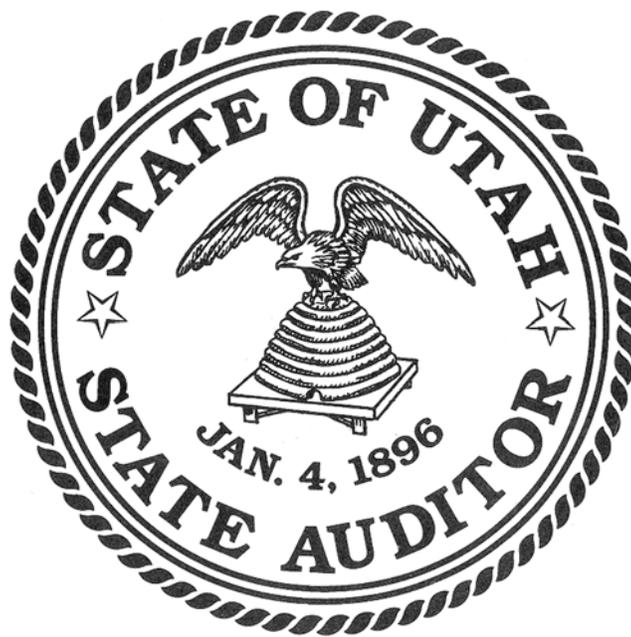


SOUTHWEST UTAH PUBLIC HEALTH DEPARTMENT

Findings and Recommendations
For the Period April 2016 through January 2018

Report No. SUHD-17-SP



OFFICE OF THE STATE AUDITOR

AUDIT LEADERSHIP:

John Dougall, State Auditor

Julie M. Wrigley, CPA, Manager

Tyson Plastow, MBA, CIA, Audit Supervisor

SOUTHWEST UTAH HEALTH DEPARTMENT
FOR THE PERIOD APRIL 2016 THROUGH JANUARY 2018

TABLE OF CONTENTS

	<u>Page</u>
LETTER TO MANAGEMENT	1
BACKGROUND	3
OVERALL FINDING AND RECOMMENDATION:	
1. Board and Management Did Not Provide Sufficient Oversight	4
SPECIFIC FINDINGS AND RECOMMENDATIONS:	
2. Internal Control Failures Allowed Alleged Fraud to Continue Without Detection	5
3. Significant Failure to Enforce Sub-Lease Agreement	6
4. Noncompliance with Quarterly Financial Reporting Requirements	7
5. Department Policy Prohibiting Employee Communication with the Board Decreases Management’s Accountability and Increases Risk of Improper Behavior	8
6. Increased Risk Due to Credit Card Use and Practices	8
7. Consider Best Practices for Transparency	9
ENTITY’S RESPONSE	10
CHECKLIST OF BEST PRACTICES FOR BOARD MEMBERS OF LIMITED PURPOSE ENTITIES	ATTACHMENT A



OFFICE OF THE
STATE AUDITOR

REPORT NO. SUHD-17-SP

October 17, 2018

Jerry Taylor, Chair
Southwest Utah Public Health Department Board of Health
600 South 400 East
St. George, Utah 84770

Dear Chair Taylor:

We have performed a limited review of certain aspects of the internal control and compliance at the Southwest Utah Public Health Department (Department), an interlocal entity, for the period April 2016 through January 2018. The purpose of these procedures is to assist the Department in evaluating certain aspects of its operations, reporting, and compliance in accordance with Utah Code 67-3-1(4). We performed the following procedures at the Department:

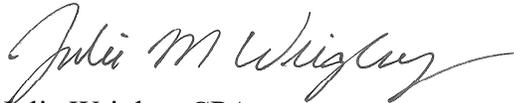
1. We reviewed the Department's interlocal agreement, policies and procedures, and organizational structure for compliance with certain state statutes, internal control standards, and best practices.
2. We reviewed implementation of recommendations included in our previous engagement (see Report No. 16-SUHD-3L).
3. We reviewed internal controls in relation to allegations two former Department Employees committed fraud at the Department.
4. We evaluated the Department's enforcement of its sub-lease agreement.
5. We reviewed credit card activity for compliance with Department policies and best practices.
6. We reviewed compliance with certain state statutes and best practices for transparency related to limited purpose public entities, including:
 - Compensation reporting
 - Public notice of meetings and posting of meeting minutes
 - Board contact information

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 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 Findings 1 through 5 are key internal control weaknesses or important compliance issues.

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. If you have any questions, please contact Tyson Plastow, Audit Supervisor, at 801-234-0544 or tplastow@utah.gov.

Sincerely,

A handwritten signature in cursive script that reads "Julie M. Wrigley".

Julie Wrigley, CPA
Special Projects Audit Manager
801-538-1340
jwrigley@utah.gov

cc: Dr. David Blodgett, Southwest Utah Public Health Department Director

BACKGROUND

The Southwest Utah Public Health Department (Department) is an interlocal entity organized under *Utah Code* 11-13 to provide services to five counties in southwest Utah including Washington County, Iron County, Kane County, Beaver County, and Garfield County. A board of health (Board), made up of one commissioner and one appointed member from each of the five counties, governs the Department. The Board has appointed a health director (Director) to operate as the CEO of the Department. The Department's senior management consists of the Director, Deputy Director, and Business Manager (Management).

In March 2016 the Office of the State Auditor (Office) published a limited review of the Southwest Utah Public Health Department reporting noncompliance and the misuse of funds, see Report No. 16-SUHD-3L (Prior Review).

In June 2017 the Department's Former Nursing Director and Former Human Resources Director were charged with felonies for using a company they had established (Company) to allegedly submit false claims of follow-up calls to Medicaid recipients. They submitted the alleged false claims to the Utah Department of Health, through the Department. Over a four-month period, the Company received \$55,414 from the Department. It appears that the alleged fraud began around the time the Office concluded our Prior Review.

At the time the alleged fraud was occurring, the Former Human Resources Director also performed the Department's accounts payable duties. The Former Human Resources Director would prepare payments and take the unsigned checks to the Business Manager. The Business Manager asked what the payments were for, and after an explanation from the Former Human Resources Director, the Business Manager would sign the checks to the Company.

All of the checks required dual signatures; however, the system was reportedly programmed to print the Director's signature on the check, and it appears the Director never reviewed any of the payments. The Director indicated he had not authorized expansion of the program under which the claims were submitted, and it is possible that the Director would have prevented the alleged fraud scheme had he reviewed any of the payments.

The Department's Purchasing Policy establishes certain controls, that when followed, help reduce the risk of fraud or misuse of funds. However, as detailed in Finding No. 2 below, the Business Manager did not enforce internal controls when he signed the checks. Had the Business Manager enforced any one of the controls it is likely the alleged fraud would have been detected.

It appears that the alleged fraud was made possible through 1) the collusion of the Former Nursing Director and the Former Human Resources Director, 2) the Former Human Resources Director's accounts payable duties, 3) the Business Manager's failure to ensure compliance with policy, and 4) the Director's inadequate oversight.

The Department has since established additional controls that, if followed, may help reduce the risk of fraud or misuse.

OVERALL FINDING AND RECOMMENDATION

1. **BOARD AND MANAGEMENT DID NOT PROVIDE SUFFICIENT OVERSIGHT**

The findings below provide examples of management failure to comply with and enforce policies, enforce contracts, and report sufficient financial information. In addition, we noted a Board approved policy which impedes Board oversight.

The Board is the Department's governing body. As such, it should provide oversight and hold management accountable for effective and efficient operations, accurate reporting, and compliance with all applicable regulations. To be effective, a board must demonstrate independence from management. Management establishes, with board oversight, the structures, reporting lines, and appropriate authorities and responsibilities to accomplish the organizational objectives of operations, reporting, and compliance.

It appears that the Board's independence and ability to provide oversight was impeded by policy and management failures. A board with limited information cannot provide effective oversight. When management fails to enforce or comply with internal controls, and when a board's oversight ability is impeded, the risk of fraud, waste, abuse, and noncompliance are increased.

The Board could improve its oversight of the Department by performing a self-assessment and implementation of best practices using the "Checklist of Best Practices for Internal Control of Limited Purpose Entities" (Attachment A) taken from *A Review of Best Practices for Internal Control of Limited Purpose Entities*, Report No. 2017-05, issued by the Legislative Auditor General, June 2017.

Recommendation:

We recommend the Board:

- **Improve accountability and oversight by implementing the recommendations noted in this report.**
- **Clearly communicate expectations and hold Management accountable for meeting expectations, which may include taking reasonable disciplinary action.**
- **Perform a self-assessment and implementation of best practices using the "Checklist of Best Practices for Internal Control of Limited Purpose Entities" (Attachment A).**

We recommend Management:

- **Comply with and ensure compliance with all established policies, rules, laws, and regulations.**

SPECIFIC FINDINGS AND RECOMMENDATIONS

2. **INTERNAL CONTROL FAILURES ALLOWED ALLEGED FRAUD TO CONTINUE WITHOUT DETECTION**

We reviewed the Department's 10 disbursements which resulted in the improper payments to the Company. Our review disclosed that the Business Manager did not ensure compliance with the Department's purchasing policy when he authorized 7 out of 10 payments to the Company. The payments were improper for the following reasons:

- *No evidence of bids* – Purchasing Policy V.A. requires telephone bids for purchases between \$2,500 and \$20,000. Seven of the 10 payments were within this range; however, there was no documentation of any bids.
- *Not an established vendor* – Purchasing Policy V.D. allows the Business Manager to circumvent the bidding process when using an established vendor. There is no evidence the Company was ever a properly established vendor; therefore, the Business Manager improperly authorized all of the seven payments requiring a bid (a total of \$51,502).
- *No consultation with senior staff* – Purchasing Policy I.C.2. requires the Business Manager to consult with senior staff for purchases in excess of \$5,000. If viewed as single procurements for services, 4 of the 10 payments (totaling \$40,872) required such a consultation. The Business Manager stated he signed the checks after questioning the Former Human Resources Director; however, the Former Human Resources Director was not a member of senior staff according to policy. We found no documentation indicating the Business Manager had consulted with appropriate senior staff prior to authorizing the payments.
- *No formal public invitation for bids* – The Department paid a total of \$55,414 to the Company for services. If the total paid was viewed as a single procurement for services, then Purchasing Policy V.C. requires an invitation for bids process, complete with a notice published in a newspaper, contractual terms, and conditions of the evaluation. The bids would then be opened at a time and place designated in the notice and a contract awarded. There is no documentation the Department followed such a process.
- *No contract* – Purchasing Policy V. indicates there should have been a contract for services before payments were made; however, there was no contract. The Business Manager likely would have been involved in establishing a contract had there been one, and likely should have known the Department had no contract with the Company.

Had the Business Manager ensured that the Department followed any one of these processes, the likelihood of detecting and preventing the alleged fraud would have increased.

Since the alleged fraud occurred, the Department has established additional controls that, if implemented as designed, could help reduce the risk of fraud or misuse. However, the Business Manager's failure to ensure compliance with most of the Purchasing Policy, as described above, may represent a continued significant risk to the Department. When Management ignores established controls it increases the risk of fraud, waste, or abuse and reduces the capability of an

organization to discover such abuse. The Director should hold the Business Manager accountable for the proper enforcement of established controls and reduce the risk of the Business Manager overriding the Department's established policies and processes.

Recommendations:

We recommend the Board:

- **Assess the risk of continued noncompliance by the Business Manager and ensure the Director takes appropriate action as deemed necessary.**

We recommend the Director:

- **Ensure all Department employees understand the importance of following established policies.**
- **Hold all Department employees accountable for the proper implementation of established policies.**

3. SIGNIFICANT FAILURE TO ENFORCE SUB-LEASE AGREEMENT

The Department has sub-leased office space to the Former Nursing Director since 2009 for the operation of another of his private businesses. According to documentation provided by the Department, the Former Nursing Director stopped paying rent of \$2,400 per month in January 2016. However, it appears the Department did not take appropriate action to collect rent or enforce the sub-lease agreement prior to our review. The Department finally sent a notice to pay or vacate the property in March 2018, which was well after the date our Office began its review. We requested the lease records by the end of the day on May 10, 2018. The Department provided the requested information along with an amended lease agreement that had been signed and executed on May 10, 2018. The timing of the amendment is concerning and supports the notion that the Department likely did not take timely and sufficient action to address the non-payment of rent until information was requested by our Office. The amended lease agreement allowed the Former Nursing Director to remain on the premises at the same \$2,400 per month rate and to pay an additional \$1,200 per month towards the accrued back rent of \$69,600. Management also waived the 10% monthly late fee (\$6,960) stipulated in the original agreement.

Management has a fiscal responsibility to protect and maximize the benefit of public resources. We are concerned that in addition to Management's failure to enforce the original sub-lease agreement, there are indications that Management was reluctant to take appropriate action on the matter. Furthermore, due to the pending charges and the possibility that the Former Nursing Director will need to repay the Department more than \$55,000 related to the alleged fraud, there is an increased risk the Former Nursing Director will not pay the owed rent. This could potentially result in an additional loss of \$76,560 in public funds and provide a significant personal benefit to the Former Nursing Director.

Management admits they have not made the collection of rent a priority and that this is not the first time a tenant has been allowed to go years without paying. They also indicated that they

believed they could not contact the Former Nursing Director due to a gag order related to the criminal case against the Former Nursing Director that commenced in June 2017. We confirmed with an Assistant Attorney General that this gag order would not prevent any attempt to collect rent due. Also, as noted in Finding No. 4, the Board was generally unaware of the large amount of accrued rent due which may have contributed to the failure of Department management to prioritize collection and enforcement.

Recommendations:

We recommend the Board:

- **Hold Management accountable for the proper enforcement of any current or future sub-lease agreements.**
- **Consider contracting with a rental management company to manage available office space.**

We recommend Management:

- **Collect rent payments in a timely manner.**
- **Take prompt corrective action when rent payments are past due.**

4. NONCOMPLIANCE WITH QUARTERLY FINANCIAL REPORTING REQUIREMENTS

Utah Code 11-13-527 requires the Department clerk or other designee to prepare and present to the Board a detailed quarterly financial report showing both the financial position (balance sheet) and operations (income and expense statement) on a year-to-date status. We reviewed all quarterly financial reports presented to the Board and found they do not include a balance sheet.

It appears the Board and Management failed to understand interlocal financial reporting requirements. In addition, it appears the Department failed to record the accruing rent receivable at all (described in Finding No. 3). Without an accurate detailed balance sheet, it would be difficult for the Board to know about the increasing amount of rent owed to the Department unless management explicitly told them. The Board cannot provide effective oversight without sufficient financial information.

Recommendations:

We recommend the Board:

- **Ensure the Department clerk or other designee prepares and presents a detailed quarterly financial report as required by statute.**
- **Ensure the Department accurately records its rent receivable.**

5. **DEPARTMENT POLICY PROHIBITING EMPLOYEE COMMUNICATION WITH THE BOARD DECREASES MANAGEMENT'S ACCOUNTABILITY AND INCREASES RISK OF IMPROPER BEHAVIOR**

Department policies prohibit employees from communicating directly with the Board without the Director's permission.

As the Department's governing body, the Board should have all the information they need to help them more effectively govern the organization. While Management typically functions as the information gateway for the Board, as a best practice, employees should be able to communicate directly with members of the Board without fear of reprisal.

It appears the Director encouraged the prohibition on communicating with the Board out of a desire to protect them from menial requests which would likely be more appropriately handled by a supervisor or senior manager than a member of the Board. The Board should define when an employee could reasonably communicate directly with a member of the Board and the process for doing so; regardless, an open-door policy is best practice for any board.

The prohibition on communication with the Board decreases the ability of the Board to provide oversight of Management because employees are unlikely to report to Management any concerns they have about Management.

Recommendation:

We recommend the Board amend policy to establish an avenue for employees to communicate appropriately with a member of the Board.

6. **INCREASED RISK DUE TO CREDIT CARD USE AND PRACTICES**

The Director and three managers were assigned credit cards during the period we reviewed. We reviewed all credit card activity and documentation and noted the following issues that increase the risk of misuse of credit cards.

- a. *Inadequate Oversight of Director's Credit Card Purchases* – The Director's credit card purchases are reviewed by a subordinate. Best practices dictate that someone other than a subordinate review a director's credit card use since it may be difficult for a subordinate to provide an independent and effective control due to a perceived threat of adverse action. A Board member should review the Director's credit card use in order to effectuate an independent and consistent review.
- b. *Increased Risk by Using Credit Cards Versus Purchase Cards* – The use of credit cards may be an efficient method of making purchases, especially small dollar purchases or "micro-purchases." However, credit cards by their nature have a high risk of improper use because few controls exist over the creation of credit card accounts and an entity must rely heavily on detective controls rather than preventative controls to reduce the risk

of abuse. Alternatively, the use of purchase cards (p-cards) may effectively mitigate some of these risks, since p-card accounts allow establishment of unique restrictions such as per-transaction limits, monthly spending limits, and merchant category code restrictions. Sound controls, such as proper reviews, are still critical for ensuring proper use of any “micro-purchase” cards, be they credit cards or p-cards.

Recommendations:

We recommend the Board:

- **Designate a board member to review the Director’s credit card activity.**
- **Consider replacing credit cards with p-cards.**

7. CONSIDER BEST PRACTICES FOR TRANSPARENCY

The Department posts the names of the members of the Board on its website; however, it does not post any contact information for those board members. In addition, while the Department appears to maintain its meeting minutes and agendas available to the public, it does not publish the approved minutes to its own website or to the Utah Public Notice Website.

State law does not require interlocal entities to publish approved minutes online, nor does it require they provide contact information for their board members. However, *Utah Code* 17B-1-303 requires local districts to post the name, email address, and phone number of each board member and *Utah Code* 17D-1-106 applies the same requirement to special service districts.

Utah Code 52-4-203 requires interlocal entities to keep written minutes and audio recordings, but it does not require them to post either of these online. Given the advancements in technology and increased access to audio and visual recording devices, we consider it best practice to make both the approved minutes and audio recording of a board meeting available online. The resultant increased transparency would improve the oversight and accountability of the Department.

Recommendations:

We recommend the Board institute policies and procedures to increase its transparency by:

- **Publishing the contact information—including name, email address, and phone number—of members of the Board on the Department's website.**
- **Publishing to its own website or the Utah Public Notice Website approved minutes and audio recordings of Board meetings.**

ENTITY'S RESPONSE

After reviewing the State Auditor Report, the Southwest Utah Public Health Board has voted to implement all of the auditor's recommendations.

The checklist below was taken from
A Review of Best Practices for Internal Control of Limited Purpose Entities
 Report No. 2017-05 issued by the Legislative Auditor General, June 2017

Checklist of Best Practices for Board Members Of Limited Purpose Entities

Roles of Board and Staff	
See report pages 23 to 27.	
1. The board takes ultimate responsibility for governance of the entity by (a) appointing an executive staff, (b) providing broad policy guidance, (c) authorizing the use of resources, (d) setting goals and expectations, and (e) monitoring results.	<input type="checkbox"/>
2. The board members recognize their role is to be more than just a ceremonial body. They have a responsibility to lead and hold staff accountable for results.	<input type="checkbox"/>
3. The board chair reviews and approves the agenda before each meeting, inviting other board members to propose additional agenda items, if desired.	<input type="checkbox"/>
4. The executive director (a) helps the board draft a set of internal control policies and (b) guides staff as they carry out the board's policies.	<input type="checkbox"/>
5. To protect against fraud, staff duties are segregated such that no one person has control over all parts of a financial transaction.	<input type="checkbox"/>
6. The board appoints a board chair, a treasurer and a clerk.	<input type="checkbox"/>
7. For organizations with an insufficient number of staff to achieve a proper separation of duties, board members serve as treasurer, and clerk.	<input type="checkbox"/>
8. The board approves a staffing policy that defines the responsibilities of all those who handle different aspects of the entity's finances.	<input type="checkbox"/>
9. The board is solely responsible for hiring and directing the audit function.	<input type="checkbox"/>

Internal Controls	
See report pages 28 to 33.	
10. The board approves policies that govern the organization and addresses each best practice described in the best practice audit. This would include policies such as a personnel policy, a procurement policy, and records retention policy. A procurement policy is of particular importance with the recent instances of fraud, waste, and abuse that have occurred.	<input type="checkbox"/>
11. The board regularly reviews a report of entity disbursements. The report includes the date, vendor and amount of each expense since the last board meeting.	<input type="checkbox"/>
12. To control credit purchases, purchase cards (or "p-cards") are issued to a limited number of staff. Limits are placed on the dollar amount, type and number of charges made to each card.	<input type="checkbox"/>
13. An independent person with no book keeping responsibilities is assigned to reconcile the bank statement each month with that month's receipts and expenses.	<input type="checkbox"/>
14. The board requires its formal approval of any expenditure above a certain dollar amount.	<input type="checkbox"/>

15. The board requires that two people sign all local entity checks. Before signing, both signers will review and approve the attached requisition sheet.	<input type="checkbox"/>
16. The board verifies that the entity has complied with applicable state laws including: certification and filing of annual budget (Utah Code 17B-1-614), notice of public meetings (Utah Code 52-4), notice of board member contact information (Utah Code 17B-1-303), participation in Utah public finance website (Utah Code 63A-3-405.4), and financial statement reporting requirements (Utah Code 51-2a-202).	<input type="checkbox"/>

Recruiting Qualified Personnel Report pages 33 to 37.	
17. Staff avoid recruiting individuals to serve as board members.	<input type="checkbox"/>
18. Local entities publicize the opportunity to apply for any elected board seats that will soon be coming available and any vacant staff positions.	<input type="checkbox"/>
19. Local entities follow an open and objective recruiting process when filling staff positions and hiring outside contractors. Hiring relatives or business associates of the board and management is avoided.	<input type="checkbox"/>
20. Board and staff regularly receive the required training in open and public meetings, board governance and other matters applicable to the entity's mission. Training can be obtained online at https://auditor.utah.gov/training/local-district/ , through in-house seminars, and at conferences such as those offered by the Utah Association of Special Districts.	<input type="checkbox"/>
21. When in-house expertise is not available to perform special tasks, the entity hires or appoints qualified outside experts.	<input type="checkbox"/>

Tone at the Top Report pages 38 to 40.	
22. The board adopts a code of ethics that clearly states the organization's values and standards of behavior.	<input type="checkbox"/>
23. The board and management seek opportunities to reinforce the organization's ethical standards during staff meetings, training, and newsletters.	<input type="checkbox"/>
24. The board holds everyone accountable, including management, to high standards of performance.	<input type="checkbox"/>
25. The board and executive director avoid using a compensation system and other incentives that encourage employees to take unnecessary risks.	<input type="checkbox"/>
26. The board provides an ethics hotline and adopts a whistleblower policy.	<input type="checkbox"/>
27. The board adopts a conflict of interest policy (based on Utah Code 10-3-13) describing how members should respond when their personal interests have the potential to conflict with their public duty.	<input type="checkbox"/>