

SOUTHWEST UTAH PUBLIC HEALTH DEPARTMENT

Findings and Recommendations
March 21, 2016

Report No. 16-SUHD-3L



**OFFICE OF THE
UTAH STATE AUDITOR**

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AUDIT LEADERSHIP:

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Members of the Board of Health
and
Dr. David Blodgett M.D., M.P.H., Health Officer/Director
Southwest Utah Public Health Department
620 South 400 East, Suite 400
St. George, Utah 84770

Dear Board Members and Dr. Blodgett:

We have performed the procedures described below to certain aspects of the Southwest Utah Public Health Department's (Department) internal control and compliance. The purpose of these procedures is to test compliance with *Utah Code* 63A-3-405. We performed the following procedures at the Department:

1. We reviewed the Department's compliance with *Utah Code* 63A-3-405 pertaining to the Utah Public Finance Website (aka Utah Transparency Website).
2. We reviewed the Southwest Utah Public Health Foundation (Foundation) and transfers from the Department to the Foundation.

Our procedures were more limited than would be necessary to express an audit opinion on compliance or on the effectiveness of the Department's internal control or any part thereof. Accordingly, we do not express such opinions. Alternatively, we have identified the procedures we performed and the findings resulting from those procedures. Had we performed additional procedures or had we made an audit of the effectiveness of the Department's internal control, other matters might have come to our attention that would have been reported to you.

Our findings resulting from the above procedures are included in the attached findings and recommendations section of this report. We feel that both findings are important compliance issues for the Board of Health and management of the Department.

We appreciate the courtesy and assistance extended to us by the personnel of the Department during the course of the engagement, and we look forward to a continuing professional relationship. If you have any questions, please contact Van Christensen, Audit Director, at 801-538-1394 or vchristensen@utah.gov or Leslie Larsen, Audit Supervisor, at 801-538-1348 or leslielarsen@utah.gov.

Office of the Utah State Auditor

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BACKGROUND

The Southwest Utah Public Health Department (Department) is organized as an interlocal entity and a component unit of Washington County. It serves as the local health department for Beaver, Kane, Washington, Iron, and Garfield Counties. The Department's Board of Health (Board) consists of one county commissioner and one appointed member from each of the five counties. The Board appoints and oversees a health officer who serves as the Director of the Department. The Department has an annual budget of more than \$5 million.

FINDINGS AND RECOMMENDATIONS

1. FAILURE TO PROVIDE FINANCIAL INFORMATION TO THE UTAH PUBLIC FINANCE WEBSITE

The Department did not provide financial information to the Utah Public Finance Website as required by Utah Code 63A-2-405(3)(a). The required financial information includes revenue and expense transactions as well as employee compensation of the Department. The Department failed to provide this information despite receiving audit findings in both their 2013 and 2014 financial statement audits conducted by an independent certified public accounting firm.

The Department's response to the audit findings for both years stated, "Management will work to provide the required information to the Utah Public Finance Website." However, audio of the August 13, 2014 Board meeting indicated that the Board and Management of the Department (Management) questioned the applicability, significance, and potential penalties for not complying with the law, suggesting that the Board and Management had not reached the conclusion stated in response to the finding. When the finding was again reported the next year the formal written response was the same, but the audio of the Board meeting where the finding was presented reflects no discussion related to the finding, suggesting that the Board and Management had again chosen to ignore the finding. This demonstrates either negligence by the Board and Management or willful disregard for Utah Law.

We question whether the Board members and Management involved with ignoring the law should continue to serve on the Board or be employed by the Department. If there was uncertainty whether the requirements of the law applied to the Department, they should have immediately researched and obtained the necessary legal advice and taken corrective action as necessary. The Department's failure to provide its financial information impairs transparency and accountability and is contrary to public policy established by law.

Recommendation:

We recommend that the current Board take appropriate action toward Board members and Management who failed to perform their public duties; this may include removal

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from office or termination of employment. We also recommend that the Department research and obtain advice on compliance issues for which they have questions and correct areas of noncompliance in a timely manner. And finally, we recommend that the Department provide financial information to the Utah Public Finance Website as required by law.

Department's Response:

The department has now successfully posted the required information to the Public Finance Website. In doing so, it became the first public health department to do so. Now that the initial hurdles for posting the information to the website has been overcome, we will continue to post to the website without interruption.

The board has directed that all audit findings be addressed as quickly as possible for all future findings. Recommendations that the Department research and obtain advice on compliance issues for which there are questions and correct areas of noncompliance in a timely manner will be followed.

As directed, the issue of disciplinary action has been forwarded to the board for further consideration and action.

2. WEAKNESSES WITH NONPROFIT FOUNDATION

In December 2010, the Department's Director, Deputy Director, Business Manager, and Nursing Director formed a nonprofit foundation called the Southwest Utah Public Health Foundation (Foundation). In October 2014, the Department hired a new Nursing Director who replaced the former Nursing Director as one of the Foundation's Board Members. These employees continue to serve as the Board of the Foundation.

According to the Department Director, members of the Department Board were aware of the creation of the Foundation and its role with the Department. Meeting minutes from 2011 indicate that the Department Board discussed the Foundation and its fund raising role. These minutes also indicate that six of the current Department Board members attended the 2011 Board meeting. However, as noted below, current Board members are not fully aware of the activities of the Foundation. This may be due to the organization and structure of the Foundation which does not provide for effective Department Board oversight. This lack of oversight is concerning for the following reasons:

- **Transfers to Foundation Made Without Department Board Knowledge** – The Department employees who are Foundation Board members transferred funds to the Foundation without the Department Board's knowledge. Department Board members approved the use of Department funds for the purpose of publishing and mailing a magazine designed to promote public health. The Director explained to us that the Department

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transfers money to the Foundation to pay for the magazine printing and mailing costs because the Foundation is able to obtain a cheaper bulk mailing rate than the Department. We contacted nine of the current Department Board members and found that none of them were aware of the Department transfers to the Foundation. Transferring Department funds to the Foundation without the Department Board's knowledge could result in misappropriation of funds without detection (see related Finding No. 3).

- Foundation Expenditures Required No Approval or Review by Department Board. The funds transferred from the Department were used at the Foundation's discretion with no approval or review by the Department Board. We reviewed the financial activity of the Foundation and did not find expenditures that were outside the mission of the Department or the entity for which the funds were received (see related Finding No. 4). However, funds spent without proper authorization and Department control could result in the misappropriation of funds going undetected or in funds being spent for purposes inconsistent with the Department's mission.
- Transferred Funds Lack Transparency and Accountability – The transfer of Department funds to the Foundation obscured the identity of public funds and caused the Foundation to inappropriately avoid transparency and accountability requirements to which public funds are subject, such as:
 - Public hearings and public input when adopting a budget;
 - Open meetings, allowing the public to observe deliberations regarding how funds are used;
 - Annual financial audit and publicly available report; and
 - Providing financial information to the Utah Public Finance Website (see Finding No. 1).

When a governmental entity creates a nonprofit, the governing body must provide appropriate oversight to ensure that those funds are properly safeguarded and that the nonprofit complies with the law. The Department Board was somewhat aware of the Foundation and yet failed in its responsibility to provide that oversight.

Recommendation:

We recommend that the Department Board provide appropriate oversight to ensure that funds are safeguarded and that the Foundation comply with State laws regarding transparency and accountability.

Department's Response:

The Board of the health department has agreed to become the board for the Southwest Utah Public Health Foundation. The necessary changes for this transition have been made.

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As such, the foundation will conduct its business at the same time, and in the same public meetings, as the department. This will provide maximum transparency as recommended in the finding.

3. FUNDS TRANSFERRED FROM DEPARTMENT TO FOUNDATION IN ORDER TO CIRCUMVENT LAW

Over a two-year period, Department Management transferred \$204,492 from the Department to the Foundation for printing and mailing costs associated with the health magazine (see Finding No. 2, first bullet). This amount was \$58,792 more than the actual costs incurred by the Foundation. The Department Director explained that the excess money transferred was a prepayment of future printing costs. He also explained that the prepayment of printing costs was made because the Department received audit findings indicating that their general fund balance exceeded the maximum amount allowed by law. Thus, this transfer was made to avoid future audit findings. We noted that this finding was included in the Department's 2011, 2012, and 2014 audit reports; therefore, the transfer appears to be an attempt to circumvent fund balance limitations found in *Utah Code* 11-13-512.

Given that the same individuals who initiate and authorize transfers to the Foundation also make payments from the Foundation, a minimal transfer lead time of one to two days should be enough to cover printing and publication costs. At the time of our review, the excess money was still in the Foundation's account.

Recommendation:

We recommend that the Department reduce its fund balance to comply with the law and not transfer funds to the Foundation to circumvent the law. We also recommend that the Department only transfer funds to the Foundation to meet the immediate printing and publication costs incurred by the Foundation.

Department's Response:

The Department has already reduced its fund balance.

As already identified, the board of the health department will serve as the board of the foundation, thus providing for the required oversight recommended by the findings.

The department will only transfer funds to the Foundation to meet the immediate printing and publication costs incurred by the Foundation in the case of the magazine, and as overseen by the board.

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4. DONATED FUNDS RECEIVED ON BEHALF OF A NONAFFILIATED ORGANIZATION

The Foundation received three donations from July 2012 to June 2013 totaling \$8,650 to benefit the Washington County Search and Rescue (S&R), which is not affiliated with the Foundation or Department. The Department Business Manager explained that the donation was made to the Foundation when a former Department employee, who was also a volunteer with the S&R, became aware of an organization willing to make a donation to the S&R; however, the organization was only willing to make the donation to a nonprofit organization. The Department employee worked with the Business Manager to have the Foundation receive the donation on behalf of the S&R with the understanding that the Foundation would spend the money on behalf of the S&R. However, at the time of our review, the Foundation had spent only \$3,680 on behalf of the S&R, and the balance of \$4,970 remained in the Foundation's account.

The ability to accept donations on behalf of another entity, potentially without the other entity's knowledge, creates the opportunity for those funds to be misappropriated. We contacted the Washington County Sheriff, who is accountable for funds received on behalf of the S&R and for ensuring the funds are used for allowable purposes, to find out if he was aware of these donations. The Sheriff was vaguely aware of these donations and how the funds were used; however, he did not know the exact amount of donations nor the remaining balance and, because the Foundation is a separate entity, there was no direct or clear accounting to the Sheriff. As such, there are no controls to prevent the Foundation members from using the money for purposes unrelated to the S&R. A nonprofit foundation affiliated with a government entity should only accept donations consistent with the mission of the government entity.

Recommendation:

We recommend that the Foundation transfer the remaining \$4,970 in search and rescue donations to an official Washington County Search and Rescue account. We also recommend that the Department Board ensure the Foundation only accept and disburse money that is consistent with the mission of the Department.

Department's Response:

We have already transferred the remaining \$4,970 in search and rescue donations to the Washington County Search and Rescue. The Department's Board, as the new board of the foundation will ensure the Foundation only accepts and disburses money in a manner that is consistent with the mission of the Department.