AUDIT OF ULSTER COUNTY CARES 2 GRANT PROGRAM

Office of the
Ulster County Comptroller
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ULSTER COUNTY OFFICE OF THE COMPTROLLER

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Executive Summary:

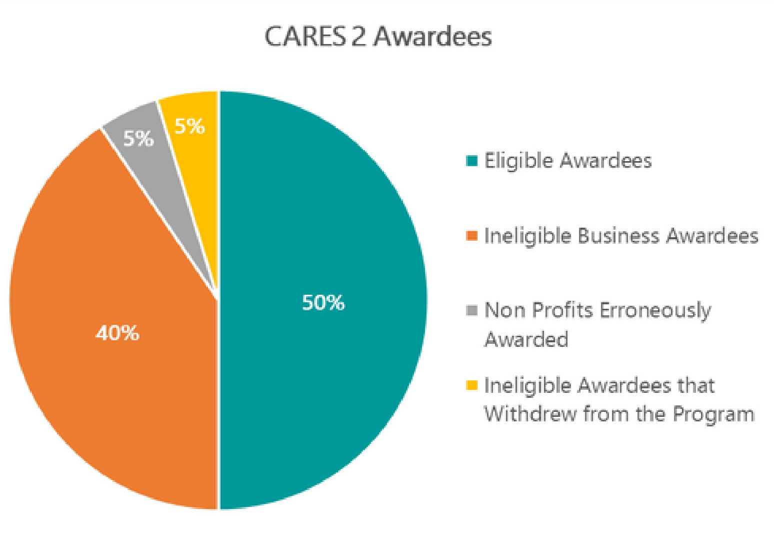
The audit found that approximately half of the CARES 2 grant awardees were not eligible to receive a grant based on the terms of the contract between the Ulster County Economic Development Alliance (UCEDA) and Ulster County. The audit also found that:

- The language within the contract was unclear.
- Inaccurate information with respect to the program's eligibility requirements was communicated to the public.
- Ineligible applications were provided to the scoring committee.
- There were errors in the final aggregation of all the data to determine the scores for all the applications.

These findings, as well as previous governance and financial management issues at the UCEDA highlighted by the Comptroller's office lead us to conclude that it would not be prudent to extend additional grant funding for the UCEDA at this time.

Background

In March of 2022, the Ulster County Legislature passed Resolution No. 32 which approved a sub-award of one million dollars of Federal Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to be made to the UCEDA for the purpose of issuing small business grants. The program was labeled "CARES 2" by the UCEDA and will be referred to as such throughout this audit report. The grant program was modeled after a similar grant program that had been administered by the New York State Division of Housing and Community Renewal and funded by the Federal Coronavirus Aid, Relief, and Economic Security Act (CARES).



Objectives

The objectives of this audit were twofold:

1. Review the methodologies and practices surrounding the selection of program awards.
2. Determine the existence of, and adherence to, the internal controls governing this program, including compliance with Schedule A, Schedule B, and E contract requirements.

Scope

The audit covered the period from the inception of the CARES 2 program (the adoption of legislative Resolution No. 32 and 29 or 2022, on March 16, 2022) through the date of the release of this audit report. Awards have not yet been paid and the Comptroller's office is continuing to work with the County Executive and her staff to complete the process of making eligibility determinations for those companies who have been awarded the CARES 2 Grant.

Finding 1 - Unclear Contractual Language

Condition: The contract between the County and the UCEDA that directed the work plan for implementation of the CARES 2 program was not clear about how to measure income for grant eligibility purposes and included this as both an eligibility requirement and a criterion in the evaluation rubric.

Cause: The drafters of the contract lacked professional expertise with respect to income taxes, and they did not seek assistance with this matter.

Criteria: The contract stated that "the subrecipient shall use the Annual Gross Income reflected on the applicant's NYS tax returns to determine income." Annual Gross Income is not a line that exists on a NYS Resident Income Tax Return (Form IT-201), and no further definition was provided. We believe that the intent of the contract drafters was to use either line 19a "Recomputed federal adjusted gross income" or line 33 "New York adjusted gross income".

Effect: Due to the vague language in the contract, the intended metric for determining income was unclear.

Recommendation: We recommend that the County seek the advice of an income tax professional such as an Enrolled Agent or a Certified Public Accountant (with tax practitioner experience) when drafting a contract that utilizes income tax returns for any purpose. The contract should have referred to a specific tax return line to make eligibility determinations clear. Further, adjusted gross income alone is not a good metric to determine need of grant applicants as it largely ignores the wealth of the applicant. To address this, we recommend that future programs seeking to address need require a certified personal financial statement or other wealth testing.

Finding 2 - Contractual Requirements Were Ignored in Administering the Program

Condition: Grant awards were announced for a list of companies which included some that were subsequently determined to be ineligible.

Cause: When making grant award determinations, the former president of the UCEDA did not follow its contractual requirements to deliver and administer the Ulster County Cares 2 Small Business Assistance Program. Numerous contractual provisions were ignored or misinterpreted in the administration of the program and the ultimate announcement of grant awardees.

Criteria:

1. The contract required that award recipients live within Ulster County. One award was announced for a company whose owner resides outside of Ulster County.
2. The contract required that priority be given to businesses with less than 25 employees. An award was announced for a company with more than 25 employees.
3. Seventeen awards (as of the date of this audit report, two additional businesses are likely to be added to this list based on information received so far) were given to business owners who showed adjusted gross income that exceeded the contractual thresholds. Further, these employers did not meet the exception to this rule as spelled out in the contract for the low to moderate income status of their employees. One awarded company owner was found to have AGI in excess of $1 million.
4. Two awards were announced for non-profit entities. This program was not designed to serve this type of entity, as Ulster County ran a separate grant program designed to serve non-profit entities.

Effect: Roughly half of the CARES 2 grant award winners were found to be ineligible recipients under the rules of the grant program as defined in the contract between Ulster County and the UCEDA.

Recommendation: Prior to any County grant awards being announced, lists of awardees should be reviewed for contract compliance by a third party such as the scoring committee, the UCEDA board, a legislative committee with oversight, or staff within the County Executive's office. The UCEDA Board and the Ulster County Executive staff that oversee economic development operations should institute procedures that ensure grant scoring programs meet program requirements and final work receives review.

Finding 3 - Misleading Marketing of the CARES 2 Grant Program

Condition: Business owners were not informed that they would not be eligible for a grant due to income thresholds either on the face of the grant application or in the grant application instructions.

Cause: The requirements of the CARES 2 grant program were either misunderstood or intentionally miscommunicated to the public by the former president of the UCEDA who was charged with implementing the program.

Criteria: Accurate information about grant award eligibility should be clearly communicated to the public to reduce public frustration and the number of ineligible applications received.

Effect: Many grant applicants erroneously believed that their companies were eligible for the program under the requirements that were communicated to them. Public trust in the County has been eroded because of the conflicting messages communicated to the public.

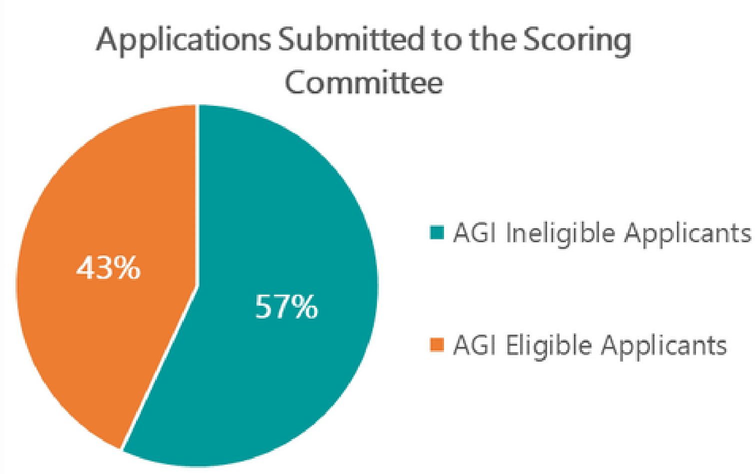
Recommendation: We recommend that the UCEDA Board and Executive staff charged with overseeing economic development operations review information to be shared with the public for accuracy prior to holding public informational meetings. A list of anticipated frequently asked questions should be assembled and reviewed prior to holding public informational meetings.

Finding 4 - Ineligible applications were sent to the scoring committee

Condition: Ineligible applications were sent to the scoring committee for grading.

Cause: The former president of the UCEDA who was charged with implementing this program did not review applications for eligibility prior to submitting the collection of applications to the scoring committee.

Criteria: The former president who was charged with implementing this program was supposed to review applications for eligibility prior to submitting the collection of applications to the scoring committee. Ineligible applications were supposed to be removed prior to being presented to the scoring committee.



Effect: Of 181 completed applications received, only 78 should have been considered and graded by the scoring committee. This wasted the time of the scorers who had volunteered their time to assist with the implementation of this program.

Recommendation: A review of eligibility should be conducted prior to any submission to a grant scoring committee. By ensuring that only eligible applicants are considered, valuable time and effort of the scoring committee are not wasted on applications that do not meet the basic grant eligibility requirements.

Finding 5 - Errors were found in the aggregation of the application scoring data

Condition: The calculations that were done to determine the final scores of the grant applicants contained numerous errors.

Cause: An adequate review was not conducted of the data and calculations in the Microsoft Excel workbook used to compile the scores for the purpose of accumulating the final list of grant awardees prior to announcement of the list of the awardees. The former head of the County Department of Economic Development had sole control over this workbook, and it was not reviewed by any other County employee.

Criteria: On review of the data used to determine final scores for grant applicants, it was noted that there were multiple input errors. Scores for specific questions were mis-categorized for purposes of applying weights to different categories to rank final applicants. In addition to application scores provided by the scoring committee, the answers to certain application questions ("is your company a majority woman owned business?" for example) were given weight in determining the final grant application score. We noticed that at least one of the applications stated that they were not a woman owned business, but the data in the scoring workbook indicated that they had answered yes to this question.

Effect: This led to incorrect conclusions being drawn as to the ranking of the companies that applied for the grant. Forty-two companies were awarded grants. There was an error in the 41st company's data that would have ranked them closer to 82 had the error not existed. Errors and miscalculations in the award structure affect which companies were awarded.

Recommendation: Calculations of this sensitive nature require multiple levels of review. The compilation of all the data that led to the final award determination should have been reviewed and approved by at least one other staff member. The UCEDA Board and Executive staff charged with overseeing economic development operations should ensure that all future County grant award programs should have this level of internal control built into them.

Conclusion –

The audit has revealed significant failures in governance, inadequate internal controls, and poor oversight within the Ulster County Economic Development Alliance (UCEDA) pertaining to the implementation of the grant program. Our findings indicate that these deficiencies have led to suboptimal management and utilization of funds, thereby compromising the effectiveness and transparency of the program. The audit identified unclear contractual language, disregard for contractual requirements in program administration, misleading marketing practices, the submission of ineligible applications to the scoring committee, and errors in the aggregation of application scoring data. The Comptroller's office has previously communicated to County management that significant changes will need to be made at the UCEDA in order for it to be an appropriate candidate for managing a grant program.

The presence of unclear contractual language and the subsequent disregard of contractual requirements in program administration are deeply concerning. Such deficiencies not only undermine the program's credibility but also expose the organization to legal and reputational risks. It is imperative for the UCEDA Board and Executive staff charged with overseeing economic development operations to address these issues promptly to ensure compliance with contractual obligations and restore public trust in the program's processes.

Additionally, the misleading marketing of the CARES 2 Grant Program has created a false perception of accessibility and eligibility, leading to an influx of ineligible applications. This not only wastes valuable time and resources of both the applicants and the program administrators but also reduces the program's capacity to reach and support those genuinely in need. Clear and accurate communication regarding eligibility criteria and program expectations is essential to align the program with its intended objectives.

Furthermore, the submission of ineligible applications to the scoring committee is a serious oversight that compromises the integrity of the grant award process. This undermines the fairness and credibility of the scoring committee's evaluations and undermines the program's ability to allocate resources to deserving applicants. Establishing a robust eligibility review mechanism before submitting applications to the committee is imperative to uphold the program's fairness and ensure a level playing field for all applicants.

Finally, the errors found in the aggregation of the application scoring data raise concerns about the accuracy and reliability of the grant selection process. Such errors have the potential to affect funding decisions and hinder the achievement of the program's intended outcomes. Implementing rigorous quality control measures, including independent verification of scoring data, is essential to uphold the integrity of the grant selection process.