U.S. Department of Energy
Office of Inspector General
Office of Audits and Inspections

Audit Report

Compliance with the Memorandum of Agreement Between the U.S. Department of Energy and the Energy Child Development Centers, Inc.

OAS-M-14-04

April 2014

Department of Energy
Washington, DC 20585

April 7, 2014

MEMORADUM FOR THE CHIEF HUMAN CAPITAL OFFICER

FROM: Rickey R. Hass
Deputy Inspector General
for Audits and Inspections
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on "Compliance with the Memorandum of Agreement Between the U.S. Department of Energy and the Energy Child Development Centers, Inc."

BACKGROUND

The attached report presents the results of the audit of Compliance with the Memorandum of Agreement (MOA) between the U.S. Department of Energy (Department) and the Energy Child Development Centers, Inc. (ECDC, Inc.). The Office of Inspector General contracted with an independent certified public accounting firm, Lopez and Company, LLP (Lopez), to determine if ECDC, Inc. met the reporting and performance requirements of its December 16, 2002 MOA with the Department for the period of December 16, 2002 through December 31, 2011.

In 1989, ECDC, Inc. was incorporated in the District of Columbia as a non-profit charitable organization under Internal Revenue Service Code Section 501(c) (3). It was formed for the purpose of managing the operation of the childcare centers at the Department's Forrestal Building in Washington, DC and in Germantown, Maryland. In 2002, ECDC, Inc. entered into the MOA with the Department to manage and operate the childcare centers through the use of a separately contracted childcare provider (Contractor). The Contractor was responsible for the day-to-day management and operation of the childcare centers, and ECDC, Inc. supported the Department and the Contractor.

Under the terms of the MOA, ECDC, Inc. administered a tuition assistance program for qualifying families whose children attended the childcare centers. Further, ECDC, Inc. was to annually apply for inclusion in the Combined Federal Campaign and conduct at least two childcare program marketing events each year. Also, ECDC, Inc. agreed to submit annual financial reports that covered income, expenses, assets and liabilities; bi-annually audited financial reports; annual Federal, state and local tax returns; and quarterly reports on tuition assistance activities, including applicant and award information.

RESULTS OF AUDIT

Lopez concluded that ECDC, Inc. did not meet the reporting and performance compliance requirements of the MOA. Due to a lack of documentation maintained by ECDC, Inc., Lopez was unable to make a determination of ECDC Inc.'s compliance with 8 of 13 major risk areas.

For the remaining key processes, Lopez concluded that ECDC, Inc. did not materially comply with reporting and performance requirements. Specifically, Lopez found that ECDC, Inc. did not:

- Document that it adequately screened recipients for tuition assistance eligibility in accordance with the MOA and General Services Administration (GSA) requirements. Per GSA, an applicant's family must meet certain income requirements. Additionally, only Federal employees are eligible for GSA funding, leaving non-Federal employee recipients to be funded from non-GSA sources. Lopez found that ECDC, Inc. could not provide documentation identifying and tracking applicants by Department, Federal or contractor status. Further, it could not provide a complete listing of tuition assistance recipients for the period reviewed.

- Provide both financial and program reporting as required by the MOA. The MOA required annual financial statements, tax returns, budgets and fundraising reports, along with quarterly reports on the tuition assistance program. ECDC, Inc. provided Lopez with only limited annual financial statements, IRS tax forms and bi-annually audited financial reports. It could not or did not provide any annual budgets for tuition assistance awards or annual summaries of promotional and marketing activities.

- Always ensure that its financial and tax information reports reflected actual financial activity. Lopez determined that ECDC, Inc. underreported funding from GSA tuition assistance by approximately $35,000 during the period. Further, ECDC, Inc. had several non-GSA funding sources that were not reported to the Department, accounting for approximately $59,171 in income during the period.

- Maintain documentation demonstrating that its Board of Directors was duly constituted according to its own bylaws. The bylaws require election by the ECDC, Inc. membership; however, the five Board members interviewed by Lopez indicated they were appointed to the Board. Further, the bylaws require two Board seats to be reserved for parent representatives. However, none of the current Board members qualify as parent representatives.

RECOMMENDATIONS

Due to the lack of reporting and performance compliance with the MOA, the overall recommendation is that the Department considers terminating the MOA with ECDC, Inc. or work with ECDC, Inc. to revise its governance structure and the MOA and enforce the provisions of the MOA.

If the Department decides to continue working with ECDC, Inc. under the framework of a revised governance structure and MOA, there are individual recommendations for the Department, including:

- Work with ECDC, Inc. to develop procedures to ensure the provisions of the MOA and GSA Recycling Fund requirements are enforced and records are maintained;

- Work with ECDC, Inc. to revise the MOA and enforce its provisions regarding program and financial reporting;

- Consider assisting ECDC, Inc. with the development of policies and procedures for an accounting system that adequately records all financial transactions; and

- Obtain documentation and/or a certification from ECDC, Inc. that it is maintaining its charitable organization status in accordance with its bylaws and the MOA Tax Exempt Status requirement.

MANAGEMENT RESPONSE AND AUDITOR COMMENTS

Management indicated that the findings presented by Lopez are regrettable. Article 10 of the MOA provides that the agreement between the Department and ECDC, Inc. may be terminated without notice by the Department for just cause. Consistent with Article 10 of the MOA, the first recommendation outlined in the audit report and the lack of compliance and transparency of the ECDC, Inc. Board, the Department will terminate the MOA with ECDC, Inc. effective immediately. Although ECDC, Inc. is a 501 (c)(3) corporation, the MOA specifically states, "In the event of termination under this Article, any funds not expended by ECDC shall be remitted to the Department or to another non-profit organization whose purpose is to support the Department's child care centers." As such, the Department will seek ECDC Inc.'s compliance with this provision of the MOA to ensure that all funds raised for the purpose of supporting the Department's child care centers are used accordingly.

Management's corrective actions are responsive to our recommendations.

PERFORMANCE AUDIT

Lopez conducted this performance audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and the Department's Office of Inspector General Audit Manual as appropriate. *Government Auditing Standards* require that Lopez plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objective.

The Office of Inspector General monitored the progress of the audit and reviewed the report and related documentation. Our review disclosed no instances in which Lopez did not comply, in all material respects, with the audit requirements. Lopez is responsible for the attached report dated December 12, 2013, and the conclusions expressed in the report.

Attachment

cc: Deputy Secretary
Deputy Under Secretary for Science and Energy
Chief of Staff

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Certified Public Accountants and Business Consultants

PERFORMANCE AUDIT REPORT OF COMPLIANCE WITH THE MEMORANDUM OF AGREEMENT BETWEEN THE U.S. DEPARTMENT OF ENERGY

AND THE

ENERGY CHILD DEVELOPMENT CENTERS, INC.

PERFORMED FOR

U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL

Prepared by

Lopez and Company, LLP

Report Date: December 12, 2013

CONTRACT NUMBER: DE-IG0000017

WORK ORDER NUMBER: 2013-01

Lopez and Company, LLP
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EXECUTIVE SUMMARY

December 12, 2013

Mr. Mark Mickelsen
Contracting Officer's Representative
U.S. Department of Energy
Office of Inspector General
1617 Cole Blvd.
Golden, CO 80401

Dear Mr. Mickelsen:

This report presents the results of our performance audit of the Energy Child Development Center, Inc. (ECDC, Inc.), conducted to address the performance audit objectives described below. We performed our work during the period of January 17, 2013 to June 28, 2013, and our results, reported herein, are as of June 28, 2013. We conducted our on-site work from February 19, 2013 through February 22, 2013.

We conducted this performance audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and the U.S. Department of Energy (Department) Office of Inspector General (OIG) Audit Manual as appropriate. *Government Auditing Standards* require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and recommendations based on our audit objective.

The objective of our performance audit was to determine if ECDC, Inc. met the reporting and performance requirements of its December 16, 2002 Memorandum of Agreement (MOA) with the Department for the period of December 16, 2002 through December 31, 2011. The MOA requirements are intended to ensure that the child development facilities located at the Department's Headquarters and operated by the Department, are supported by ECDC, Inc. to insure reliable, quality childcare is a first priority for employees of the Department and other Federal agencies, and to the larger Department community.

The primary objectives were to:

- Evaluate the design and operating effectiveness of internal controls for processes designated as risk areas;

14728 Pipeline Ave. ▪ Suite E ▪ Chino Hills ▪ California 91709
Phone: 626-583-1116 ▪ Fax: 626-577-8439 ▪ www.lopezllp.com

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- Assess expenditures for compliance with contract terms and conditions for processes designated as risk areas; and,

- Assess the accuracy and validity of annual and periodic reporting in accordance with the MOA.

We identified key processes related to ECDC, Inc.'s compliance with MOA requirements and selected 100% of all documentation available for review. We also corresponded numerous times with the ECDC, Inc. Board of Directors Chairperson to discuss the timing of the examination and the requested documentation. These communications were in addition to those performed by the Department over the previous two years in an effort to obtain requested documentation from ECDC, Inc. However, due to the inability of ECDC, Inc. to provide sufficient documentation, we were unable to determine the level of ECDC, Inc.'s compliance with the MOA in the following areas:

1. Non-Discrimination
2. Combined Federal Campaign
3. Center Assessment Needs
4. Promotion
5. Insurance
6. Board Training
7. Access to Centers
8. Suitability Background Checks

For the remaining key processes, we concluded that ECDC, Inc. did not materially comply with the following reporting and performance requirements:

1. ECDC, Inc. lacked appropriate procedures to ensure only eligible tuition assistance applicants received benefits;

2. ECDC, Inc. did not comply with its program and financial reporting responsibilities to the Department, as required by the MOA;

3. Financial and fundraising information reported in financial statements did not agree with information reported in tax filings; and,

4. ECDC, Inc. lacked documentation that its Board of Directors was duly elected in accordance with its own By-laws.

Based upon the performance audit procedures performed and the results obtained, we have met our performance audit objectives. We conclude that ECDC, Inc. did not have the internal control systems in place in the recording and maintenance of documentation and did not meet the reporting and performance compliance requirements of the MOA. Due to this lack of performance, we recommend that the Department consider (1)

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terminating the MOA with ECDC, Inc. or (2) work with ECDC, Inc. to revise its governance structure and enforce the provisions of the MOA.

This performance audit did not constitute an audit of financial statements in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards.*

Sincerely,

Lopez and Company, LLP

Lopez and Company, LLP

BACKGROUND

In 1989, ECDC, Inc. was incorporated in the District of Columbia as a non-profit charitable organization under Internal Revenue Service Code Section 501(c)(3). The corporation was formed for the purpose of managing the operation of the childcare centers (Centers) located on the property of the Department's Forrestal Building in Washington, DC and its Germantown, Maryland facility.

In 2002, ECDC, Inc. entered into a MOA with the Department. Under the MOA, the Department was to manage and operate the Centers through the use of a separately contracted childcare provider (Contractor). The Contractor was to be directly responsible for the day-to-day management and operation of the Centers, including development of the educational curricula and programs, and ECDC, Inc. would provide a supporting role to the Department and the Contractor.

Under the terms of the MOA, ECDC, Inc. was specifically responsible for administering a tuition assistance program for qualifying families whose children attended the Centers. Additionally, ECDC Inc. was to annually apply for inclusion in the Combined Federal Campaign (the official Federal charitable contributions program) and conduct at least two childcare program marketing events each year. Furthermore, ECDC, Inc. agreed to provide the Department with annual financial reports that covered income, expenses, assets, and liabilities; biennially audited financial reports; annual Federal, state and local tax returns; and quarterly reports on tuition assistance activities, including applicant and award information.

Consistent with GSA policies and guidance on the Agency, Board, and Contractor relationship, ECDC, Inc. received GSA Recycling Funds to administer tuition assistance to families. The Department confirmed that ECDC, Inc. received these funds. Under GSA guidelines for Recycling Funds, only Federal employees and their dependents are eligible for tuition assistance funded with Recycling Funds. Additionally, ECDC, Inc. stated that they may provide tuition assistance to non-Federal employees from other sources of funding.

Since 2002, ECDC, Inc. had provided the Department with only limited information and documentation required under the MOA. During the life of the MOA, the Department attempted to enforce its terms without reciprocal action or response from ECDC, Inc. The Department documented these attempts in the form of emails and certified mail requests. In 2011, due to ECDC, Inc.'s lack of responsiveness to the Department's multiple requests for the required information, the Department ceased providing recycling funds, assumed ECDC, Inc.'s responsibility for the tuition assistance program and requested that ECDC, Inc. return all unused GSA Recycling funds to the Department. The Department confirmed receipt of the returned funds. Since 2011, the Department has been fully responsible for the tuition assistance program.

OBJECTIVES, SCOPE, AND METHODOLOGY

OBJECTIVES

Lopez and Company, LLP (Lopez and Company) was engaged by the OIG to audit ECDC, Inc.'s compliance with the financial and performance requirements under the MOA. The primary objectives were to:

- Evaluate the design and operating effectiveness of internal controls for processes designated as risk areas;
- Assess expenditures for compliance with contract terms and conditions for processes designated as risk areas; and,
- Assess the accuracy and validity of annual and periodic reporting in accordance with the MOA.

SCOPE

Under the December 16, 2002 MOA between ECDC, Inc. and the Department, ECDC, Inc. was to perform certain assistance and promotional activities, as well as provide financial assurances to the Department on a quarterly and annual basis, including regular reporting on the awards of tuition assistance funds to qualified recipients. During the life cycle of the MOA, the Department requested ECDC, Inc. to comply with the terms of the MOA and did not receive satisfactory action or response from ECDC, Inc. Due to the inability of ECDC, Inc.to provide sufficient documentation to the Department from 2002 through December 31, 2011, the Department requested the OIG conduct an audit to determine whether ECDC, Inc. complied with its responsibilities, including the reporting requirements, under the MOA.

Lopez and Company was engaged by the OIG to conduct the audit, which included obtaining an understanding of the policies, requirements, and processes of selected risk areas in order to identify key internal controls. The scope included a review of tuition assistance expenses reported to the Department from December 16, 2002, through December 31, 2011. Additionally, Lopez and Company applied select internal control, compliance, analytical and substantive testing procedures for the following risk areas:

1. Fundraising Activities
2. Tuition Assistance
3. Non-Discrimination
4. Combined Federal Campaign
5. Center Assessment Needs
6. Promotion
7. Annual Financial Reports and Tax Returns
8. Insurance
9. Periodic Reporting to the Department
10. Board Training
11. Board Practices
12. Access to Centers
13. Suitability Background Checks

With the exception of Fundraising Activities, the risk areas were defined by the individual compliance requirements contained in the MOA. Fundraising activities were identified as an additional risk because the majority of the Board members of ECDC, Inc. are Department employees and therefore, a risk was identified that ECDC, Inc. might be viewed by the public as an extension of the Department.

The source of documentation and information for testing and review were provided by the Board of ECDC, Inc. and the Department. No Information Technology (IT) controls were tested as a part of this audit.

Lopez and Company reviewed all documentation provided by ECDC, Inc. and the Department.

METHODOLOGY

Lopez and Company conducted this performance audit in accordance with Generally Accepted Government Audit Standards for performance audits, as prescribed in the most current version of the Yellow Book issued by the Comptroller General of the United States. Those standards require that Lopez and Company plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. As a basis for Lopez and Company's performance audit, the audit team used the Memorandum of Agreement, and GSA guidelines for Recycling Funds to determine whether ECDC, Inc. was in compliance with the Memorandum of Agreement.

To meet the performance audit objectives, the audit team:

- Obtained existing documentation and conducted interviews of the ECDC, Inc.'s Board of Directors to obtain an understanding of ECDC, Inc.'s financial reporting, revenue, expense, and tuition assistance program processes related to the MOA;

- Obtained and documented applicable laws, regulation, and contract documents;

- Obtained and documented our understanding of the policies and procedures and key controls for the selected processes. Our procedures included but were not limited to the completion of interviews of the Board and inspection of documentation. Sufficient documentation was not available for all processes therefore, the audit team's use of inquiries of the Board was considered sufficient within the scope of the engagement. These procedures are the basis for evaluating the design and implementation of internal controls for processes designated as risk areas;

- Obtained a listing of tuition expenditures to test for compliance with the MOA and GSA Recycling Fund guidelines; and,

- Performed procedures to determine the accuracy and timeliness of periodic and annual reporting in accordance with the MOA, by conducting a reconciliation of financial audit reports to tax returns and information from the Department.

We performed procedures in the following key risk areas:

1. Tuition Assistance
2. Annual Financial Reports and Tax Returns
3. Periodic Reporting to the Department
4. Fundraising Activities
5. Board Practices

We did not perform procedures in the following key risk areas due to ECDC, Inc.'s inability to provide documentation:

1. Non-Discrimination
2. Combined Federal Campaign
3. Center Assessment Needs
4. Promotion
5. Insurance
6. Board Training
7. Access to Centers
8. Suitability Background Checks

Lopez and Company, LLP held an entrance conference with five of seven ECDC, Inc. Board Members on March 5, 2013. During the meeting, we requested information and documentation for the above eight areas, but no information was provided by the Board. The Board indicated that documentation for these items was not available. We discussed the remaining activities of the Board of ECDC, Inc. and examined available documentation regarding compliance with the MOA for each year from 2002 through 2011.

RESULTS

When conducting the performance audit, Lopez and Company gathered sufficient and appropriate audit evidence to support its findings and conclusions. All findings include the criteria, condition, cause, effect, and recommendation and were submitted to Department management for review and comment. The criteria, condition, recommendation, management response, and auditor response (if applicable) is provided for each finding in the Attachment to this report. Lopez and Company summarized the findings identified while conducting the audit; the following is a listing of findings discovered which we consider to be material weaknesses and material non-compliance as a result of testing:

1. ECDC, Inc. did not have sufficient procedures to ensure only eligible tuition assistance applicants received benefits;

2. ECDC, Inc. did not materially comply with its program and financial reporting responsibilities to the Department, as required by the MOA;

3. Financial and fundraising information reported in financial statements did not agree with information reported in tax filings; and,

4. ECDC, Inc. was not able to provide documentation that its Board of Directors was duly elected in accordance with its own By-laws.

Lopez and Company concludes that there are material weaknesses in internal controls over the processes designated as risk areas, tuition assistance expenditures are not in compliance with grant terms and conditions for processes designated as risk areas, and quarterly and annual reporting is not accurate and valid, and in accordance with the Memorandum of Agreement.

OVERALL RECOMMENDATION

We conclude that the inability of ECDC, Inc. to provide sufficient documentation and the severity of the findings detailed in the Attachment, ECDC, Inc. did not meet the reporting and performance compliance requirements of the MOA. Specifically, we were unable to make a determination of ECDC Inc.'s compliance with eight of 13 major risk areas due to a lack of documentation. For the remaining key processes, we concluded that ECDC, Inc. did not materially comply with reporting and performance requirements. Due to this lack of performance, we recommend that the Department consider (1) terminating the MOA with ECDC, Inc. or (2) work with ECDC, Inc. to revise its governance structure and the MOA and enforce the provisions of the MOA.

FINDINGS, RECOMMENDATIONS, AND MANAGEMENT RESPONSE

FINDING #1 – Tuition Assistance Eligibility

Criteria

Under GSA regulations, an applicant's family must meet certain income requirements to be eligible for tuition assistance. Additionally, only Federal employees are eligible for tuition assistance funded with GSA recycling funds.

Condition

ECDC, Inc. could not document that it adequately screened recipients for tuition assistance eligibility in accordance with the MOA and GSA Recycling Fund requirements. We reviewed ECDC, Inc.'s tuition assistance promotional materials, which included a tuition assistance application, and we conducted interviews of the Board members responsible for reviewing and approving tuition assistance applications. During our interviews of Board members, they stated that the organization used the GSA Model C process for determining eligibility for GSA recycling funds. GSA Model C refers to the Appendixes in the *GSA Child Care Board of Directors Child Care Resource Book 2005*, which, among other things, contains a Model Memorandum of Understanding and Model Contract. Chapter 9 of the guide discusses the Federal eligibility requirements for GSA recycling funds. During our discussion with the Board, they noted that Department and Federal employees were given preference for Tuition Assistance; however, they could not provide documentation that identified and tracked applicants by Department, Federal or contractor status.

We obtained a schedule of tuition assistance receipts/payments for the period of October 21, 2002, through November 29, 2011. This schedule listed all checks issued for tuition assistance during the period; however, it failed to identify recipient names for many of the tuition assistance disbursements. Moreover, ECDC, Inc. indicated that they could not produce the applicant files for every applicant since 2002. ECDC, Inc. did provide us with one applicant file that included documentation on the applicant's financial eligibility, and the file identified the applicant as a non-Federal employee.

Cause

For the period during which ECDC, Inc. was awarded financial assistance using GSA Recycling funds, ECDC, Inc. lacked formalized procedures that would provide continuity of records despite changes in the personnel responsible for determining tuition assistance eligibility. ECDC, Inc. did not employ paid staff nor did it have offices where documentation was centrally located and maintained. The Board members were volunteers who performed all activities/functions. As Board members changed, there was no process to ensure that documentation was transferred to new Board members and/or maintained in a central location. As a result, ECDC, Inc. did not have complete records of tuition assistance recipients or how eligibility for assistance was determined and awarded.

Attachment (cont.)

During the period reviewed, the Department assumed ECDC, Inc.'s role in awarding tuition assistance from GSA recycling funds without modifying the MOA.

Effect

The lack of formal procedures significantly increases the risk that ineligible applicants for tuition assistance could receive benefits. This includes the risk that non-Federal applicants received tuition assistance benefits paid from GSA Recycling Funds, in violation of GSA requirements and the MOA.

Recommendation

If the Department decides to continue its relationship with ECDC, Inc., we recommend the Department work with ECDC, Inc. to develop procedures to ensure compliance with the provisions of the MOA and GSA Recycling Fund requirements and that records are properly maintained.

Management Response

The Department considers this finding regrettable. Consistent with Article 10 of the MOA, the Department has decided to terminate the MOA with ECDC, Inc. effective immediately.

Auditor Comment

The Department's proposed action is considered responsive to our recommendation.

FINDING #2 – Program and Financial Reporting to the Department

Criteria

The MOA required that ECDC, Inc. provide financial statements, tax returns, budgets, and fundraising reports on an annual basis, and quarterly reports on the tuition assistance program, including the following:

1. Annual Financial Statements
2. Annual Tax Return Form 990
3. Bi-Annual Audited Financial Report
4. Annual Budget for Tuition Assistance Awards
5. Annual Summary of Promotional and Marketing Activities
6. Quarterly Report on Applicants for Tuition Assistance
7. Quarterly Report of ECDC, Inc. Awards of Tuition Assistance

Condition

ECDC, Inc. did not provide both financial and program reporting as required under the MOA with the Department.

Despite a number of requests from the Department's Office of Human Resources Services (OHRS), which acts as liaison between the Department and ECDC, Inc., ECDC, Inc. did not provide the Department with many of the above documents required by the MOA. Likewise, our own requests for documentation from ECDC, Inc. on this audit resulted in us obtaining only limited annual financial statements, IRS tax forms, and bi-annually audited financial reports. ECDC, Inc. was unable to or did not provide any annual budgets for tuition assistance awards or annual summaries of promotional and marketing activities.

Cause

The MOA contained some terms that are no longer relevant to ECDC Inc.'s role in the operation of the Centers. Specifically, the Department no longer provides ECDC, Inc. with GSA recycling funds and ECDC, Inc. has remitted all unused GSA recycling funds to the Department. Because of this, and per discussions with ECDC, Inc., the Board believed that the MOA no longer bound ECDC, Inc. and that the MOA was no longer enforceable. In addition, the Board viewed the MOA as invalid because:

- None of the current Board members signed the MOA.
- The Board asserted that the Department has not lived up to its responsibilities under the MOA.

Effect

The lack of financial and non-financial reporting implies a lack of accountability and increases the risk of fraud, waste and abuse. Additionally, the lack of Department oversight and/or Department approval of the financial and fundraising activities of ECDC, Inc increases the Department's risk of liability associated with any such fraud, waste, and abuse.

Recommendation

If the Department decides to continue its relationship with ECDC, Inc., we recommend the Department work with ECDC, Inc. to revise the MOA and enforce its provisions.

Management Response

The Department considers this finding regrettable. Consistent with Article 10 of the MOA, the Department has decided to terminate the MOA with ECDC, Inc. effective immediately.

Auditor Comment

The Department's proposed action is considered responsive to our recommendation.

FINDING #3 – Discrepancy of Reported Versus Actual Financial and Fundraising Activities

Criteria

The Memorandum of Agreement between the Department of Energy and ECDC, Inc. requires the submission of periodic fundraising and financial reports, which cover income and expenditures, assets and liabilities at least annually. Furthermore, ECDC Inc's financial books and records are required to be audited, and the reports submitted to the Department, by an outside independent auditors or accountant on a bi-annual basis.

Condition

ECDC, Inc. did not always ensure that its financial and tax information reports reflected actual financial activity. We compared the Schedule of Revenues reported on IRS Form 990 with the schedule of funds reportedly received from the GSA recycling program and determined that ECDC, Inc. has underreported funding from the GSA Recycling funds by a total amount of $34,990.90 for the period of 2002 through 2011.

Based on our review of revenues reported on the IRS Form 990 for each year from 2002-2011, we found that ECDC, Inc. had several funding sources in addition to GSA Recycling Funds that were not reported to the OHRS. Based on discussions with ECDC, Inc., Board fundraising activities have been limited because the Department has restricted such activities. However, during this same period, ECDC, Inc. reported income of $59,171 from both corporate and individual non-GSA sources.

Additionally, ECDC, Inc. indicated that all non-GSA Recycling Fund revenues are funds that could be spent at ECDC, Inc.'s discretion and are not subject to the Department's oversight. During our discussion with the Board, the Board indicated that ECDC, Inc. maintained separate bank accounts for these funds. These bank accounts were not subject to this audit.

Cause

During the period for which ECDC, Inc. had authority over the tuition assistance program, ECDC, Inc. did not have an accounting system that ensured that all financial information was properly and completely recorded and reported.

Effect

ECDC, Inc. did not report all sources of income to the IRS ($34,990) or the Department ($59,171). The lack of an appropriate accounting system capable of reporting all financial activity increases the risk of fraud, waste, and abuse. Additionally, because most of the Board members of ECDC, Inc. are Department employees, there is a higher risk that the Department could be perceived as being liable for any instances of fraud, waste, and abuse.

Recommendation

If the Department decides to continue its relationship with ECDC, Inc., we recommend that the Department consider assisting ECDC, Inc. with the development of policies and procedures for an accounting system, which adequately records all financial transactions.

Management Response

The Department considers this finding regrettable. Consistent with Article 10 of the MOA, the Department has decided to terminate the MOA with ECDC, Inc. effective immediately.

Auditor Comment

The Department's proposed action is considered responsive to our recommendation.

FINDING #4 – Election Process of ECDC, Inc. Board Members

Criteria

According to ECDC, Inc.'s Articles of Incorporation and Corporate By-Laws, the Board is to be elected by the Members of ECDC, Inc., Additionally, the By-Laws require that "two seats on the Board of Directors shall be reserved for one (1) parent representative from Germantown and one (1) parent representative from Forrestal.

Condition

In our discussions with five of the seven ECDC Board Members and Officers, the five Board members stated that each was appointed to the Board and not elected. Per the Corporate By-Laws the Members of ECDC, Inc. are the parents of children having been enrolled at the Centers. Currently, none of the current Board members qualifies as parent representatives.

Cause

The Board and Officers are not following its Corporate By-Laws regarding membership requirements and the requirement to elect Board Members into office.

Effect

If members of the Board have not been elected and do not qualify as members of ECDC, Inc. under the Articles of Incorporation and Corporate By-Laws, then Board Members have been fundraising, making tuition assistance awards, and representing the corporation without the authority to do so.

If ECDC, Inc. is found to be non-compliant with its own by-laws, there is a risk that its charitable organization status could be jeopardized. ECDC, Inc.'s MOA with the Department requires that it maintain its corporate status as a charitable organization. Further, because Department employees act as Board members, the Department may be viewed by the public as not providing adequate oversight of the organization and/or its employees.

Recommendation

If the Department decides to continue its relationship with ECDC, Inc. and its current governance structure, we recommend that the Department obtain documentation and/or a certification from ECDC, Inc. that ECDC, Inc. is maintaining its charitable organization status in accordance with its by-laws and the MOA Tax Exempt Status requirement.

Management Response

The Department considers this finding regrettable. Consistent with Article 10 of the MOA, the Department has decided to terminate the MOA with ECDC, Inc. effective immediately.

Auditor Comment

The Department's proposed action is considered responsive to our recommendation.

IG Report No. OAS-M-14-04

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3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?

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