***CITY OF LOWELL, MASSACHUSETTS***

***REPORTS ON FEDERAL AWARD PROGRAMS***

***FISCAL YEAR ENDED JUNE 30, 2011***

**CITY OF LOWELL, MASSACHUSETTS**

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**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

To the Honorable Mayor and City Council
City of Lowell, Massachusetts

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Lowell, Massachusetts, as of and for the year ended June 30, 2011, (except for the Lowell Contributory Retirement System which is as of and for the year ended December 31, 2010), which collectively comprise the City of Lowell's basic financial statements and have issued our report dated December 21, 2011. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Internal Control Over Financial Reporting**

In planning and performing our audit, we considered the City of Lowell's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City of Lowell's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over financial reporting.

Our consideration of the internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as described in the accompanying schedule of findings and questioned costs, we identified certain deficiencies in internal control over financial reporting that we consider to be a material weakness.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiency described in the accompanying schedule of findings and questioned costs as 2011-1 to be a material weakness.

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the City of Lowell, Massachusetts' financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, non compliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards.*

We noted certain other matters that were reported to management of the City of Lowell, Massachusetts in a separate letter dated December 21, 2011.

This report is intended solely for the information and use of management, the City Council, others within the entity, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Powers & Sullivan, LLC

December 21, 2011

Powers & Sullivan, LLC
Certified Public Accountants

**DIRECT AND MATERIAL EFFECT ON EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB CIRCULAR A-133**

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To the Honorable Mayor and City Council
City of Lowell, Massachusetts

**Compliance**

We have audited the compliance of the City of Lowell, Massachusetts, with the types of compliance requirements described in the OMB Circular A-133 Compliance Supplement that could have a direct and material effect on each of the City of Lowell's major federal programs for the fiscal year ended June 30, 2011. The City of Lowell Massachusetts' major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of the City of Lowell Massachusetts' management. Our responsibility is to express an opinion on the City of Lowell, Massachusetts' compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States; and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the City of Lowell, Massachusetts's compliance with those requirements.

In our opinion, Lowell, Massachusetts complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect of its major federal programs for the year ended June 30, 2011. However, the results of our auditing procedures disclosed instances of noncompliance with those requirements, which are required to be reported in accordance with OMB Circular A-133 and which are described in the accompanying schedule of findings and questioned costs as items 2011-2 and 2011-3.

**Internal Control Over Compliance**

Management of the City of Lowell, Massachusetts is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the City of Lowell's internal control over compliance with the requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over compliance.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis.

A *material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of the internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above.

The City of Lowell, Massachusetts' responses to the findings identified in our audit are described in the accompanying schedule of findings and questioned costs. We did not audit the City of Lowell, Massachusetts's responses and, accordingly, we express no opinion on the responses.

**Schedule of Expenditures of Federal Awards**

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and aggregate remaining fund information of the City of Lowell, Massachusetts, as of the year ended June 30, 2011, and have issued our report thereon dated December 21, 2011. Our audit was performed for the purpose of forming our opinions on the financial statements that collectively comprise the City of Lowell, Massachusetts' basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by OMB Circular A-133 and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

This report is intended solely for the information and use of management, City Council, others within the entity, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Powers & Sullivan, LLC

December 21, 2011

**SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**

FOR THE FISCAL YEAR ENDED JUNE 30, 2011

| Federal Grantor/Program Title | Federal CFDA Number | Expenditures |
|---|---|---|
| U.S. DEPARTMENT OF AGRICULTURE: | | |
| Passed through Massachusetts Department of Elementary & Secondary Education: | | |
| Non-Cash Assistance (Commodities): National School Lunch Program | 10.555 | $ 231,285 |
| Cash Assistance: | | |
| School Breakfast Program | 10.553 | 1,331,397 |
| National School Lunch Program | 10.555 | 4,011,999 |
| Passed through Executive Office of Labor and Workforce Development: | | |
| State Administrative Matching Grants for the Supplemental Nutrition Assistance Program | 10.561 | 1,280 |
| TOTAL AGRICULTURE | | 5,575,961 |
| U.S. DEPARTMENT OF COMMERCE: | | |
| Direct Programs: | | |
| Investments for Public Works and Economic Development Facilities | 11.300 | 412,742 |
| U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT: | | |
| Direct Programs: | | |
| Community Development Block Grants-Entitlement Grants | 14.218 | 2,248,496 |
| Emergency Shelter Grants | 14.231 | 130,117 |
| Supportive Housing Program | 14.235 | 1,217,774 |
| HOME Investment Partnerships Program | 14.239 | 881,223 |
| Housing Opportunities for Persons with AIDS | 14.241 | 724,036 |
| ARRA - Community Development Block Grant ARRA Entitlement Grants (CDBG-R), Recovery Act | 14.253 | 343,630 |
| ARRA - Neighborhood Stabilization Program, Recovery Act | 14.256 | 1,113,602 |
| ARRA - Homelessness Prevention and Rapid Re-Housing Program, Recovery Act | 14.257 | 444,110 |
| Passed through State Office for Communities and Development: | | |
| ARRA - Lead-Based Paint Hazard Control in Privately-Owned Housing, Recovery Act | 14.907 | 1,693,634 |
| TOTAL HOUSING AND URBAN DEVELOPMENT | | 8,796,622 |
| U.S. DEPARTMENT OF JUSTICE: | | |
| Direct Programs: | | |
| Grants to Encourage Arrest Policies & Enforcement of Protection Orders | 16.590 | 210,942 |
| Bulletproof Vest Partnership Program | 16.607 | 6,989 |
| Federal Equitable Sharing Program | 16.UNK | 253,996 |
| Gang Resistance Education and Training | 16.737 | 41,836 |
| Edward Byrne Memorial Justice Assistance Grant Program | 16.738 | 41,057 |
| ARRA - Public Safety Partnership and Community Policing Grants, Recovery Act | 16.710 | 669,110 |
| ARRA - Edward Byrne Memorial Competitive Grant Program, Recovery Act | 16.808 | 420,473 |
| Passed through the Massachusetts Executive Office of Pubic Safety | | |
| Offender Re-entry Program | 16.202 | 43,725 |
| ARRA - Edward Byrne Memorial Justice Assistance Grant (JAG) Program / Grants to States and Territories, Recovery Act | 16.803 | 108,748 |
| ARRA - Edward Byrne Memorial Justice Assistance Grant (JAG) Program / Grants To Units Of Local Government, Recovery Act | 16.804 | 292,954 |
| TOTAL JUSTICE | | 2,089,830 |
| U.S. DEPARTMENT OF LABOR: | | |
| Direct Programs: | | |
| WIA Youth Activities | 17.259 | 41,933 |
| Passed through Executive Office of Labor and Workforce Development | | |
| Employment Service/Wagner-Peyser Funded Activities | 17.207 | 141,172 |
| ARRA - Employment Service/Wagner-Peyser Funded Activities, Recovery Act | 17.207 | 29,560 |
| Unemployment Insurance | 17.225 | 87,035 |
| Trade Adjustment Assistance | 17.245 | 48,506 |
| WIA Adult Program | 17.258 | 1,113,871 |
| ARRA - WIA Adult Program, Recovery Act | 17.258 | 201,100 |
| WIA Youth Activities | 17.259 | 712,172 |
| ARRA - WIA Youth Activities, Recovery Act | 17.259 | 303,038 |
| WIA Dislocated Workers | 17.260 | 241,858 |
| ARRA - WIA Dislocated Workers, Recovery Act | 17.260 | 588,292 |
| ARRA - Program of Competitive Grants for Worker Training and Placement in High Growth and Emerging Industry Sectors | 17.275 | 60,956 |
| Passed through the State Executive Office of the Assistant Secretary for Veterans' Employment and Training: | | |
| Disabled Veterans Outreach Program | 17.801 | 6,743 |
| Local Veterans Employment Representative Program | 17.804 | 7,899 |
| TOTAL LABOR | | 3,584,135 |

(continued)

See notes to schedule of expenditures of federal awards.

**SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**

FOR THE FISCAL YEAR ENDED JUNE 30, 2011

| Federal Grantor/Program Title | Federal CFDA Number | Expenditures |
|---|---|---|
| NATIONAL SCIENCE FOUNDATION: | | |
| Passed through State Department of Education: | | |
| Palms - Noyce Demonstration | 47.076 | 8,565 |
| U.S. ENVIRONMENTAL PROTECTION AGENCY: | | |
| Direct Programs: | | |
| Brownfields Assessment and Cleanup Cooperative Grants | 66.818 | 130,228 |
| Pass through the Massachusetts Water Pollution Abatement Trust: | | |
| ARRA - Capitalization Grants for Clean Water State Revolving Funds, Recovery Act | 66.458 | 5,062,837 |
| ARRA - Capitalization Grants for Drinking Water State Revolving Funds, Recovery Act | 66.468 | 1,668,270 |
| TOTAL ENVIRONMENTAL PROTECTION | | 6,861,335 |
| U.S. DEPARTMENT OF ENERGY: | | |
| Direct Programs: | | |
| ARRA - Energy Efficiency and Conservation Block Grant Program (EECBG), Recovery Act | 81.128 | 2,353,490 |
| U.S. DEPARTMENT OF EDUCATION: | | |
| Passed through Massachusetts Department of Elementary : | | |
| & Secondary Education | | |
| Adult Education State Grant Program | 84.002 | 22,544 |
| Title I Grants to Local Education Agencies | 84.010 | 6,975,564 |
| Fund for the Improvement of Education | 84.215 | 144,189 |
| Special Education-Grants to States | 84.027 | 4,570,999 |
| Vocational Education Basic Grants to States | 84.048 | 82,621 |
| SPED Preschool Grants | 84.173 | 102,336 |
| Safe and Drug-Free Schools and Communities-State Grants | 84.186 | 49,478 |
| Education for Homeless Children and Youth | 84.196 | 75,339 |
| Student Literacy Corps | 84.219 | 8,595 |
| Twenty-First Century Community Learning Centers | 84.287 | 493,775 |
| Even Start | 84.314 | 248,302 |
| English Language Acquisition Grants | 84.365 | 932,785 |
| Improving Teacher Quality State Grants | 84.367 | 1,322,629 |
| School Improvement Grants | 84.377 | 313,982 |
| ARRA - Title I Grants to Local Educational Agencies, Recovery Act | 84.389 | 2,432,264 |
| ARRA - Special Education Grants to States, Recovery Act | 84.391 | 3,256,158 |
| ARRA - Special Education - Preschool Grants, Recovery Act | 84.392 | 95,101 |
| ARRA - State Fiscal Stabilization Fund, Recovery Act | 84.394 | 614,660 |
| ARRA - State Fiscal Stabilization Fund (SFSF) - Race-to-the-Top Incentive Grants, Recovery Act | 84.395 | 9,855 |
| ARRA - State Fiscal Stabilization Fund (SFSF) - Government Services, Recovery Act | 84.397 | 355,611 |
| Learn and Serve America School and Community Based Programs | 94.004 | 2,321 |
| TOTAL EDUCATION | | 22,109,108 |
| U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES: | | |
| Direct Programs: | | |
| Centers for Disease Control and Prevention-Investigations Technical Assistance | 93.283 | 2,892 |
| Refugee & Entrant Assistance-Discretionary Grants | 93.576 | 49,790 |
| ARRA - Grants to States for Operation of Offices of Rural Health | 93.913 | 15,000 |
| Passed through Massachusetts Department | | |
| of Transitional Assistance: | | |
| Temporary Assistance for Needy Families | 93.558 | 276,295 |
| ARRA - Head Start, Recovery Act | 93.708 | 57,288 |
| TOTAL HEALTH AND HUMAN SERVICES | | 401,265 |
| U.S. DEPARTMENT OF HOMELAND SECURITY | | |
| Passed through the Massachusetts Executive Office of | | |
| Pubic Safety | | |
| State Domestic Preparedness Equipment Support Program | 97.004 | 431,300 |
| Homeland Security Grant Program | 97.067 | 5,915 |
| Passed through the Massachusetts | | |
| Emergency Management Agency: | | |
| Public Assistance Grants | 97.036 | 60,196 |
| TOTAL HOMELAND SECURITY | | 497,411 |
| TOTAL | | $ 52,690,464 |

(concluded)

See notes to schedule of expenditures of federal awards.

**Note 1 - Definition of Reporting Entity**

The accompanying Schedule of Expenditures of Federal Awards presents the activity of all federal financial assistance programs of the City of Lowell, Massachusetts. All federal financial assistance received directly from federal agencies as well as federal financial assistance passed through other governmental agencies is included on the schedule.

**Note 2 - Significant Accounting Policies**

The accounting and reporting policies of the City of Lowell, Massachusetts are set forth below:

(a) Basis of Presentation - The accompanying Schedule of Expenditures of Federal Awards is presented on the cash basis of accounting. Accordingly, grant revenues are recognized when received and expenditures when paid.

(b) Cash Assistance - School Breakfast and Lunch Program - Program expenditures represent federal reimbursement for meals provided during the year.

(c) Non-Cash Assistance (Commodities) – School Lunch Program – Program expenditures represent the value of donated foods received during the fiscal year.

**Note 3 - Program Clusters**

In accordance with Subpart A §_.105 of OMB Circular No. A-133, Audits of States, Local Governments and Non Profit Organizations, certain programs have been clustered in determining major programs. The following represents the clustered programs:

| Name of Cluster/Program | CFDA Number |
|---|---|
| **Child Nutrition Cluster** | |
| School Breakfast Program | 10.553 |
| Non-Cash Contributions (Commodities) | 10.555 |
| National School Lunch Program | 10.555 |
| **CDBG – Entitlement Grants Cluster** | |
| Community Development Block Grants – Entitlement Grants | 14.218 |
| Community Development Block Grant ARRA Entitlement Grants | 14.253 |
| **Special Education Cluster** | |
| Special Education - Grants to States | 84.027 |
| Special Education - Preschool Grants | 84.173 |
| ARRA-Special Education Grants to States, Recovery Act | 84.391 |
| ARRA-Special Education - Preschool Grants, Recovery Act | 84.392 |
| **Title I, Part A Cluster** | |
| Title I Grants to Local Education Agencies | 84.010 |
| ARRA-Title I Grants to Local Education Agencies, Recovery Act | 84.389 |

| | |
|---|---|
| **Workforce Investment Act Cluster** | |
| Adult Program | 17.258 |
| ARRA-Adult Program, Recovery Act | 17.258 |
| Youth Activities | 17.259 |
| ARRA-Youth Activities, Recovery Act | 17.259 |
| Dislocated Workers | 17.260 |
| ARRA-Dislocated Workers, Recovery Act | 17.260 |
| **Employment Service Cluster** | |
| Employment Service | 17.207 |
| Disabled Veterans Outreach Program | 17.801 |
| Local Veterans Employment Representative Programs | 17.804 |
| **State Fiscal Stabilization Fund Cluster** | |
| ARRA-State Fiscal Stabilization Fund | 84.394 |
| ARRA-State Fiscal Stabilization Fund (SFSF) – Government Services, Recovery Act | 84.397 |

**A. Summary of Auditors' Results**

1. The auditors' report expresses an unqualified opinion on the financial statements of the City of Lowell, Massachusetts.

2. A material weakness relating to the audit of the financial statements is reported in the Report on Compliance and on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*.

3. No instances of noncompliance material to the basic financial statements of the City of Lowell, Massachusetts, were disclosed during the audit.

4. No significant deficiencies relating to the audit of the major federal award programs is reported in the Report on Compliance with Requirements That Could Have a Direct and Material effect on Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133.

5. The auditors' report on compliance for the major federal award programs for the City of Lowell, Massachusetts, expresses an unqualified opinion.

6. Audit findings relative to the major federal award programs for the City of Lowell, Massachusetts are reported in Part C. of this Schedule.

7. The programs tested as major grants include:

| Program Title | CFDA Number |
|---|---|
| Community Development Block Grants – Entitlement Grants | 14.218 |
| ARRA -Community Development Block Grant Entitlement Grants | 14.253 |
| ARRA - Lead-Based Paint Hazard Control in Privately-Owned Housing | 14.907 |
| ARRA – Neighborhood Stabilization Program | 14.256 |
| Special Education - Grants to States | 84.027 |
| Special Education - Preschool Grants | 84.173 |
| ARRA - Special Education Grants to States, Recovery Act | 84.391 |
| ARRA - Special Education - Preschool Grants, Recovery Act | 84.392 |
| Title I Grants to Local Education Agencies | 84.010 |
| ARRA - Title I Grants to Local Education Agencies, Recovery Act | 84.389 |
| Adult Program | 17.258 |
| ARRA - Adult Program, Recovery Act | 17.258 |
| Youth Activities | 17.259 |
| ARRA - Youth Activities, Recovery Act | 17.259 |
| Dislocated Workers | 17.260 |
| ARRA - Dislocated Workers, Recovery Act | 17.260 |
| ARRA - State Fiscal Stabilization Fund | 84.394 |

| | |
|---|---|
| ARRA - State Fiscal Stabilization Fund (SFSF) – Government Services, Recovery Act | 84.397 |
| ARRA - Capitalization Grants for Drinking Water State Revolving Funds | 66.468 |
| ARRA - Capitalization Grants for Clean Water State Revolving Funds | 66.458 |
| Energy Efficiency and Conservation Block Grant Program | 81.128 |

8. The threshold for distinguishing Types A and B programs was $1,580,714.

9. The City of Lowell, Massachusetts, was determined to be a high-risk auditee.

**B. Findings-Financial Statements Audit**

**MATERIAL WEAKNESS**

**2011-1** Reconciliation of Treasury Cash

*Condition and Criteria:* A lack of timely and accurate reconciliations of cash accounts between the Treasurer's balance and the general ledger as well as a lack of timely and accurate reconciliations between the Treasurer's cash book and the bank balance in fiscal year 2006 through 2011. There is no system in place to ensure reconciliations are performed on a timely basis. Proper internal control procedures require cash activity and balances to be reconciled timely.

*Effect:* The overall effect of this situation deteriorates management's ability to safeguard assets and monitor the City's financial condition throughout the year.

*Cause:* The City has not addressed the need to complete these reconciliations timely.

*Recommendation:* We recommend that the Treasurer and the Auditor reconcile cash activity and balances on a monthly basis. We also recommend that the Treasurer, through the monthly reconciliation process, clearly identify and resolve in a timely fashion all reconciling items between the bank and book balances. The actual monthly reconciliation of all accounts must be completed no later than the end of the following month

*Current Status*: During fiscal year 2011, the City hired a consultant to reconcile cash as of June 30, 2011. The next step if for the Treasurers Office is to implement monthly reconciliation procedures and maintain a reconciled cash balance in order to resolve this material weakness.

**C. Findings and Questioned Costs-Major Federal Award Program Audit**

**2011-2**

| | |
|---|---|
| Special Education – Grants to States | 84.027 |
| Special Education – Preschool Grants | 84.173 |
| ARRA - Special Education – Grants to States | 84.391 |
| ARRA – Special Education – Preschool Grants | 84.392 |

Condition and Criteria: The City is required to submit reporting documentation for financial, as well as, student information in a timely manner. During our audit we noted that the reporting of the final financial report (FFR) was not submitted within 60 days of the grant end date.

Cause: The City did not file the final financial report, within 60 days of the grant end date.

Effect: The City is not in compliance with one Federal reporting guideline of filing the final financial report related to the Special Education Grants with in 60 days of the grant end date.

Questions costs: None

Auditors' Recommendation: We recommend the City enact policies and procedures to ensure that they are in compliance with Federal reporting guidelines of filing the final financial report with in the 60 days of the grant end date.

Management Response: The Deputy Superintendent of Finance and Operations will work with the Grants Manager, Director of Special Education and District Support Specialists for Early Childhood to ensure that final financial reports are submitted to the Massachusetts Department of Elementary and Secondary Education (DESE) and Massachusetts Department of Early Education and Care (EEC) in a timely manner.

The Lowell Public School Office of Finance and Operations has created a schedule and tracks the monthly posting and distribution of grants throughout the year to assist with items that need to be performed in order to fulfill grant requirements. For example, the tracking documentation for each grant includes the fund code, award amount, beginning and ending dates, as well as state or federal funding source. An action item is established to complete and submit the final financial report within 60 days from the grant end date.

For FY2012 state and federal grants, all final financial reports within the special education cluster (fund codes 240,262,760 and 762) have been completed and submitted within 60 days of the grant end date.

**2011-3**

ARRA – Capitalization Grants for Drinking Water State Revolving funds 66.468

Condition and Criteria: The Governor's Economic Recovery Mobilization Act requires 20% of the work hours on all ARRA funded public works projects with a contract award over $1 million to be performed by apprentices in bona fide Division of Apprenticeship Training (DAT) approved apprentice training program. This requirement applies to hourly wage employees employed on the project site, workers employed by the contractor or a subcontractor on the project. The City provided documentation from contractors stating they were unable to comply with the apprentice requirement due to the high degree of skill and expected impact hiring an inexperienced member would have on their crew.

Cause: Lack of procedures in place to ensure completion of American Recovery and Reinvestment Act performance and reporting requirements.

Effect: The City is not in compliance with American Recovery and Reinvestment Act performance and reporting requirements related to compliance regarding the 20% apprenticeship rule.

Questions costs: Unknown

Auditors' Recommendation: We recommend the City enact policies and procedures to ensure that they are in compliance with the American Recovery and Reinvestment Act performance and reporting requirements.

Management Response: The apprenticeship requirement attached to the federal American Recovery and Reinvestment Act (ARRA) was put in place as a result of the Massachusetts Governor's Economic Recovery Mobilization Act, and was not included in the original federal ARRA requirements. Regardless, the audit determined that the City was not in compliance with the related 20% apprenticeship requirements.

In an attempt to comply with the apprenticeship requirements of the Massachusetts Governor's Economic Recovery Mobilization Act, the following actions were taken by the Lowell Regional Water Utility (LRWU) on behalf of the City:

1. Initial City actions during construction contract bidding
Language from Massachusetts General Law Chapter 30, Section 33, "An Act Mobilizing Economic Recovery in the Commonwealth" was included in the three LRWU contracts with an award value of over $1 million. This Act requires that construction contractors have 20 percent of the work performed by apprentices in bona fide apprenticeship programs. The three contracts in which this language was included, and the three contract to which the apprenticeship requirements apply, are as follows:
Replacement of the Tenth Street Water Storage Tank
Installation of a Redundant Raw Water Transmission Main
Water Main Replacement Contract – Phase 4B

Each of these contracts was awarded to the low bid contractor. Each contractor executed a contract with the City of Lowell with the apprenticeship provisions included.

The Contract for Replacement of the Tenth Street Water Storage Tank was awarded to Caldwell Tanks based in Louisville, KY. The other two contracts were awarded to DeFelice Corporation, a Massachusetts based company.

After being awarded these contracts, both Caldwell and DeFelice notified the City that they would be unable to meet the 20% apprentice requirements. The Massachusetts Department of Environmental Protection's (MassDEP's) Construction Inspector overseeing these projects was notified and asked how the situation should be handled. The inspector noted that other contractors in other communities were having problems meeting these requirements. Furthermore, the MassDEP inspector indicated that the City should have the construction contractors provide documentation detailing why they would not be able to meet the requirements. As described by MassDEP, the City requested and received documentation on all three applicable projects and placed this documentation in the project file for use during future audits.

2. Contractors' Attempts to Comply with the Apprenticeship Requirements

Caldwell Tanks' documentation indicated that since they are not a Massachusetts company, the Massachusetts Department of Labor Apprenticeship Programs are not available to them. They further indicate that constructing elevated water storage tanks is very specialized work with only a few companies performing this work throughout the country. Caldwell was one of only two bidders on this project. The other bidder was Chicago Bridge and Iron, another national firm that constructs steel elevated water storage tanks throughout the country. Since this work is very specialized, these firms use specially trained crews that travel throughout the country constructing tanks. Therefore, the use of apprentice boilermakers and ironworkers/welders who have not undergone their rigorous training program is not feasible.

DeFelice Corp., the construction contractor on the two water main contracts, is a Massachusetts based Company and uses labor from a Massachusetts labor union, Local 4, International Union of Operating Engineers. Local 4 has a Massachusetts Department of Labor approved Apprenticeship Program. DeFelice has provided documentation that requested apprentices from this program on several occasions. However, despite their requests to the union, apprentices were not available to work on these projects.

3. City attempts to address contractor non-compliance

Woodard & Curran (W&C), the City's consulting engineers on these projects, contacted the Massachusetts Recovery and Reinvestment Office about the contractors' failure to satisfy the minimum apprentice participation percentages. The Massachusetts Reinvestment and Recovery Office assured W&C verbally that the ARRA funding for these projects is not in jeopardy and that their office will review the documentation relating to these projects. The office has committed to confirming in writing that the ARRA funding is not in jeopardy and will provide a written opinion as to whether appropriate procedures were followed by the LRWU. The Reinvestment and Recovery Office will also recommend additional steps, if any, that should be taken to comply with the apprenticeship requirements on future projects.

4. Policies and procedures to ensure future compliance.

Moving forward, the LRWU will enact the following policies and procedures to ensure that future contractors on future contracts comply with the apprenticeship requirements.

A. Include apprenticeship requirements, as well as the Massachusetts or Federal Law that requires them, in the bid documents and contract agreement for each applicable construction contract.
B. Meet with apparent low bid contractors prior to award of the contract to obtain written documentation on how each will satisfy the required apprenticeship provisions.
C. Perform a monthly review with each contractor, and document in writing the apprenticeship participation to date.
D. If it is determined that the contractors do not appear to be satisfying the required goals, notify the MassDEP and other State agencies of the apparent shortfall in apprenticeship participation.
E. Work with the City Law Department, and other City Departments as appropriate, to determine if legal action against the respective construction contractor is warranted.
F. Communicate with the applicable Federal and State agencies regarding the development of additional guidance material on apprenticeship requirements.
G. Incorporate the guidelines provided in any future guidance materials developed by Federal or State agencies into a written LRWU policy pertaining to construction contract bidding, award and construction monitoring.

**D. Prior Year Audit Findings and Questioned Costs**

None