STATE OF ILLINOIS
OFFICE OF THE
AUDITOR GENERAL
William G. Holland, Auditor General

SUMMARY REPORT DIGEST

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

Compliance Examination **Release Date: April 16, 2015**
For the Two Years Ended June 30, 2014

FINDINGS THIS AUDIT: 11

	New	Repeat	Total
Category 1:	**0**	**0**	**0**
Category 2:	5	6	11
Category 3:	0	0	0
TOTAL	5	6	11

FINDINGS LAST AUDIT: 9

AGING SCHEDULE OF REPEATED FINDINGS

Repeated Since	Category 1	Category 2	Category 3
2012		14-3, 14-5, 14-6	
2010		14-4	
2008		14-1	
2006		14-10	

SYNOPSIS

- **(14-1)** The Department did not ensure adequate controls were established in the administration of grant programs.

- **(14-2)** The Department failed to comply with certain provisions of the Small Business Development Act with regards to the approval and administration of a direct loan and use of an equity intermediary.

- **(14-3)** The Department's internal auditing program did not fully comply with the Fiscal Control and Internal Auditing Act.

- **(14-4)** Required reports were not submitted or timely submitted by the Department in accordance with the mandates set forth in State Law.

- **(14-6)** The Department was not in compliance with various statutory mandates.

- **(14-10)** The Department did not perform annual employee performance evaluations for all employees, and did not perform certain employee performance evaluations on a timely basis.

Category 1: Findings that are **material weaknesses** in internal control and/or a **qualification** on compliance with State laws and regulations (material noncompliance).

Category 2: Findings that are **significant deficiencies** in internal control and **noncompliance** with State laws and regulations.

Category 3: Findings that have **no internal control issues but are in noncompliance** with State laws and regulations.

{Expenditures and Activity Measures are summarized on next page.}

EXPENDITURE STATISTICS	FY 2014	FY 2013	FY 2012
Total Expenditures (All Funds)	**$ 1,051,761,271**	**$ 979,622,697**	**$ 1,031,896,384**
OPERATIONS TOTAL	$ 119,963,156	$ 125,474,909	$ 98,174,866
% of Total Expenditures	11.4%	12.8%	9.5%
Personal Services	31,148,141	30,840,161	32,159,073
Other Payroll Costs (FICA, Retirement, Group Insurance)	16,890,200	17,330,637	15,892,661
Contractual Services	46,483,290	45,961,185	39,032,367
Transfers	5,500,000	4,973,484	5,427,735
Purchase of Investments	17,987,592	24,333,771	3,307,802
All Other Operating Expenditures	1,953,933	2,035,671	2,355,228
AWARDS AND GRANTS	$ 931,167,223	$ 852,575,863	$ 932,984,871
% of Total Expenditures	88.5%	87.0%	90.4%
REFUNDS TOTAL	$ 630,892	$ 1,571,925	$ 736,647
% of Total Expendiutres	0.1%	0.2%	0.1%
Average Number of Employees (not examined)	**364**	**372**	**399**

CASH RECEIPTS	FY 2014	FY 2013	FY 2012
Federal Grants	$ 475,652,608	$ 544,281,213	$ 609,162,869
License and Fees	122,381,023	123,828,594	129,312,955
Prior Year Refunds	8,432,431	2,906,724	6,273,956
Sale of Investments and Interest Income	5,821,085	2,481,144	2,556,366
Loan Repayments	402,925	196,771	268,108
State Grants	1,105,728	767,172	14,281,441
Private Donor	77,071,324	76,088,415	56,712,544
Other	439,941	899,466	583,906
Total	$ 691,307,065	$ 751,449,499	$ 819,152,145

SELECTED ACTIVITY MEASURES (not examined)	2014 (target / projected)	2013	2012
Business Development projected jobs created	5,000	4,300	5,317
Business Development projected jobs retained	13,000	12,901	11,437
Business Information Center customers assisted	7,500	6,302	6,955
Actual jobs created attributable to SBDC assistance	3,300	3,465	4,752
Actual jobs retained attributable to SBDC assistance	4,400	4,812	4,776
Jobs added from foreign companies locating in IL	300	267	422
LIHEAP that received heating assistance	418,000	375,328	380,206

AGENCY DIRECTOR

During Examination Period: David Vaught (through 11-21-12); Adam Pollet (through 1-19-15); Andria Winters (Acting 1-20-15 to 2-15-15); Jim Schultz (effective 2-16-15)

Currently: Jim Schultz

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

WEAKNESSES IN CONTROLS OVER GRANT ADMINISTRATION

The Department expended $1,783,743,086 for awards and grants during the examination period. During the examination period expenditures for awards and grants accounted for 88% of the Department's total expenditures of $2,031,383,968.

During the examination of controls over grants processing, auditors identified a number of issues, some of the items noted are as follows:

Certain grants onsite monitoring not effective and efficient

- Based on testing of monitoring for 5 grants in the Office of Energy and Recycling (Office), auditors noted the Office did not have an adequately designed methodology or guidelines to ensure efficient and effective onsite monitoring.

Grant payments made prior to required reports received and approved

- The Department did not ensure payments to grantees were made only after required reports were received and approved by the Department in compliance with the grant agreement. In 14 of 62 (23%) grants tested, the grant agreements were executed more than 30 days after the beginning date of the grant term. The Department disbursed funds totaling $16,002,671 prior to approving required reports that would allow for the disbursement of the funds.

Refunds to grantor organizations not timely

- The Department did not return 2 of 9 (22%) refund vouchers tested to the grantor organization in a timely manner. One of the refund vouchers consisted of multiple unspent grants totaling $135,434 and was returned to the grantor three to six years from the end of the awarded grant periods. The other refund totaling $133,872 was returned to the grantor one to two years after the refunds were received by the Department from sub-grantees.

Not all information on Department's website Grant Tracker was accurate

- The Department's Grant Tracker available on the Department's website did not have accurate information on the amount of grants paid to certain grantees. Auditors noted the total amount of disbursements or payments on 4 grants had exceeded the total award amount by $504,025 in the Grant Tracker. Further verification showed the information on the Grant Tracker did not correctly capture other transactions that were related to the disbursements, such as adjustments to account for program income and refunds.

This finding has been repeated since 2008

Failure to ensure adequate control and procedures are established and followed for the administration of the grant programs increases the risk of undetected noncompliance and delay in recovering unused funds, if any. (Finding 1, pages 12-14) **This finding has been repeated since 2008.**

We recommended the Department strengthen its controls over the grant administration process including grant monitoring and review.

Department accepted the recommendation

Department management accepted the recommendation and will work with grant program offices to ensure adequate training is available to grant management staff. Additionally, the Department will ensure any subsequent refunds received from grantees on expired grant programs are submitted back to the grantor timely. *(For the previous Department response, see Digest Footnote #1)*

FAILURE TO COMPLY WITH THE REQUIREMENTS ON GRANTING AND ADMINISTERING LOAN UNDER THE SMALL BUSINESS DEVELOPMENT ACT

The Department entered into a loan agreement on July 29, 2013 to help finance a Borrower's general working capital needs. The loan amount was $150,000 with an interest rate of 2% per annum and a maturity date of July 29, 2021. During testing of the application and approval processing of the loan, the auditors noted the following:

Department has no security interest in loan

- The Department has no security interest or personal guarantee on this loan. The Department waived the longstanding standard practice of obtaining from the borrower their personal guarantee on the loan while acknowledging the borrower's unusual debt structure where the only third party investment in the borrower after year 2017 is the Department's loan.

Standard objective of jobs created / retained waived

- The Department also waived their standard objective of the number of jobs to be created or retained under this loan program by the borrower, allowing the borrower to meet a reduced jobs retained/created requirement.

During testing of the borrower's compliance with significant covenants of the loan agreement, auditors noted the following:

Post closing conditions of loan not complied with

- As of June 30, 2014, the Borrower had not complied with all the post-closing conditions of the loan agreement which was due on January 29, 2014 to provide the Department with satisfactory documentation that the borrower has raised additional equity. The borrower had only provided documentation to support raising $100,000 of the required $150,000 additional equity set forth in the loan agreement. The auditors initially inquired of the Department about the borrower's compliance with the post-closing condition on July 11, 2014. On August 19, 2014, the Department responded that the loan agreement had been amended. The amendment to the loan agreement and promissory note was entered into and signed by both parties on July 21, 2014, 10 days after the auditors' initial inquiry. One of the amended terms was the post-closing condition which the borrower had not complied with as of February 2015.

Borrower was 11 months in arrears on interest payments

- As of June 30, 2014, the borrower was 11 months in arrears on its monthly interest payment. After this was brought to the Department's attention, the Department worked with the Borrower to collect interest in arrears.

Issues noted with borrower would be considered default events

The above bullets would be considered default events as defined in the loan agreement. The Department was not able to provide supporting documentation to show it has taken the necessary actions to compel the borrower to cure its failure to meet the post-closing condition, or that the Department had detected and notified the borrower of its non-compliance during Fiscal Year 2014.

During Fiscal Year 2014, the Department entered into an Equity Intermediary Agreement in accordance with the Small Business Development Act (Act) whereby the Department will provide funding to the intermediary to purchase on behalf of the Department, equity interest in 2 small venture capital businesses. The operating agreements between the Department and the 2 small venture capital businesses were executed November 11, 2013 and December 3, 2013, respectively, for a total investment of $201,747.

Operating agreement for equity investment entered into prior to receiving Director approval

During testing, auditors noted the Finance Review Committee (FRC) reviewed and recommended to the Director, at its meeting held on November 18, 2013, to approve the equity intermediary application of the Intermediary. The Director's approval of this application is evidenced by the Commitment Letter issued to the Intermediary dated November 22, 2013. The operating agreement on November 11, 2013 was executed through the Intermediary whose application had not been reviewed and approved by the Department at the time the operating agreement was executed. Wording within the November 11, 2013 operating agreement sets forth it constitutes the legal, valid and binding obligation of the member (Department) in accordance with its terms.

Failure to adhere to the Act is noncompliance with the statutory requirements and puts the State's assets at potential risk. (Finding 2, pages 15-19)

We recommended the Department ensure compliance with the requirements in approval and administering loans and equity funding under the Small Business Development Act.

Department accepted the recommendation

Department (DCEO) management accepted the recommendation and will work with business finance staff to ensure continued compliance with the requirements of the Small Business Development Act (the "Act").

NONCOMPLIANCE WITH THE FISCAL CONTROL AND INTERNAL AUDITING ACT

Internal Audit did not conduct and complete any audits of the Department's major systems of internal accounting and administrative controls

The Department's Office of Internal Audit (OIA) did not conduct and complete any audits of the Department's major systems of internal accounting and administrative controls and did not conduct reviews of the design of major new electronic data processing systems and major modifications to existing systems prior to their installation to ensure these systems provide for adequate audit trails and accountability for the last four fiscal years.

The Fiscal Control and Internal Auditing Act (Act) requires the chief executive officer of each designated State agency ensure the internal auditing program includes audits of major systems of internal and administrative control conducted on a periodic basis so that all major systems are reviewed at least once every two years. Additionally, the audits must include grants received or made by the designated State agency to determine the grants are monitored, administered, and accounted for in accordance with applicable laws and regulations. The Act also requires the internal auditing program to include reviews of the design of major new electronic data processing systems and major modifications to existing systems prior to their installation to ensure these systems provide for adequate audit trails and accountability.

Major areas of internal control must be audited regularly

The major areas of internal control must be audited regularly to ensure adherence to an effective internal control system. Failure to perform regular audits of major systems of internal and administrative controls may result in weaknesses in internal control not being timely detected. (Finding 3, pages 20-21)

We recommended the Department allocate sufficient staff to the OIA to complete internal audits of the Department's major systems of internal accounting and administrative controls such that internal audits are conducted on a periodic basis so all major systems are reviewed at least once every two years as required by the Act.

Department accepted the recommendation

Department management accepted the recommendation and will seek to fill the now-vacant Chief Internal Auditor position, as well as the Deputy Chief Internal Auditor position, to help ensure future compliance with the Act.

FAILURE TO SUBMIT, OR TIMELY SUBMIT REQUIRED REPORTS

During testing of statutes applicable to the Department, auditors noted the Department did not submit or timely submit required reports, some of the exceptions noted are as follows:

- The Department did not submit a report on its evaluation of the effectiveness of the tax credit program to the Governor and the General Assembly as required by the Economic Development for a Growing Economy (EDGE) Tax Credit Act. The last evaluation report submitted by the Department was on November 1, 2005. The Department made the decision that the EDGE Annual Report, which is submitted to the Governor and the leaders in the Senate and House on or before July 1 each year, would be sufficient to fulfill this requirement. The auditors noted the EDGE Annual Report for calendar year 2012, which was submitted on June 6, 2013, included a summary of jobs created and potential capital investment of each program, however, the report did not discuss the Department's assessment of the effectiveness in creating new jobs in Illinois and the revenue impact of the program.

Department did not submit a report on its evaluation of the effectiveness of the EDGE Tax Credit Act

Department submitted the report on energy efficiency programs as required by the Energy Conservation Act late

- The Department did not timely submit the report on energy efficiency programs to the Governor and General Assembly for Fiscal Years 2013 and 2012 as required by the Energy Conservation Act. These reports were filed 88 and 11 days after they were due.

Department filed the Large Business Attraction Fund Report late

- The Department did not timely submit the Large Business Attraction Fund Report to the Governor and General Assembly for Fiscal Years 2012 and 2013 as required by the Large Business Development Act. The reports were filed 28 and 9 days after they were due.

The Department did not timely submit reports evaluating the effectiveness of the River Edge Redevelopment Zone Act

- The Department did not timely submit the reports evaluating the effectiveness of the River Edge Redevelopment Zone Act to the Governor and General Assembly during fiscal years 2013 and 2014. The reports were submitted 63 and 22 days after they were due.

Department did not submit the Energy Contingency Plan to the Governor and General Assembly

- The Department prepared an Energy Contingency Plan (Plan), however they did not submit the Plan to the Governor and General Assembly nor did they inform the Governor and General Assembly that such Plan had been prepared for their consideration.

Failure to submit or timely submit required reports is noncompliance with the statutory requirements and inhibits accumulation of meaningful oversight information for the Governor and General Assembly. (Finding 4, pages 22-24) **This finding has been repeated since 2010.**

We recommended the Department enhance its monitoring procedures to ensure submission or timely submission of required reports to the Governor and General Assembly.

Department accepted the recommendation

Department management accepted the recommendation and will re-emphasize the importance of required reporting to the Governor and General Assembly. Additionally, the Department will periodically test the tracking system to ensure its functionality and ability to remind staff of upcoming report preparation and submittal dates. *(For the previous Department response, see Digest Footnote #2)*

NONCOMPLIANCE WITH STATUTORY MANDATES

During testing, auditors noted the following:

Technical assistance not provided to communities

- The Department did not establish a comprehensive community economic development project to provide technical assistance to communities for purposes specified in the Small Business Development Act.

The Department's Film Production Services Tax Credit quarterly and annual reports initially submitted are not updated to reflect actual information

- The Department's Film Production Services Tax Credit quarterly and annual reports were prepared using projections and budgets. Actual information subsequently becomes available to the Department from the final tax credit documents submitted by accredited film productions. The initial submitted reports are not updated to reflect actual information that is required by the Film Production Tax Credit Act.

The Clean Fuel Education Program not administered in FY13 and FY14, as required by statute

- The Department received an appropriation under the Alternate Fuels Act; however, the Department did not administer the Clean Fuel Education Program in Fiscal Year 2013 and 2014, as required by statute.

- The Department did not comply with the requirements of the State Construction Minority and Female Building Trades Act. The Department did not identify construction projects that are funded by the State or the American Recovery and Reinvestment Act, equal to or greater than $5,000,000 in total value, located in specified areas of the State. (Finding 6, pages 28-30)

We recommended the Department allocate resources to comply with the statutory requirements or seek a legislative remedy as appropriate.

Department accepted the recommendation

Department management accepted the recommendation and acknowledged certain statutes require action by the Department to address mandates that are no longer relevant, were never funded, or for which the Department is implementing controls to ensure compliance. The Department utilizes a mandate database to assist in identifying and prioritizing corrective actions needed to ensure compliance with the requirements of the statutes. The Department will take necessary actions for the mandates identified in this finding or will seek legislative action if necessary.

EMPLOYEE PERFORMANCE EVALUATIONS WERE NOT COMPLETED ANNUALLY AND TIMELY

During testing of employee files for performance evaluations, the auditors noted the following:

Four employees did not have performance evaluations completed

- Four of 53 (8%) employees tested did not have performance evaluations completed, 1 for Fiscal Year 2013 and 3 for Fiscal Year 2014.
- One of 53 (2%) performance evaluations was not completed for an employee after the probationary period.

Twelve employees' annual performance evaluations were completed after the due date

- Twelve of 53 (23%) employees' annual performance evaluations were completed 5 to 220 days after they were due.

Employee performance evaluations are a systematic and uniform approach used for the development of employees and communication of performance expectations to employees. (Finding 10, pages 38-39) **This finding has been repeated since 2006.**

We recommended the Department remind supervisors of the requirements for completing employee performance evaluations and develop a process to monitor and ensure that employee performance evaluations are timely completed.

Department accepted the recommendation

Department management accepted the recommendation and will intensify its efforts, utilizing the established tracking system, to remind supervisors of the requirements for completing employee performance evaluations. *(For the previous Department response, see Digest Footnote #3)*

OTHER FINDINGS

The remaining findings are reportedly being given attention by the Department. Auditors will review the Department's progress towards the implementation of all the recommendations in the next engagement.

ACCOUNTANTS' REPORT

The auditors conducted a compliance attestation examination of the Department for the two years ended June 30, 2014 as required by the Illinois State Auditing Act. The auditors stated the Department complied, in all material respects, with the requirements described in the report.

WILLIAM G. HOLLAND
Auditor General

WGH:RPU

SPECIAL ASSISTANT AUDITORS

Our Special Assistant Auditors for this examination were E. C. Ortiz & Co. LLP.

DIGEST FOOTNOTES

#1 - WEAKNESSES IN CONTROLS OVER GRANT ADMINISTRATION

2012: The Department accepts the finding and will establish a close out policy to include reasonable due dates for grantees to submit final grant reports and to allow adequate time for the Department staff to review and either approve the closeout report or take appropriate action to timely address unresolved issues with the grantee. The policy will supplement current policies and procedures the Department uses to ensure grantees return unspent or unobligated grant funds to the Department within 45 days after the end of the grant to comply with the Illinois Grant Funds Recovery Act.

The Department continues to be committed to improve grant management controls and will work with grant program offices to ensure each one uses a risk-based monitoring plan to include site visits, desk reviews or on-site reviews.

#2 - FAILURE TO SUBMIT, OR TIMELY SUBMIT REQUIRED REPORTS

2012: The Department accepts the finding. The Department improved its monitoring procedures in March 2012 by making significant computer coding changes to the Statutory Reporting Site. This is an electronic tracking system used by the Department to monitor compliance with the statutory reporting requirement deadlines. The original tracking system was frequently failing to send automatic emails to staff to remind them of upcoming milestones to ensure the Department files statutory reports by their mandated deadlines.

#3 - EMPLOYEE PERFORMANCE EVALUATIONS WERE NOT COMPLETED ANNUALLY AND TIMELY

2012: The Department accepts the finding. The Director understands the importance of employee evaluations and the impact they have to properly manage staff resources. The Director is committed to continually emphasize to senior staff that the Department’s corrective action for this finding is a priority. The performance evaluation notification database, administered by the Office of the Human Resources, will be better utilized to allow for increased reporting and monitoring of evaluation timeliness. The Director, as part of the corrective action, will regularly monitor each office’s timeliness in completing evaluations. If untimeliness is observed, the Director's Office will contact the appropriate senior manager to ensure they are aware of the situation and to receive their commitment to take prompt action to adequately resolve the untimeliness. The Director will stress to senior management the expectation he has for each office to improve their evaluation timeliness and the results will be tracked and provided to them.