



AUDIT OF ULSTER COUNTY CARES 2 GRANT PROGRAM

**Office of the
Ulster County Comptroller
March S. Gallagher**





ULSTER COUNTY OFFICE OF THE COMPTROLLER

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Executive Summary:

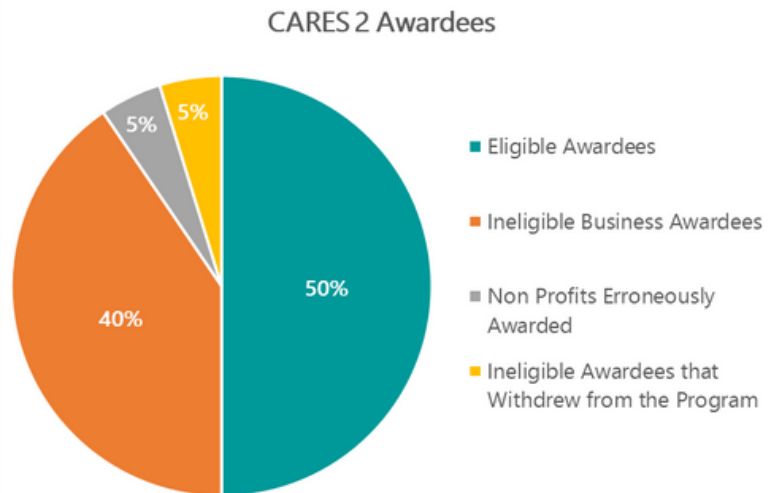
The audit found that approximately half of the CARES 2 grant awardees were not eligible to receive a grant based on the terms of the contract between the Ulster County Economic Development Alliance (UCEDA) and Ulster County. The audit also found that:

- 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.

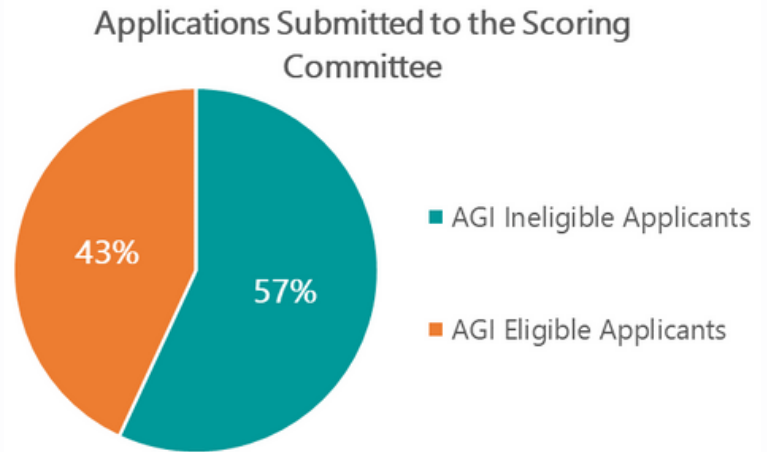
Recommendation: We recommend that the UCEDA Board and Executive staff charged with overseeing economic development operations review information to be shared with the public for accuracy prior to holding public informational meetings. A list of anticipated frequently asked questions should be assembled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

Ulster County Economic Development Alliance

P.O. Box 1800, 244 Fair Street
Kingston, NY 12402-1800
Tel: 845.340.3556



To: March Gallagher, Ulster County Comptroller; Charles Dinstuhl, Director of Internal Audit and Control

From: Amanda LaValle, CEO/President UCEDA, Deputy County Executive *ALL*

CC: Sarah Haley, Chairperson UCEDA; Jen Metzger, Ulster County Executive; Christopher Jaros, CFO UCEDA; Roseann Daw, Ulster County Commissioner of Finance; and, Joshua Stratton-Rayner, Interim Director Economic Development

Re: Response to Draft Audit of the Ulster County "CARES II" Grant Program

Date: 8/3/2023

Thank you for this opportunity to comment on the draft audit findings for the "CARES II" program provided to us on 7/21/23. We truly appreciate the time the Comptroller's office has spent on the expediated review of this program.

After we received your audit announcement on 6/2/23, UCEDA staff began compiling documents and reviewing all phases of the CARES II program development in concert with the County Executive's Office staff. This task proved challenging in some respects as there was significant turnover of UCEDA staff in the second quarter of 2023. As further confirmed and detailed by your draft audit findings, this initial review began a process of substantiating the incongruity between the legislative intent and the programmatic delivery. On 6/16/23, the County Executive in conjunction with UCEDA notified all awarded businesses of a programmatic "pause" to allow for review and evaluation of the program.

Overall, we concur with your principal findings: There were serious and concerning discrepancies between the intent of the program and its implementation. In authorizing the CARES II Program, it was clearly the Ulster County Legislature's intent to fund only qualifying Low to Moderate Income (LMI) businesses. This was stated in Resolution No. 29 of 2022 appropriating funds the CARES II program as well as in the contract executed between the County and the Ulster County Economic Development Alliance to implement the CARES II Program. Former UCEDA staff erred in the fall of 2022 in developing programmatic scoring guidelines for awards by incorporating income as one of several evaluative criteria in the scoring matrix rather than as a screen for grant eligibility. Your office's further review of the awardees found that out of 40 executed award contracts, 21 businesses met the programmatic definition of LMI.

UCEDA, as well as the Office of the County Executive, have undergone a change in leadership in the time since the program was developed and those errors were made. As a new administration, County

Executive Metzger has prioritized addressing many of the Comptroller's stated concerns regarding UCEDA; significant changes are already in process.

Response to Findings

1- Unclear Contractual Language: We agree that the contractual language is unclear in several key areas. In consideration of contract development context, we particularly note your Executive Summary comment that the program, and the contract, was modeled after a similar grant program that was developed by the New York State Division of Housing and Community Renewal and locally administered by Ulster County in cooperation with UCEDA.

2 – Contractual Requirements Were Ignored in Administering the Program: We agree with the overall finding that certain important contractual requirements were not followed by UCEDA staff in the program design or administration. Former supervisory staff disregarded portions of the contract, took undue latitude with other terms of the contract, and directed subordinate staff accordingly.

3 – Misleading Marketing of the CARES II Grant Program: We concur with the finding that contractual requirements and specific language from the contract, particularly concerning applicant eligibility, were not reflected in the program application or in other aspects of program administration by former UCEDA staff, including marketing.

4 – Ineligible applications were sent to the scoring committee: We agree with this finding that applications were sent to the committee for scoring that were not properly vetted for income eligibility. Income eligibility should have been used as a screen, and ineligible applications should not have progressed to full committee review.

5 – Errors were found in the aggregation of the application scoring data: We agree with this finding. There were consequential errors in the spreadsheet used to aggregate the scoring. As noted in the draft audit, the former President/CEO of UCEDA and Director of Ulster County Department of Economic Development had sole control over those worksheets.

Discussion and Programmatic Response

In our review of CARES II we have concluded that the former President / CEO, who also served as the Director of Economic Development, was responsible for incongruities between the contract and its execution. Upon the former President/CEO's departure from County service, I assumed the role although it has not historically been filled by a Deputy County Executive. A new Director of Economic Development will be joining the staff in the coming weeks pending legislative confirmation and will over the coming months take over as President/CEO of UCEDA. Meanwhile, we are taking necessary steps to review both UCEDA and County processes and procedures, including those relating to program development and grant-making, to ensure sound and accountable decision-making and prevent the kind of problems that occurred in the CARES II program. To that end:



- The UCEDA Board is in the process of procuring an outside financial and operations management consultant to review existing procedures and policies (available on the [website](#)) and provide guidance on procedures to solidify and expand internal controls. The recommendations of the consultant will be used to draft an internal compliance strategy for UCEDA. This strategy will be a comprehensive plan to ensure UCEDA adheres to all relevant laws, regulations, contractual requirements, and internal policies. We anticipate this strategy would focus on the promotion of ethical conduct, preventing conflicts of interest, safeguarding data, maintaining transparency, and assessing staff capacity and resourcing. We anticipate that we will make significant progress to this end within the next 3-4 months although the full process may extend into 2024.
- The County Executive has directed staff to identify boards and commissions with fiduciary responsibilities that should have expanded training requirements. The trainings should raise awareness about the importance of compliance and the potential risks associated with non-compliance. We would welcome the opportunity to work with the Comptroller's office on the development of a curriculum for that training.
- Although historically the County's role in the field has been limited, County staff are working to identify departments and agencies that oversee grant programs to ensure appropriate internal procedures are in place for program development and evaluation. These procedures will include review of the program development, scoring criteria, and any evaluation spreadsheets by qualified staff who are not directly involved in the program development. We also will be reviewing guidance/training that the NYS Comptroller provides to NYS Agencies administering grant programs. (Example materials [available here.](#))

Summary and Conclusion

UCEDA plays a valuable and unique role in County government as an economic development tool for the betterment of Ulster County. UCEDA's status as a public authority allows increased latitude to perform certain tasks related to its mission. Clarity of purpose, accuracy of execution, and a continual culture of impeccable transparency are critical not only to effective performance of this valuable role but to earning and retaining public trust in the organization.

As detailed above, we have initiated and are committed to reestablishing and developing procedures at UCEDA to address the issues examined in this audit as well as to addressing other transparency and accountability concerns. We understand that an effective compliance strategy is an ongoing process that requires commitment from all levels of both UCEDA and the County. We believe that by prioritizing compliance and ethics, UCEDA can rebuild trust with stakeholders and foster a culture of integrity. Again, we would like to thank the staff of the Comptroller's Office for their review and expertise in this review and look forward to our continuing communication in improving these processes.

