

UTAH MUNICIPAL FINANCE COOPERATIVE II TRUST

Findings and Recommendations
For the Period July 2008 to September 2016

Report No. UMFC-17-SP



OFFICE OF THE
STATE AUDITOR



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April 21, 2017

Utah Municipal Finance Cooperative II Trust
Board of Trustees
50 South 600 East, #150
Salt Lake City, UT 84102

Dear Trustees:

We have performed the procedures described below to certain aspects of the Utah Municipal Finance Cooperative II Trust's (Trust's) internal control and compliance for the period July 2008 to September 2016, unless otherwise stated. The purpose of these procedures is to assist the Trust in evaluating its internal control and investigate allegations of potentially improper disbursements. We performed the following procedures:

1. We reviewed all check disbursements.
2. We reviewed compliance with financial reporting requirements.
3. We reviewed minutes of meetings.
4. We reviewed trust agreements and evaluated for compliance.
5. We spoke with some of the Trustees, and with counsel for the Trust.

Our procedures were more limited than would be necessary to express an audit opinion on compliance or on the effectiveness of the Trust'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 Trust'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.

By its nature, this report focuses on exceptions, weaknesses, and problems. This focus should not be understood to mean there are not also various strengths and accomplishments. We appreciate the courtesy and assistance extended to us by the personnel of the Trust during the course of the engagement, and we look forward to a continuing professional relationship. If you have questions, please contact Jeremy Walker, Local Government Manager, at 801-538-1040 or jeremywalker@utah.gov.

Office of the State Auditor
Office of the State Auditor

BACKGROUND

In the late 1980's the Utah League of Cities and Towns (ULCT) sponsored the creation of two inter-local governmental entities, the Utah Municipal Finance Cooperative (MFA) and the Utah Municipal Finance Cooperative II (COOP). These cooperatives were created by cities and towns as a mechanism to provide low rate and low cost bonds to their members to help finance public works projects throughout the State of Utah. In April 1987, the COOP issued bonds totaling \$205,280,000. By April 1989, the COOP had remarketed all of the funds to eight cities. After April 1989, the COOP retained Program Expense Funds (\$315,769) and interest earned (\$1,015,866) from bond proceeds totaling \$1,331,635 and continued to exist in name only until all remarketed bonds were repaid.

In May 1993, the COOP created the Utah Municipal Finance Cooperative No II Trust (Trust). The approximately \$1.3 million dollars of excess funds from the COOP were transferred to the Trust in 1993 for the purpose of improving the services provided to the ULCT and its members. The Trustees contend that, on the advice of counsel and other professionals, the Trust was originally organized as and intended to be a private entity to hold and administer these funds for the benefit of the ULCT. However, as set forth in this report, the Office of the State Auditor has concluded that there are sufficient public characteristics for the Trust to be considered a governmental entity.

On October 31, 2016, the Trust held approximately \$530,000.

FINDINGS

1. THE TRUST HAS CHARACTERISTICS OF A GOVERNMENTAL ENTITY SUFFICIENT FOR THE OFFICE TO DETERMINE THAT THE TRUST IS GOVERNMENTAL

The Office of the State Auditor (Office) considers the Trust to have the following characteristics of a governmental entity:

- Trustees are defined as members of the Executive Committee of the COOP.
- Trust funds were held in a Public Treasurer's Investment Fund (PTIF) account.
- For a period of time, the Trust paid the Utah Local Government Trust for liability insurance.

As such, the Trust would be subject to laws, regulations, and duties as a governmental entity.

2. THE TRUST DID NOT ABIDE BY SOME OF ITS ORGANIZATIONAL TERMS

The Trust's organizational documents provide that an annual accounting should be provided by the Trust to the ULCT's Board of Directors and that the Trust should have terminated no later than December 31, 2012. During the period of our review, the Trust did not inform the ULCT's Board of Directors of its financial expenditures and the Trust did not terminate on or before December 31, 2012. In addition, the Trust was established as a non-profit entity but later lost that status.

3. THE OVERSIGHT AND ACCOUNTING PRACTICES OF THE TRUST WERE LACKING

The Office reviewed payments from the Trust and identified insufficient oversight and lax accounting practices. Upon recommendation of the Office, the Trust is taking steps to recover certain funds as part of its winding up process.

4. THE TRUST MAY NOT HAVE PROPERLY REPORTED PAYMENTS TO NON-EMPLOYEES OR CONTRACTORS

The Office's review raised concerns whether the Trust appropriately reported taxable compensation.

5. THE TRUST APPEARED TO BE PREDOMINANTLY ADMINISTERED FOR THE OVERALL BENEFIT OF THE ULCT

Notwithstanding the shortcomings identified in the Office's findings numbered 2, 3, and 4, in general, the Trust appeared to be administered for the overall benefit of the ULCT. We further note that the ULCT administration believes the Trust appeared to be administered in good faith for the overall benefit of the ULCT.

RECOMMENDATIONS

We recommend:

- The winding up of the Trust at this time and distribution of its remaining assets to the League, pursuant to the terms of the Trust's organizational documents, and in a manner consistent with the Office's findings and determinations contained herein, is appropriate.
- The Trust should submit its budgets and financial reports to the Office of the State Auditor.
- The Trust should turn over all Trust records requested by the ULCT to the ULCT, including but not limited to the minutes of the Trust meetings.
- Once the Trust is wound up and these recommendations are addressed by the Trust, the Office will take no further action in regards to the Trust, its administration, and the subject matter of this report as it relates to the Trust.

TRUST RESPONSE

On the advice of counsel and other professionals, the Trust was established in 1993 and subsequently amended in 1996. At the time, it was intended to be a private entity existing for the benefit and support of the ULCT. Such was the Trustees' understanding and intent as they sought to administer the Trust. The Trustees believe they have operated the Trust in good faith and have acted for the benefit of the ULCT.

Notwithstanding the above response, the Trust as an entity does not contest the determinations/findings of this report.