a judgmental sample selection, which enabled us to ensure that we reviewed material transactions to determine whether they were adequately supported, reasonable, allowable, and allocable to state contracts. We did not project the results of the samples to the population. More specifically:
 - For payroll, fringe benefits, and salary increases, we judgmentally selected two pay periods during the audit period. One pay period had 87 employees and the other had 99 employees.

We selected 5 employees from each of the two judgmentally selected pay periods to review for payroll, fringe benefits, and salary increases.

- For administrative expenses, there were 495 disbursements from which we judgmentally selected 30 items.

Items identified in the Detailed Audit Results and Findings section of this report were based on examining 100% of the applicable population. When performing our audit, we relied on hardcopy source documents as well as information contained in information systems and did not see any instances where the data in the information system did not agree with source document data; therefore, we concluded that the information-system data are reliable.

We determined that the following internal controls were relevant to our audit objectives:

- Controls over administrative expenses.
- Controls over payroll expenses.
- Controls over procurement.
- Controls over governance.

We assessed the relevant controls identified above and identified deficiencies that are detailed in the Detailed Audit Results and Findings section of this report.

We also reviewed audit reports prepared by independent public accountants as well as a number of oversight agency monitoring reports. At the conclusion of our audit fieldwork, we provided a copy of our draft audit report to the executive director and the chair of the board of directors for review and comments. We considered those comments when drafting our final report.

DETAILED AUDIT RESULTS AND FINDINGS WITH AUDITEE'S RESPONSE

1. The Berkshire Community Action Council's former executive director received an unallowable severance package totaling \$24,533.

The former Executive Director received a severance package of \$24,533 during fiscal year 2012 that was unallowable according to regulations promulgated by the Commonwealth's Operational Services Division (OSD) and the policies of the Berkshire Community Action Council, Inc. (BCAC). Therefore, the severance package was nonreimbursable and should be recovered by the Commonwealth.

In response to financial losses BCAC incurred in the fiscal year ended September 30, 2011 as well as public feedback that board members received indicating that BCAC was not accomplishing its mission as a community action agency, the board of directors determined that changes in operations were necessary. On October 18, 2011, the board voted to ask the executive director to retire and voted to approve a severance package for him that included three months' salary payable in weekly installments of \$750 each over a six-month period. The board allocated these payments to BCAC's state contracts.

Authoritative Guidance

According to OSD regulation 808 Code of Massachusetts Regulations (CMR) 1.02, "operating costs shall be considered 'reasonably incurred' only if they are reasonable and allocable using the standards contained in Federal Office of Management and Budget Circular A-122 or A-21. . . ." Circular A-122 defines compensation for personal services as "all compensation paid currently or accrued by the organization for services of employees rendered during the period of the award. . . ." Compensation for personal services includes severance pay, commonly referred to as dismissal wages. Moreover, A-122 specifies that the costs of such compensation are allowable "to the extent that total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied. . . ."

BCAC's personnel handbook, updated June 2011, does not contain an established policy allowing for an employee severance package. In addition, there was no employment contract between the former executive director and BCAC requiring a severance package in the case of retirement or dismissal.

Reasons for Unallowable Severance Package

BCAC's board of directors was not aware of the unallowable-cost provisions of 808 CMR 1.00. At the time the board voted to ask the former executive director to retire, BCAC was incurring financial losses in several of its social-service programs. It was evident from the board minutes leading up to the board asking the then-executive director to retire that the board felt a change in leadership was necessary in order for BCAC to make changes and improve its operations, and in the opinion of the board, offering him a severance package facilitated the change in leadership.

Recommendation

OSD should recover the \$24,533 in unallowable costs that BCAC charged against its state contracts for the severance compensation it provided to its former executive director. In the future, BCAC's board of directors should not charge any severance compensation to its state contracts unless it establishes a formal written policy that provides for this compensation or includes a provision for this compensation in an employee's contract.

Auditee's Response

BCAC, for fiscal years 2013 and 2014 entered into a written contractual agreement with its current Executive Director that clearly sets forth the terms and conditions of employment. No allowance for severance is included in this agreement or in the agency's personnel policies.

Berkshire Community Action Council concedes that the costs paid to its former Executive Director were unallowable based on the absence of a policy that provides for such compensation. It has taken measures to assure that this will not reoccur in the future.

2. BCAC did not competitively procure vehicle leases costing \$522,900.

BCAC's former management team did not follow OSD regulations and its own competitive-procurement policies and procedures when leasing vehicles to operate its transportation program. As a result, BCAC may not have obtained the best possible price for these leases at a time when its transportation program was operating at a financial loss.

We determined that BCAC leased 10 used Ford vans without soliciting competitive bids. Most of these leases were executed on June 8, 2008, with a monthly payment of \$820; the cost of the leases was \$522,900 over the five-year lease term. After the period covered by our audit, BCAC's current executive director contacted the leasing company and extended the leases for approximately one

year (until August 2014) and also renegotiated each lease payment to a lower monthly amount, thereby saving \$20,100 per year.

Authoritative Guidance

OSD regulations, in 808 CMR 1.03(8), state, “All procurements of furnishings, equipment and other goods and services by or on behalf of a contractor shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.”

Additionally, BCAC’s policies and procedures state that “personnel authorized to acquire supplies, equipment and services (including construction) will . . . develop a competitive procurement environment.” They also require BCAC to adhere to the procurement standards in 45 Code of Federal Regulations 74.40 – 48, which require the acquisition of supplies, equipment, and services to be made in the best interests of an entity and its programs and to be conducted in a competitive procurement environment, when possible.

Reasons for Lack of Competitive Procurement

Because of personnel changes since the previous management team’s tenure, BCAC was unable to provide an explanation of why the previous leases had not been competitively procured.

Recommendation

BCAC should take measures to ensure that it complies with OSD regulations and its own policies and procedures and should use a competitive-procurement process when leasing vehicles.

Auditee’s Response

BCAC, in early 2012 reviewed and revised its procurement policies, educated the staff as to the importance of these policies and strictly adheres to them. During the last two audit cycles, no weaknesses in BCAC’s system of internal controls, including those established for procurement, have been identified.

The policy BCAC follows is in strict compliance with Federal OMB and State CMR regulations and specifically states:

“Only supplies, equipment, and services (including construction) necessary to provide program services will be purchased. All procurement transactions must be conducted in a manner to provide, to the maximum extent practical, open and free competition. Procurements will be made with complete impartiality based strictly on the merits of supplier quotations, proposals and applicable related considerations, such as delivery, quality, quantity, etc. BCAC, as part of our anti-poverty mission to improve the economic situation of our community, strives to use local vendors whenever possible.”

The procurement standards established in 45 CFR Part 74.40 – .48 will be adhered to. In addition, the terms and conditions of programs not covered by 45 CFR Part 74 will be reviewed prior to the purchasing of goods and services to ensure that purchases are in compliance with the applicable grantor agency. Procurement transactions requiring prior written approval from the grantor agency should comply with Prior Approval Policies of the funding agency.”

APPENDIX

DESCRIPTION OF PROGRAMS AT THE BERKSHIRE COMMUNITY ACTION COUNCIL, INC. (BCAC)²

LIHEAP—Fuel Assistance

Fuel Assistance, also known as the Low Income Home Energy Assistance Program (LIHEAP), is a federally funded program to help low-income households with their heating bills. The program begins November 1st and ends April 30th each year. All heating types may be eligible for assistance: oil, propane, kerosene, coal, cord wood, wood pellets, natural gas, electric and even some households that have heat included in their rent.

Fuel assistance can only pay for the cost of the heat you actually use during the program. If the cost of heating your home is less than your benefit amount, we will only pay that amount. For example, if you are eligible for \$400 and the heating bills submitted by your heating company total only \$350 then the \$50 left over would be returned to our funding source.

Any low-income household whose gross yearly income falls at or below the income guidelines may be eligible. Homeowners and tenants are both eligible to receive fuel assistance.

Weatherization

This program, paid for with a combination of Federal and Utility Company funding, is designed to save our customers heating dollars by increasing the energy efficiency of their homes and apartments. BCAC provides a complete technical analysis of the property and a prioritized scope of work. Qualified contractors are then given a work order to perform the permanent weatherization work to high standards. Eligible work includes insulation for attics, walls, floors, and heating system pipes or ducts. Also eligible are weather-stripping, air sealing, and minor repairs related to saving energy. . . . All work is typically performed at no cost to the homeowner or tenant.

The program is available to most people who are eligible for the Federal Fuel Assistance program. All qualified Fuel Assistance applicants are automatically referred for weatherization after their application has been approved. Priority is given to households with elderly or handicapped individuals and with children aged 6 or less and “high energy users.”

Heating System Services

Clients who are eligible for Fuel Assistance and own their homes can have their heating systems repaired through this program. Services are also available to tenants if both they and their landlords are eligible for Fuel Assistance. If the heating system cannot be repaired, assistance with the replacement of the heating system can also be provided. Routine cleanings are not provided unless there are funds available after the heating season is over. Only contractors who contract with BCAC can be paid for service.

² All text in this appendix is quoted from the BCAC website, www.bcacinc.org, accessed January 17, 2014.

Transportation Services

Berkshire Community Action Council, Inc. operates 22 vans, including both ambulatory and wheelchair equipped vans. These vans can accommodate 7 – 13 passengers each on daily routes from the Transportation Operations Center on Commercial Street in Pittsfield, MA. It provides shuttle services for consumers between their places of residence and day program sites. The program also provides transportation for approximately 140 consumers primarily funded through the Department of [Developmental Services], along with consumers funded through private subscription.

Housing and Shelter Programs

BCAC's Housing and Shelter Department provides emergency and transitional housing services for individuals and families. Our goal is to assist those who are homeless by offering an array of services that ultimately move people into permanent housing.

.....

All of BCAC's programs are designed to help those in need address the issues that led to homelessness such as job loss, substance abuse, mental illness, medical issues, release from jail, eviction and the cycle of poverty.

Services we provide:

- Case Management*
- Financial Literacy Training*
- Parenting Classes*
- Job Training*
- AA/NA Recovery Meetings*
- Mainstream Resource Assistance*
- Housing Search*
- Information and Referral*

Project RECONNECT

Project RECONNECT will contribute to the Berkshire County Community by offering holistic mentoring supports to individuals in need of making positive choices or changes in order to become more productive and independent. This person-centered service will enhance the community workforce, increase the ratio of productive individuals to dependent persons, advance educational progress, and serve the interests of public safety.

Services Offered

Drop-out Prevention—*For at-risk youth still in school in collaboration with public schools*

Early Intervention—For youth who recently dropped out. . . . Most importantly, is helping youth to pursue a constructive pathway before losing ground (e.g., court or corrections involvement)

Readjustment—For youth/young adults months or years detached from a career pathway

Reentry—Includes those above, except that reentry supports are also needed. For youth/young adults having involvement with DYS, courts, and/or corrections (including Community Corrections, House of Correction, prison, probation, parole). . . .

Career Preparedness Training—Project RECONNECT offers a comprehensive 16 hour Career Preparedness Training Program designed to prepare individuals to successfully enter the workforce. . . .

Food Distribution and Nutrition Assistance

BCAC acts as the Berkshire County hub for the Food Bank of W MA, providing food bank member agencies with a local delivery site centrally located in Pittsfield. This hub serves over a dozen agencies and pantries throughout the county.