

# Department of Community Services and Development

## Delays by Federal and State Agencies Have Stalled the Weatherization Program and Improvements Are Needed to Properly Administer Recovery Act Funds

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### *Department of Community Services and Development's response as of January 2011*

The Joint Legislative Audit Committee requested that the Bureau of State Audits conduct a review of California's preparedness to receive and administer American Recovery and Reinvestment Act of 2009 (Recovery Act) funds. Using selection criteria contained in the audit request, we identified for review the Department of Community Services and Development (Community Services) preparedness to administer the Recovery Act funds provided by the U.S. Department of Energy (Energy) for its Weatherization Assistance for Low-Income Persons (Weatherization) program and Recovery Act funds awarded by the U.S. Department of Health and Human Services for its Community Services Block Grant (Recovery Act Block Grant) program.

### **Finding #1: Community Services has not yet disbursed Recovery Act funds to weatherize homes.**

According to Community Services, as of December 1, 2009, no homes had been weatherized using Recovery Act funds even though by July 28, 2009, Energy had made available nearly \$93 million of the \$186 million awarded to Community Services and the Legislature had appropriated the funds for use. To gain access to the remaining \$93 million awarded it, Community Services has until September 30, 2010, to meet certain performance milestones issued by Energy. However, delays in program implementation make it unlikely that Community Services will attain the performance milestones. Start-up of the Weatherization program has been delayed because federal oversight agencies and Community Services have not yet completed necessary tasks. For example, the U.S. Department of Labor (Labor) did not provide prevailing wage determinations for weatherization workers, as required by the Recovery Act, until September 3, 2009, and did not revise the wage rates for some workers until December 2009. In addition, Community Services has not yet developed the cost-effective measures to weatherize homes using the Recovery Act funds, has been slow in negotiating agreements with service providers that cover grant terms such as cash management, and has not developed procedures for monitoring the additional requirements service providers must comply with when using Recovery Act funds.

Furthermore, increases in the average cost of weatherizing a home will likely reduce the estimated number of eligible low-income persons Community Services can assist using Recovery Act funds. According to Community Services, the main factor that has increased the estimated cost to weatherize a home is the requirement that service providers pay workers the prevailing wage rates for the area specified by the federal Davis-Bacon Act. According to Community Services, prior to the Recovery Act contractors who provided weatherization assistance were exempt from paying prevailing wages and would use funding from multiple federal programs. However, the requirements of the Recovery Act to pay prevailing wages require contractors that use multiple funding sources to weatherize homes to compensate all workers—those funded by other federal sources and by Recovery Act funds—at the same prevailing wage rates. As a result, contractors may plan to perform Weatherization program services using only Recovery Act funds, further limiting the number of homes to be weatherized and increasing the average cost per home.

We recommended that to ensure it receives the remaining 50 percent of its \$186 million award for the Weatherization program, Community Services seek federal approval to amend its plan for implementing the Weatherization program and seek an extension from Energy for fulfilling the progress milestones. In addition, it should promptly develop and implement the necessary standards for performing weatherization activities under the program and develop a plan for monitoring subrecipients.

Finally, we recommended that Community Services make any necessary adjustments in its state plan to accurately reflect average costs per home for weatherization assistance and the estimated number of homes to be weatherized under the program.

***Community Services' Action: Partial corrective action taken.***

Community Services has executed contracts with weatherization service providers in the San Mateo, Los Angeles Service Area A, San Francisco Bay Area, Alameda, and Alpine/El Dorado counties service areas, and reports that contracts for all of its service areas are fully executed.

In addition, Community Services reported that it exceeded the September 30, 2010, production goal of weatherizing 12,945 units needed to gain access to the remaining \$93 million awarded to it by Energy. Community Services reported that it weatherized 17,100 units by September 30, 2010, and weatherized 20,444 units by December 7, 2010, about 108 percent of its November 30, 2010, target.

Through its efforts to monitor its contractors, Community Services has determined that 29 contractors met 100 percent of their production goals and will likely spend their funding allocations by the end of the contract terms. However, Community Services also reported that seven of their contractors will either not meet production goals or spend Weatherization funds at a rate that assures all the funds will be spent by the end of their contracts. Two contractors assumed responsibility for additional areas and performed adequately to receive second allocations for those areas. Three contractors had not executed their contracts until June 2010 and were not included in Community Services' analysis.

Community Services reported that, based on the above performance information, it requested and received approval from Energy on November 29, 2010, for the remaining Weatherization funding. Community Services stated that it has released full or partial second-phase funding to 32 contractors, six contractors did not receive second-phase funding, and three contractors will receive additional funding once they demonstrate improved performance. Community Services stated that for territories that received partial or no funding, on December 31, 2010, it released a request for application to secure new providers.

Community Services reported that standards for performing weatherization activities, the Energy Audit Tool and Priority Measure List, were approved by Energy on October 4, 2010. Implementation of the new priority measures required development of a training curriculum and energy audit application processes. Community Services' consultant is currently training service providers on the application of the audit. The training is performed in three phases: (1) basic energy audit software application, (2) audit process and data collection, and (3) proctored field work and evaluation.

Additionally, Community Services and its consultant will conduct webinars in January 2011 on the new order of operations process and priority list application. Contract amendments incorporating the new Priority Measure List and Energy Audit protocols were released on December 31, 2010, and the standards will go into effect on February 1, 2011.

Community Services reported that it has implemented a guide for carrying out the monitoring and inspection protocol set forth in the Energy-approved State Plan. Community Services stated its State Plan for implementing the Weatherization program funded by the Recovery Act requires monitoring consisting of third-party inspections, annual onsite visits, quarterly desk reviews, fiscal monitoring, and visits as needed to respond to special issues. Community Services reported it has completed six Energy Davis-Bacon onsite compliance visits since August 2010 for a total of 19 Davis-Bacon compliance visits since the implementation of the Weatherization program funded by the Recovery Act. In addition, 31 Energy onsite comprehensive monitoring visits were conducted since August 2010 for a total of 38 comprehensive monitoring visits completed since the implementation of the Weatherization program funded by the Recovery Act.

Community Services also reported that as of September 30, 2010, its consultant, RHA, completed 932 quality assurance inspections at 34 agencies, representing 109 percent of the 853 targeted inspections. During the months of October and November 2010, RHA completed an additional 160 inspections.

As directed by Energy, Community Services completed the Request for Proposal (RFP) process to procure third-party inspection services to replace RHA, and selected ConSol as its new quality assurance inspection contractor. ConSol's services, covering clients in several western states, include energy code compliance documentation, builder energy code training, and inspections. The ConSol contract requires the Department of General Services' approval. RHA will continue to perform inspections only until the new quality assurance contractor is fully trained and ready to assume this duty, which is expected to occur no later than February 25, 2011.

Additionally, Community Services stated it has employed a retired housing inspector with extensive experience in program and code compliance. The retired annuitant is tasked with developing internal quality assurance oversight processes, assisting in the transition from RHA to ConSol, and training Community Services' staff in quality assurance oversight. Two additional retired annuitants began working in Community Services' quality assurance unit on January 3, 2011.

According to Community Services, with Energy's approval of the Energy Audit Tool and Priority List, its training of providers, and implementation of the new protocols, Community Services can collect the necessary data to update production and expenditure goals in the Weatherization State Plan. The new protocols are expected to significantly increase average per unit costs, and substantially decrease the production goal. With data from production experience under the new protocols, Community Services will recalculate production goals and update the State Plan accordingly. Community Services expects to submit a State Plan amendment to Energy by March 31, 2011.

**Finding #2: Community Services needs to improve its controls over cash management for the Weatherization program.**

Community Services' cash management policy allows advances of Weatherization program funds to subrecipients without obtaining the required authorization. Our review of Community Services' records revealed that as of December 28, 2009, it had advanced about \$966,000 in Weatherization program funds to four subrecipients. Roughly \$748,000 of the advance is still outstanding, and \$99,000 has been outstanding for over 100 days. Federal regulations allow Community Services to provide cash advances to subrecipients for its Weatherization program under certain conditions. For example, Community Services and its subrecipients must follow procedures to ensure that the advances are made as close as possible to the time the subrecipient organization actually makes disbursements for direct program or project costs, as well as for allowable indirect costs.

Community Services' policy allows a subrecipient to receive a cash advance of 25 percent of the total grant award by providing a listing of the expenses that will be paid using the advance and certifying it has no other source of funds available. Under Community Services' current policy, subrecipients are required to offset at least 30 percent of the cash advance against their expenditures within three months and the remaining balance within six months. If less than 100 percent of the advance is offset against expenditures within six months, Community Services will apply subsequent claimed expenses toward the cash advance beginning in the seventh month following issuance of the advance until the advance is fully extinguished. Because of the extended period allowed by its current policy for liquidating advances, Community Services is not complying with the federal requirement to minimize the amount of time between when the cash is advanced and when disbursement of funds takes place. When we requested documentation that the federal government had given Community Services the authority to provide a 25 percent cash advance for its Weatherization program, management referred us to the regulations for a different grant program, the Community Services Block Grant, which is overseen by a different federal agency, and it did not provide its authority to use those regulations for the Weatherization program.

Moreover, Community Services lacks proper separation of duties for drawdowns of Weatherization program funds. According to the accounting supervisor, the accounting unit's internal controls require that duties be separated such that the person preparing claim schedules for the payment of invoices is prevented from also performing the cash drawdown. However, our review determined that three of 12 disbursements we tested were included in claim schedules that were prepared by the same individual who performed the drawdown. Failure to separate these duties heightens the risk that federal funds could be drawn in an incorrect amount or used for unallowable purposes and remain undetected. The accounting supervisor implemented a new policy after our testing was complete, and now all claim schedules will be reviewed by management prior to the cash drawdown and submission to the State Controller's Office.

To comply with federal cash rules that govern the use of Weatherization program funds, we recommended that Community Services ensure it has the authority to provide advances as outlined in its current policy. In addition, Community Services should segregate the duties of preparing claim schedules requesting payments from the duties of accessing Weatherization program funds.

***Community Services' Action: Corrective action taken.***

Community Services stated that in consultation with Energy and according to its guidance, Community Services has revised the advance payment provisions in its contracts to ensure compliance with federal rules. Community Services reported the new advance payment provisions were included in contract amendments released to all Weatherization program providers funded by the Recovery Act on December 31, 2010.

**Finding #3: Community Services needs to improve its procedures for monitoring Recovery Act Block Grant subrecipients.**

Community Services needs to follow its current monitoring practices for block grants not covered under the Recovery Act, and it has not yet developed an adequate process for monitoring additional requirements specific to the Recovery Act Block Grant to ensure that the funds are used only for authorized purposes and that the potential for fraud, waste, and abuse is promptly mitigated. The federal grant authorized by the Recovery Act requires that services be provided by September 30, 2010, and that recipients be paid by December 29, 2010. We believe monitoring of Recovery Act Block Grant funds to ensure the proper use of the funds should occur well before September 30, 2010, to allow subrecipients sufficient time to take corrective action on any findings that may result. According to the manager of program development and technical support for the block grant, if monitoring identifies questionable program expenses after Recovery Act Block Grant funds are spent, Community Services will take the appropriate steps to recover the unallowable expenses, but she did not specify the steps that Community Services would take in such a situation. However, under the federal cost principles applicable to the Recovery Act Block Grant, settlements resulting from violations of federal laws or regulations are an unallowable use for block grant funds unless authorized by the awarding agency.

Community Services told us it plans to use existing procedures, with some modification, to monitor the Recovery Act Block Grant funds. However, we reviewed its existing monitoring activities and found Community Services does not always follow its monitoring procedures. Specifically, it does not sufficiently track the resolution of findings it identifies during site visits and desk reviews. In addition, while the Recovery Act money will more than double the existing level of \$62 million in block grant funding for a total of \$151 million, Community Services is not prepared to address the additional Recovery Act monitoring requirements. It has not yet developed a timeline for completing its monitoring of Recovery Act Block Grant funds, identified the resources or designed a risk-based approach needed to carry out its monitoring activities, or developed a monitoring guide for new requirements. As a result, Community Services may not monitor a large number of subrecipients until after Recovery Act Block Grant funds are already spent. Although the manager of program development and technical support told us that audits and accounting could take steps to recover any unallowable expenses, she did not explain what those steps would be.

We recommended that to strengthen its abilities to monitor Recovery Act Block Grant subrecipients, Community Services do the following:

- Finalize the monitoring guide that focuses on the specific requirements of the Recovery Act.
- Create a timeline and develop a risk-based monitoring plan to ensure that subrecipients of block grant funds authorized by the Recovery Act are monitored in time to allow them to correct any findings and implement recommendations prior to the September 30, 2010, deadline for providing block grant services.
- Follow its procedures to track the results of monitoring subrecipients that will allow management to ensure findings of program noncompliance are promptly followed up by program staff and corrected by subrecipients.

***Community Services' Action: Corrective action taken.***

As recommended by the Bureau of State Audits, Community Services' field staff used the new Recovery Act Block Grant Monitoring tool for all onsite monitoring visits. As of December 15, 2010, field staff completed all 43 scheduled onsite reviews. The Recovery Act Block Grant program ended September 30, 2010, with the final close-out completed on December 29, 2010. The SharePoint automated tracking system captures relevant monitoring data and provides the capability to generate monthly status reports. According to Community Services, monthly status reports developed to-date include the following:

- Status of monitoring follow-up
- Closed findings
- Status of open findings and recommendations
- Status of open Recovery Act findings and recommendations
- Recovery Act Block Grant and Block Grant expenditure reporting activity

**Finding #4: Community Services needs improvement in its cash management procedures for Recovery Act Block Grant funds.**

Federal cash management regulations allow for advance payments, but require that advances be timed as close as administratively feasible to the actual cash disbursements by the subrecipients. Community Services provides cash advances to its subrecipients if they can justify a financial hardship. However, Community Services has not defined what constitutes a financial hardship in justifying a request for an advance payment. Without defining financial hardship, Community Services cannot know when a subrecipient that requests an advance payment has met that standard. Community Services provided advances of Recovery Act Block Grant funds, totaling \$3 million, to 56 service providers.

Further, Community Services did not require supervisory review of draws of federal cash to ensure that federal funds were drawn in the correct amounts and from the correct grants. As a result, in April 2009 Community Services mistakenly drew \$180,000 from the Low-Income Home Energy Assistance Program grant that it should have drawn from the block grant.

To comply with federal cash management regulations that govern Recovery Act Block Grant funds, we recommended Community Services define the financial hardship under which it will provide cash advances to subrecipients. In addition, Community Services should implement procedures to ensure that it accurately draws federal program funds from the correct grant.

***Community Services' Action: Partial corrective action taken.***

Community Services provided its amended contract agreement that does not contain a requirement that subrecipients justify a financial hardship to receive an advance payment of Recovery Act Block Grant funds. Rather, the contract agreement states that subrecipients will receive an advance payment equal to 25 percent of their total contract amount, in accordance with California Government Code section 12781(b).

According to Community Services, for its nine major accounting processes, staff has identified 51 procedures whose write-ups need to be updated or developed. As of December 31, 2010, 15 written desk procedures are close to being final, 15 procedures are about 50 percent completed, and 21 have not been initiated. The Financial Services Unit will continue to develop and structure the updated write-ups into a more formalized desk manual format that will include detailed step-by-step instructions with examples. Written procedures are being developed in accordance with all applicable federal and state requirements. The Financial Services Unit's timeline to complete the entire desk manual, including procedures for the drawdown of federal program funds is March 25, 2011.