



The Commonwealth of Massachusetts

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INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
COMMONWEALTH CORPORATION
JULY 1, 2007 TO SEPTEMBER 30, 2008

OFFICIAL AUDIT
REPORT
JUNE 30, 2009

TABLE OF CONTENTS/EXECUTIVE SUMMARY

INTRODUCTION

1

The Commonwealth Corporation is a quasi-public agency that was established in 1996 through the merger of the Industrial Service Program and the Bay State Skills Corporation. Known after the merger as the Corporation for Business, Work and Learning, the agency, by resolution of its Board of Directors in March 2001, has been doing business as the “Commonwealth Corporation.” The Legislature formally approved the name change in October 2004.

The overall mission of the Commonwealth Corporation is “empowering people and businesses to learn, earn, and succeed.” Through its Economic Stabilization Trust (EST), the Commonwealth Corporation provides flexible high-risk financing to help implement a stabilization or change of ownership, corporate restructuring, or turnaround plan for economically viable but troubled businesses that are likely to fail without assistance. The EST also assists firms in specific mature industries with technological investment or upgrading of management operations.

Our audit of the Commonwealth Corporation, which covered the period July 1, 2007 to September 30, 2008, included a review of the agency’s administrative expenses, contract administration, grant distributions and program monitoring and evaluation procedures, progress in addressing the issues noted in our prior audit report (No. 2005-1326-3A), and an overall assessment of whether financial and program activities are being operated efficiently and effectively and in compliance with applicable laws, rules, and regulations.

AUDIT RESULTS

4

PRIOR AUDIT RESULTS RESOLVED

4

Our prior audit indicated that the Commonwealth Corporation (a) did not file required Internal Revenue Service (IRS) forms when it wrote off a total of \$2.6 million in loan debt owed to it by 22 companies and (b) made four EST loans totaling \$2,550,000 that did not comply with the loan criteria stated in Chapter 23D, Section 11, of the Massachusetts General Laws. Our follow-up review revealed that the prior audit issues have been adequately addressed, as discussed below.

a. Required Tax Forms Filed

4

Our prior audit found that the Commonwealth Corporation did not file IRS Form 1099-C (cancellation of debt) when it wrote off \$2.6 million in debt owed to it by 22 companies during fiscal years 1999 to 2003. Since the cancellation of debt is considered income to the debtor, federal tax laws require the lender to file this income information with the IRS. Our follow-up review found that the Commonwealth Corporation complied with this filing requirement during our audit period.

b. EST Loans Made in Compliance with Chapter 23D

4

Our prior audit revealed that the Commonwealth Corporation made four EST loans totaling \$2,550,000 that did not comply with the loan criteria established by the EST’s

enabling legislation. Specifically, contrary to Chapter 23D, Section 11, of the General Laws, the loans were made to growth companies, rather than troubled businesses. Our follow-up review revealed that no new EST loans were made to growth companies during the audit period and that all four loans had been paid in full.

INTRODUCTION

Background

The Commonwealth Corporation is a quasi-public agency that was established in 1996 through the merger of the Industrial Service Program and the Bay State Skills Corporation. Known after the merger as the Corporation for Business, Work and Learning, the agency, by a resolution of its Board of Directors, has been doing business under the name “Commonwealth Corporation” since March 2001. The Legislature formally approved the name change in October 2004. The overall mission of the Commonwealth Corporation is “empowering people and businesses to learn, earn, and succeed.”

The Commonwealth Corporation is responsible for administering and delivering a wide range of publicly and privately funded programs. Its specific goals are to:

- Meet the labor needs of Massachusetts skills-based businesses.
- Improve existing and emerging workers’ skills and employability so they can earn family-supporting incomes.
- Foster career success through lifelong learning for Massachusetts residents.
- Retain, sustain, improve, and create job-generating Massachusetts businesses.

To accomplish these goals, the Commonwealth Corporation receives grants from both the federal and state government, as well as revenues from other private sources.

Grants/Revenues Received by the Commonwealth Corporation

	Fiscal Year 2008	Fiscal Year 2007
Federal	\$ 4,453,803	\$ 3,405,480
State	27,983,689	22,737,211
Other	<u>4,211,723</u>	<u>4,249,693</u>
Total	<u>\$36,649,215</u>	<u>\$30,392,384</u>

As shown above, total grant revenue in fiscal year 2008 totaled \$36.6 million, an increase of \$5.5 million as compared to fiscal year 2007. The major components of this increase in grant revenue included an increase in unrestricted funding of approximately \$867,000 and increased funding from the Workforce Competitiveness Trust Fund (WCTF) of approximately \$2.5 million.

Through its Economic Stabilization Trust (EST), the Commonwealth Corporation provides flexible high-risk financing to help implement a stabilization or change of ownership, corporate restructuring, or turnaround plan for economically viable but troubled businesses that are likely to fail without assistance. The EST's enabling legislation, Chapter 23D, Section 8, of the Massachusetts General Laws established the EST as a financing affiliate of the former Industrial Service Program, and Section 11 of Chapter 23D allows the EST to provide flexible high-risk financing. Loans are reserved when it is determined that a borrower is unlikely to fully repay the loan and are written off against this reserve when it becomes apparent that the EST has insufficient collateral to secure the loan. Subsequent recoveries are recognized when realized.

The Commonwealth Corporation is responsible for the administering and delivering a wide range of publicly and privately funded programs designed to assist Massachusetts business and create jobs. Moreover, in accordance with Chapter 23H, Section 11(f), of the General Laws, the Department of Workforce Development, through the Commonwealth Corporation, is responsible for reviewing all workforce development services and job skills training programs receiving state or federal funds and submitting an "Annual Performance Report of Massachusetts Workforce Development Services and Programs." The first report was produced October 31, 2007, and the most recent report was issued November 30, 2008. The core performance measures include Employment Impact, Business Impact, Skill Building Impact, and a Customer Satisfaction Survey.

Audit Scope, Objectives, and Methodology

Our audit, covered the period July 1, 2007 to September 30, 2008, and was conducted in accordance with applicable generally accepted government auditing standards for performance audits as issued by the Comptroller General of the United States, and included such procedures and tests as we considered necessary to meet those standards. The objectives of this audit were to review and analyze:

- Administrative expenses and purchases of goods and services to determine whether they were reasonable, allowable, and in compliance with applicable laws, rules, and regulations.
- Controls over contract awards to determine whether proper awarding, and oversight procedures were being complied with.
- Grant distributions and program monitoring evaluation procedures to determine their adequacy in identifying how successful programs are functioning.

- Financial and programmatic activities to determine whether they were being operated efficiently and effectively and in compliance with applicable laws, rules, and regulations.
- The Commonwealth Corporation's progress in addressing and correcting the issues noted in our prior audit (No. 2005-1326-3A).

Based on our review, we concluded that during the 15-month period ended September 30, 2008, the Commonwealth Corporation adequately addressed the issues reported in our prior audit report and complied with applicable laws, rules, and regulations for the areas tested.

AUDIT RESULTS

PRIOR AUDIT RESULTS RESOLVED

Our prior audit (No. 2005-1326-3A) of the Commonwealth Corporation indicated that it (a) did not file Internal Revenue Service Form 1099-C (cancellation of debt) when it wrote off a total of \$2.6 million in loan debt owed to it by 22 companies and (b) made four Economic Stabilization Trust (EST) loans totaling \$2,550,000 that did not comply with the loan criteria stated in Chapter 23D, Section 11, of the Massachusetts General Laws. Our follow-up review revealed that the prior audit issues have been adequately addressed, as discussed below.

a. Required Tax Forms Filed

Our prior audit found that from fiscal years 1999 to 2003, the EST wrote off \$2.6 million in debt owed to it by 22 companies without filing Form 1099-C. Since the cancellation of debt is considered income to the debtor, federal tax laws require the lender to file this income information with the IRS. The loan balances written off ranged from \$28,375 to \$383,334. The Internal Revenue Code (IRC) Section 6050P states, in part:

Any applicable entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth:

- 1. the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,*
- 2. the date of the discharge and the amount of the indebtedness discharged, and*
- 3. such other information as the Secretary may prescribe.*

Our follow-up review revealed that, for the period July 1, 2007 to September 30, 2008, the Commonwealth Corporation complied with the filing requirement as specified in the regulations.

b. EST Loans Made in Compliance with Chapter 23D

Our prior audit disclosed that the Commonwealth Corporation made four EST loans totaling \$2,550,000 that did not comply with the criteria established by the EST's enabling legislation. Specifically, the loans were made to growth companies rather than troubled businesses, contrary to Chapter 23D, Section 11, of the General Laws, which states that the EST's purpose is:

To provide flexible high risk financing necessary to implement a change of ownership, a corporate restructuring, or a turnaround plan for an economically viable, but troubled business which faces the likelihood of a large employment loss, plant closure, or failure without such a change of ownership, corporate restructuring or turnaround plan. The trust shall further be empowered to provide assistance to firms in specific mature industries for the purpose of technological investment or upgrading of management operations in order for the business to maintain future economic stability. . . .

Our follow-up review of loan documents, financial statements, annual reports, and minutes of Board of Directors meetings revealed that no new EST loans were made to growth companies during the audit period and that all of the four loans in question had been paid in full.