

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT
FINANCE AUTHORITY**

**PERFORMANCE AUDIT REPORT
JANUARY 2014**

To The Fiscal Committee Of The General Court:

We conducted a performance audit of the Community Development Finance Authority (CDFA) to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. The evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The purpose of the audit was to determine whether the CDFA's management controls were adequate to provide reasonable assurance awards were made or denied consistent with statute and rule. The audit period was State fiscal year 2013.

Office of Legislative Budget Assistant

Office Of Legislative Budget Assistant

January 2014

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**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

TABLE OF CONTENTS

	<u>PAGE</u>
TRANSMITTAL LETTER	i
EXECUTIVE SUMMARY	1
RECOMMENDATION SUMMARY.....	3
BACKGROUND.....	5
MEETING PURPOSE AND INTENT.....	11
Observation No. 1: Adhere To Statutory Purpose And Improve Project Approval Documentation.....	11
Observation No. 2: Consider Divesting From Commercial Property Ownership And Dissolving Limited Liability Company Formed Without Apparent Authority.....	14
Observation No. 3: Consider Dissolving Separate Nonprofit Corporation Formed Without Apparent Authority.....	16
Observation No. 4: Define Key Terms.....	18
Observation No. 5: Measure Outcomes.....	19
Observation No. 6: Further Limit Barriers To Accessing Programs.....	20
MANAGEMENT CONTROL	23
Observation No. 7: Adopt Administrative Rules.....	23
Observation No. 8: Improve Compliance With Right-To-Know And Financial Disclosure Statutes	24
Observation No. 9: Improve Conflict Of Interest And Financial Disclosure Policies And Procedures	25
Observation No. 10: Improve Governance And Management Controls Over Risk And Public Interface.....	28
Observation No. 11: Improve Management Controls Over Purchasing And Procurement	30
Observation No. 12: Improve Management Controls Over Information Technology.....	32
Observation No. 13: Improve Management Controls Over Internal Grant And Loan Programs	34
Observation No. 14: Improve Advisory Committee, Subcommittee, And Staff Policies And Procedures	36
Observation No. 15: Improve Annual Reporting	37
APPENDICES	
Appendix A: Objective, Scope, And Methodology	A-1

	<u>PAGE</u>
Appendix B:	Agency Response To Audit B-1
Appendix C:	LBA Assessment Of Select Community Development Investment Program Projects C-1
Appendix D:	Community Development Finance Authority (CDFA) Response To The LBA Assessment Of Select Community Development Investment Program Projects D-1
Appendix E:	Community Development Investment Program Awards, State Fiscal Year 2013 E-1
Appendix F:	Selected Community Development Block Grant Projects Active During State Fiscal Year 2013 F-1
Appendix G:	14 Dixon Avenue Development Company, LLC, State Fiscal Years 2013 And 2012 Financial Statements G-1

LIST OF TABLES

Table 1:	CDFA Internal Grant And Loan Programs 34
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ABBREVIATIONS

CDAC	Community Development Advisory Committee
CDBG	Community Development Block Grant
CDFA	Community Development Finance Authority
CDFI	Community Development Finance Institution
CDF-NH	Community Development Fund For New Hampshire
CDIP	Community Development Investment Program
DAS	Department Of Administrative Services
DRED	Department Of Resources And Economic Development
G&C	Governor And Council
GMS	Grants Management System
IT	Information Technology
LLC	Limited Liability Company
NHRS	New Hampshire Retirement System
RLF	Revolving Loan Fund
RSA	Revised Statutes Annotated
SFY	State Fiscal Year

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

EXECUTIVE SUMMARY

We found the Community Development Finance Authority's (CDFA) management controls needed to be improved to provide reasonable assurance awards were made or denied consistent with statute and rule. The CDFA's purpose is to increase development projects, provide capital to business ventures, and stimulate private investment in areas where primary employment was threatened and housing was inadequate. Its adopted mission statement was not fully aligned with these priorities. As a result, we found a number of Community Development Investment Program (CDIP) projects approved during the audit period appeared to deviate from the CDFA's original purpose. Many approved projects we reviewed did not conform or did not clearly conform to other statutory provisions. Further, the CDFA lacked clear operating definitions of key terms which were integral to its goals and objectives for the CDIP program and could have helped prioritize awards. Project outcomes were not tracked, limiting measurement of mission accomplishment and making it impossible to determine whether the projects the CDFA funded had the intended effect.

The CDFA also administered the federally-funded Community Development Block Grant (CDBG) program, the goals of which were to competitively award grants to eligible municipalities to benefit low- and moderate-income households, aid in the prevention or elimination of slum or blight, and aid in the prevention or elimination of conditions which pose a serious or immediate threat to the health and welfare of the community where no other financial resources exist to meet such needs. The CDFA's management controls over the CDBG program were broader and more likely to ensure its statutory purpose was met and awards made or denied consistent with statute and rules.

We also found the CDFA purchased commercial real estate without clear authority and committed public funds to support the limited liability company it created. In addition, the CDFA's conflict of interest and recusal policies should be improved to ensure those who may have had a conflict of interest could not influence decisions. Policy allowed recused Board of Directors and Community Development Advisory Committee members to discuss, ask questions, and answer questions about a project. The CDFA also inconsistently conformed to laws generally applicable to State agencies and needed to improve management controls in several areas. Many of these conditions can be attributed to the CDFA's interpretation of its purpose and its authority as a nonprofit corporation.

As a public instrumentality of the State performing essential government functions, including setting elements of State policy, the CDFA should improve transparency, increase opportunities for public and Legislative oversight, and more fully conform to its original purpose by observing legislatively-imposed constraints, focusing all awards on its original purpose, defining key terms, creating an outcome measurement system, and complying with statutes generally applicable to State agencies. Legislative changes may be necessary to address the broader issues of an updated purpose and the nature of the CDFA's relationship to State government.

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**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action Required?	Recommendations	Agency Response
1	11	No*	The CDFA focus awards on projects conforming to its statutory purpose and ensure key statutory provisions are explicitly met and clearly documented for each approved project to demonstrate conformity with Legislative intent.	Concur In Part
2	14	No*	The CDFA consider divesting itself from ownership of commercial property managed and dissolving its separate limited liability company.	Do Not Concur
3	16	No*	The CDFA consider dissolving its separate corporation.	Do Not Concur
4	18	No*	The CDFA define key terms in administrative rules.	Concur In Part
5	19	No	The CDFA develop a formal, comprehensive approach to measuring outcomes.	Concur In Part
6	20	No	The CDFA further limit barriers to accessing its programs by simplifying program requirements and facilitating access.	Concur In Part
7	23	No*	The CDFA promulgate administrative rules for its organization and all of its programs.	Concur In Part
8	24	No	The CDFA ensure all operations conform to all applicable statutory requirements	Concur
9	25	No	The CDFA strengthen its conflict of interest policy, procedure, and practices.	Concur
10	28	No	The Board improve its governance by expanding its understanding of all programs and operations, improve risk management, and improve controls related to public interface. CDFA management develop the detailed policies and procedures that clearly delegate management responsibilities and submit them to the Board for approval.	Concur In Part
11	30	No*	The CDFA establish a purchasing and procurement procedure consistent with State statutes, establish formal contracts with its service providers, and utilize statewide contracts.	Concur In Part
12	32	No	The CDFA improve information technology controls and develop a comprehensive agency-wide information security plan.	Concur

*** Note: While none of our observations make recommendations which might require Legislative action, several issues, including the CDFA's relationship to State government and the scope of and limits on its authority, manifested themselves throughout our audit work and may require Legislative action to address.**

Recommendation Summary

Observation Number	Page	Legislative Action Required?	Recommendation	Agency Response
13	34	No	The CDFA develop formal policy, procedures, and practices for its internal grant and loan programs. The Board exert greater oversight of all CDFA funds.	Concur
14	36	No	The CDFA develop formal policy, procedures, and practices related to the CDAC, staff, and Board-created committees and subcommittees.	Concur
15	37	No	The CDFA timely produce an annual report focused on outcomes and including the entirety of its operations, and ensure required report distribution is made.	Concur

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

BACKGROUND

The Legislature created the Community Development Finance Authority (CDFA) in 1983 to develop or redevelop areas of underemployment in the State. These areas were “inimical to the safety, health and welfare” of residents and the State by devaluing private investments and threatening public revenue. Mitigating these effects required “stimulation of private investment” but was beyond remedy and control solely by regulatory process, the exercise of police power, and the ordinary operations of private enterprise. The expenditure and investment of public money to provide capital to business ventures and stimulate private investment was deemed essential to addressing these target areas and target populations. In 1991, inadequate housing was added to the 1983 Legislative findings, and CDFA’s responsibilities. The CDFA’s purpose became increasing the number of development projects in areas where primary employment was threatened and housing was inadequate, providing capital to business, and stimulating private investment in target areas and for target populations.

In 2003, the Legislature transferred State responsibility for the federal Community Development Block Grant (CDBG) program to the CDFA. When allocating CDBG program funds, the CDFA is required to prioritize efforts benefitting low- and moderate-income households, aiding in the prevention or elimination of slum or blight, and aiding in the prevention or elimination of conditions threatening community health and welfare where no other financial resources exist to meet such needs.

Organization

The Legislature established the CDFA under RSA 162-L as a body corporate and politic and a public instrumentality of the State. The CDFA’s exercise of granted powers is the performance of essential governmental functions. The CDFA is also a nonprofit corporation granted flexibility not generally inherent in “traditional” government agencies.

The Board Of Directors

The CDFA is governed by an 11 member Board of Directors (Board). The Board consists of the Commissioner of the Department of Resources and Economic Development (DRED), or designee, and ten public members appointed by the Governor and Council (G&C), including:

- four representatives of community development corporations or other nonprofit organizations engaged in community development activities;
- one representative of organized labor;
- two representatives of small business and the financial community;
- one representative of employment training programs; and
- two representatives of private financial institutions.

Appointed Board members serve five-year terms and may be reappointed without limitation on the number of terms served. All members may receive reimbursement for duty-related expenses.

A majority of the members constitutes a quorum, but the CDFA may exercise its authority only after a majority vote of the full Board.

The Community Development Advisory Committee

The Community Development Advisory Committee (CDAC) became part of the CDFA in 2003 with the transfer of the CDBG program to the CDFA. The CDAC reviews applications for CDBGs and makes recommendations on their approval to the G&C. The CDAC's ten-members include four ex officio members and six public members appointed by the Governor. Ex officio members include:

- the chairperson of the Board or designee, also designated the CDAC's chair;
- the Director of the Office of Energy and Planning, or designee;
- the Executive Director of the State Housing Finance Authority, or designee; and
- the Director of DRED's Division of Economic Development, or designee.

At least three public members must be municipal officials and public members are paid duty-related expenses. Members may not receive a significant portion of their income directly or indirectly from the community development activities the CDAC oversees. Public members serve at the pleasure of the Governor. A simple majority of the members constitutes a quorum.

Board-created Subcommittees, Committees, Companies, And Corporations

The Board formed at least six standing subcommittees from Board members and staff to examine policy issues and provide the Board with advice. It also formed an advisory committee, with representatives from for-profit business donors, which was responsible for reviewing certain housing-related applications and making recommendations to the Board for final approval. The CDFA also created an advisory committee of public and private sector members to oversee an energy program. Additionally, the CDFA formed a not-for-profit limited liability company (LLC) to invest in small businesses and to develop, own, and operate commercial real estate, and a separate, non-profit corporation to serve as a community development lender and for other purposes. Membership of both entities included Board members and CDFA staff.

Staff

The CDFA was supported by a full- and part-time staff of 17 as of June 2013, who were employees of a public instrumentality and nonprofit corporation, but not State employees. Staff were managed by a full-time Executive Director. In SFY 2013, the CDFA expended nearly \$1.85 million in salaries and benefits, including six additional federally-funded temporary employees who were laid-off in May 2013 due to program changes.

Funding

During SFY 2013, the CDFA realized \$23.2 million in revenue from all sources, primarily from federal programs. It made \$16.8 million in grant expenditures and had operational expenses of \$2.6 million, primarily salaries and employee benefits. The CDFA's operation was funded

through administrative fees imposed on the programs it managed, earning revenue of over \$1.7 million in SFY 2013, including \$171,000 in State general funds which served as part of the federally-required matching funds for the CDBG program administration over the federally-established allowance. Administrative fees represented over seven percent of the CDFA's total revenues in SFY 2013.

Programs

During SFY 2013, the CDFA operated several State and federal programs. Appendices E and F tabulate the 60 activities the CDFA funded during SFY 2013 based on unaudited Grants Management System information, and which we reviewed.

State Programs

The Community Development Investment Program (CDIP), also known as the tax credit program, is a State law-based program which allows the CDFA to accept up to \$5 million in State tax credit donations from businesses annually. Businesses may deduct 75 percent of donations made to CDFA-approved projects from business profits, business enterprise, and insurance premium taxes. Consistent with its purpose, the CDFA may invest in or lend to any community development and nonprofit organization where projects can be expected to contribute to the development or redevelopment and economic well-being of target areas or target populations, to contribute to the economic development of the State, to increase or maintain threatened primary employment, or to provide affordable housing opportunities to low- and moderate-income people. Financial resources may be provided to nonprofit corporations, community development organizations, counties, municipalities, and for-profit businesses to achieve program goals.

A CDIP project is any commercial, industrial, or real estate business or other economic activity designed to create or preserve primary employment for low-income people or to reduce conditions of blight, economic depression, or widespread reliance on public assistance in a target area or of a target population. Projects must be of public benefit and for a public purpose, provide benefits primarily to target areas or populations, have reasonable expectation of success, and not result in a substantial increase in unemployment in the area of original location of any business or establishment relocated. Further, private industry cannot have provided sufficient capital for the project or sufficient primary employment opportunities in the project's area, and the CDFA must determine its participation is necessary to the successful completion of the project.

The CDFA may also issue grants to finance operating or other costs of community development corporations and employee cooperatives, and provide technical assistance to community development organizations. The CDFA operated eight grant or loan programs which were to build operational capacity of housing organizations, help businesses retain jobs, fund new initiatives or projects needing additional capital to operate, or underwrite Regional Development Corporation operations.

Some CDFA-created programs were available to invited parties only while others were generally available. CDFA staff reviewed applications for technical compliance with criterion which

varied by program and made recommendations on the relative merits of each application. Staff recommendations were reviewed by the Board or a specially-appointed advisory committee. Approvals were made in public meetings. Final decisions rested on Board members' judgment and awards were made by the CDFA without being required to obtain G&C approval. Awards were also contextual, i.e., worthy projects may not receive approval in a competitive year. After final approval, funds for the project were made available to successful applicants. The CDFA's award findings were conclusive and could not be appealed.

Federal Programs

Federal programs were funded by federal appropriations, and federal laws and rules structure the programs. Federal rules provide for the "maximum feasible deference to the state's interpretation" of federal laws and rules. CDBGs may be awarded as determined by the State in accordance with State laws and rules and based on the approach which best serves the State. Grant recipients must ensure "a minimum level of public benefit is obtained from the expenditure of CDBG funds..." The State may impose additional requirements or more restrictive provisions on recipients, provided they are consistent with federal law and rules.

State law provides general goals to which the CDFA is to give priority when allocating CDBG program funds. State rules reflect State and federal goals and incorporate some federal restrictions. State law requires the CDBG allocation system be competitive and open to eligible municipalities. CDFA rules establish four grant categories: 1) community development, including housing and public facility subcategories; 2) economic development; 3) emergency; and 4) feasibility. Multiple activities are permissible under each. State CDBG program grants may not be used in entitlement jurisdictions, which include the cities of Manchester, Nashua, Portsmouth, Dover, and Rochester which directly receive funds from the federal government. Applicants can apply for up to the State-imposed limitation of \$500,000 per year. CDBGs are intended to help provide decent housing, suitable living environments, and expand economic opportunities, principally for low- and moderate-income people. Other CDFA-managed federal programs addressed foreclosures and property abandonment and provided loans or grants for energy audits and to finance energy retrofits or upgrades.

State law requires the relative merits of applications be evaluated based on criteria and procedures adopted in administrative rule. Rules provide for a numeric scoring of each application to permit comparison of the relative merits of each. CDFA staff review applications for technical compliance with criterion. Once staff complete an analysis, the results are referred to the Executive Director, who was also the chair of the CDAC, to "determine which applicants will receive grant awards and at what funding level." Applications were then reviewed by the whole CDAC in a public meeting. For CDBG applications to which the CDAC gives its consent for approval, CDFA staff prepare contracts which are presented to the G&C for final approval. After final approval, contracts are made between the CDFA and the recipient, and funds for the project are made available. Applicants not receiving funds, or receiving less than requested, have access to an administrative review procedure which includes review of the evaluation process and award recommendations by the Executive Director and the CDAC.

Prior Audits

There have been no LBA audits of the CDFA, but the CDFA must be audited by an independent certified public accountant annually. The CDFA-contracted external auditor audited the CDFA's internal controls over financial reporting and compliance under the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and audited the financial statements of the CDFA's separate LLC under generally accepted auditing standards in the United States. The contracted auditor also assessed the CDFA's compliance with U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations* as required by the federal Single Audit Act. During the audit period, the CDFA received federal monitoring reports on energy and CDBG program operations.

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**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

MEETING PURPOSE AND INTENT

The Community Development Finance Authority’s (CDFA) enabling statute established it as a “body corporate and politic,” as a “public instrumentality of the State,” and as a “nonprofit corporation organized under RSA 292.” The statute also states actions taken by the CDFa are “essential governmental functions.” The statute further provides that it be interpreted and construed liberally and grants the CDFa the necessary and convenient powers, rights, or responsibilities necessary to carry out its statutory purposes.

As a nonprofit corporation, the CDFa has flexibility not generally inherent in “traditional” government agencies. However, corporate status provides no exemption or preemption of other requirements of law. CDFa management and counsel asserted the CDFa was a nonprofit corporation and had the powers of a corporation unless statute, or the CDFa’s self-generated controlling documents, prohibited some act. The application of this approach would require the Legislature to anticipate everything the CDFa might do and explicitly prohibit each act it did not want the CDFa to undertake. This approach requires the CDFa to be completely self-regulating with respect to its powers and appears to have led the CDFa to deviate from its original purpose in some cases. This is additionally important considering most non-Community Development Block Grant (CDBG) related decisions of the CDFa are conclusive and by statute may not be appealed.

Observation No. 1: Adhere To Statutory Purpose And Improve Project Approval Documentation

We examined 60 CDFa-approved projects valued over \$16.8 million and active during State fiscal year (SFY) 2013 and found the CDFa’s management controls should be improved to ensure awards are consistently made or denied according to statute and rule. While the Legislature provided the CDFa with flexible authorities and powers to make awards, these were limited by the CDFa’s original purpose. State law establishes the three major *purposes* for which the CDFa may expend public money: 1) increasing development projects, 2) providing capital to business ventures, and 3) stimulating private investment. This is limited to areas where primary employment is threatened and housing is inadequate: target areas and target populations.

The Board did not include its original purpose into its governing *CDFa Board of Directors Manual (Manual)* and mission statement. Instead, it developed a mission statement wherein the “CDFa supports the development of vibrant and resilient communities by providing resources for community economic development efforts.” Several key terms, including community economic development, target areas, and target populations were not defined in statute, administrative rule, or policy and were subject to ongoing reinterpretation.

Board members were provided the *Manual* containing the Board’s mission, but not the State law which originally created the CDFa containing its purpose. While the majority of Board members reported generally understanding its purpose, over one-half also reported the purpose was vague and variable, and six (55 percent) took a wide view of the Board’s purpose. One Board member

reported being unsure the CDFA's purpose was understood, while four (36 percent) noted different programs varied in purpose. One other Board member noted no effort to limit the CDFA's mission was attempted. CDFA management and legal counsel stated the CDFA's status as a corporation, and the statutory provisions providing the CDFA necessary and convenient powers and liberally construing its statute, provided it latitude to undertake any activity unless explicitly prohibited by law. At least three Board members (27 percent) indicated some approved projects were questionable when it came to fitting the Board's purpose.

Importantly, the CDFA was of the opinion that each project was approved with the best of intentions.

The Community Development Investment Program (CDIP)

Over \$6.5 million was awarded for 28 CDIP projects during the audit period. We found over \$5.1 million (78 percent) of CDIP awards were granted to recipients in municipalities eligible for certain federal aid programs related to unemployment and inadequate housing, while nearly \$1.4 million (21 percent) was awarded to recipients in municipalities ineligible for those federal programs. Among the 28 CDIP projects, 13 projects valued at nearly \$2.2 million (34 percent) appeared to fit within the CDFA's statutory purpose, while 15 projects valued at over \$4.3 million (66 percent) did not appear to fit within its purpose. Our analysis of award conformity with the CDFA's purpose was based on the CDFA's statutory purpose contained in Chapter 326, Laws of 1983 as amended by Chapter 334, Laws of 1991 and is tabulated in Appendix C.

We also examined a judgmental sample of ten of the 28 CDIP project files (36 percent) for projects awarded during the audit period. We found none of these CDIP projects clearly met all applicable statutory provisions required for an award. For example, seven did not meet the statutory definition of a project, while two did meet the definition. One CDIP project may have complied fully with the requirements, but documentation was not sufficiently clear for us to fully assess. During the audit period, there was no CDIP scoring checklist, but the Board reportedly was considering the use of a compliance checklist for CDIP applications in the future.

The Community Development Block Grant Program

We reviewed 32 CDBG projects active during SFY 2013 and valued at \$10.3 million. We examined a judgmental sample of ten of 32 CDBG project files (31 percent) and found the CDFA more closely followed the applicable statutory provisions required for an award. The CDBG program had a scoring checklist used to evaluate applications and was heavily regulated by the federal government. While the CDBG program was not originally a component of the CDFA, the program was legislatively transferred to the CDFA in 2003. The CDFA's purpose was to administer the State CDBG program and allocate CDBG funds to eligible municipalities "to improve and maintain housing and the economic and physical development of the state's municipalities so as to enhance the quality of life for low and moderate income New Hampshire residents."

We found eight of the ten CDBG projects (80 percent) met the specific statutory intent to give priority to projects in the following categories: 1) benefiting low- and moderate-income

households, 2) aiding in the prevention or elimination of slum or blight, or 3) preventing or eliminating serious or immediate health and safety threats. Two of those CDBG projects (20 percent) were found to qualify for funding under another category. While none of the CDBG projects clearly complied with every statutory provision, three (30 percent) may have complied fully, but project documentation was not sufficiently clear for us to fully assess.

Recommendations:

We recommend the CDFA focus awards on projects conforming to its statutory purpose and ensure key statutory provisions are explicitly met and clearly documented for each approved project to demonstrate conformity with Legislative intent.

CDFA Response:

We concur in part.

While we agree with the goals stated in the observation, the CDFA strongly disputes the conclusion that we currently have not achieved those goals.

An overlay of municipal eligibility for unidentified federal programs was selected to assess whether or not CDFA tax credit awards met statutory purpose. The CDFA does not exclude participation on a geographic basis - nonprofits and municipalities from all areas of the state are able to bring proposals to the CDFA. And, we believe all of the project awards reviewed “may reasonably be expected to contribute to the development or redevelopment and economic well-being of target areas or target populations, to contribute to the economic development of the state, or to increase or maintain threatened primary employment or to provide affordable housing opportunities to low- and moderate-income people. Strong preference is given to housing projects which provide for the permanent affordability of the housing units through such legal mechanisms as deed restrictions, equity limitation formulas, or land leases.” (RSA 162-L:4, I(j)(1)) Also, RSA 162-L instructs the CDFA to interpret and construe liberally these provisions in aid of its purpose.

Appendix D shows the list of select CDIP projects tested and includes those deemed outside of the CDFA’s purpose or scope. The CDFA has added the project title, rationale for funding and reference to legislative intent from RSA 162-L.

We will review the structure of board minutes relative to awards to ensure that rationale for the award is clearly stated.

LBA Rejoinder:

The CDFA did not demonstrate most of its 2013 CDIP awards were made consistent with its purpose. Since the CDFA did not establish target areas or target populations, we utilized federal data as a surrogate to establish areas in the State which suffered from underemployment and inadequate housing. By its own response, the CDFA accepts submissions from any eligible entity and makes awards not based on target areas or target

populations, but rather on other, applicant-generated contextual criteria. As the CDFA's tabulation of the rationale for certain awards in Appendix D demonstrates, it does not appear to focus on its *purpose* in making awards.

Observation No. 2: Consider Divesting From Commercial Property Ownership And Dissolving Limited Liability Company Formed Without Apparent Authority

In 2002, the Board created a separate limited liability company (LLC) and acquired commercial property using public funds for purposes which appear to be other than those provided for in statute.

The LLC's Board of Directors was the CDFA's Board and the LLC's members included certain CDFA Board members and staff, who also supported the LLC's operation. There was no written operating agreement regulating the LLC. The LLC was not contained in the CDFA's *2012 Annual Report*, limiting public and Legislative oversight of the activities of the LLC and property. Also, the applicability of general State statutes, such as the State's right-to-know law, to the LLC was unclear, further compromising public and Legislative oversight of the CDFA's activities. Statute does not provide the CDFA explicit authority to form separate limited liability companies. The Legislature has traditionally been responsible for creating organizational components of State government, which the LLC appears to constitute. Creating an independent entity may represent a usurpation of Legislative prerogative and appears inconsistent with the CDFA's enabling legislation.

The LLC was established to invest in small business and to acquire and operate real property. It functioned as a holding company for land and buildings, including the CDFA's leased office space which the CDFA purchased for nearly \$1.9 million in 2002. However, the CDFA has financed the LLC's operations and was owed \$401,301 from it for management fees and other expenses at the end of SFY 2013. Resources committed to operating the LLC and owning the property represent opportunity costs, or funds which could have been used for community development projects consistent with the CDFA's purpose.

CDFA management and legal counsel reported the CDFA had authority to purchase property without limitation. Owning real property and operating a business does not appear to conform to the CDFA's original purpose of increasing the number of development projects, providing capital to business ventures, and stimulating private investment in areas where primary employment is threatened and housing is inadequate. While the CDFA had "all the powers necessary and convenient to carry out and effectuate the purposes and provisions" of RSA 162-L and "may...[a]cquire real property or an interest in real property, by purchase or foreclosure," the Legislature limited this power to instances "when such acquisition is necessary or appropriate to protect or secure any investment in which the authority has an interest." The Legislature also stipulated the CDFA could sell property held but if it could not "with reasonable promptness or at a reasonable price, [the CDFA could] lease such property to a tenant." This suggests holding of real property by the CDFA was intended to be limited in duration and a sale made when financially beneficial.

We have included the SFY 2013 and 2012 audited financial statements of the LLC in Appendix G.

Recommendations:

We recommend the CDFFA consider divesting itself from ownership of commercial property managed by the separate LLC, and dissolving the LLC. We further recommend if the CDFFA believes formation of separate corporations is the only means by which it can achieve its purpose, that it seek statutory changes and obtain Legislative permission to do so.

CDFFA Response:

We do not concur.

If subsections (a) through (j) of RSA 162-L:4, I, were intended to limit the powers granted to the CDFFA, the language preceding those subsections would be very different. The preceding language would have to say something like “The authority shall have the following powers” or “The authority’s powers shall be limited to the following.” But RSA 162-L:4, I, states: “The authority shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter and may” (emphasis added). What comes after the word “may” is an illustrative list of the things the CDFFA may do, but is not an exhaustive recitation of its powers, intended to limit the CDFFA’s activities. Furthermore, such a restrictive reading is nullified by subsection (k) at the end of the list, which allows the CDFFA to “[e]xercise any other powers, rights or responsibilities necessary to effectuate the purposes of this chapter.”

While it is true that the CDFFA must, nevertheless, exercise its powers to carry out and effectuate the purposes and provisions of RSA 162-L, the CDFFA is given broad latitude in determining how to do so. RSA 162-L:4, II, provides that the findings of the CDFFA under RSA 162-L:4 “shall be conclusive and may not be appealed.” Thus, if the CDFFA determined that forming a limited liability company to purchase and hold the office building where its offices are located rather than continuing to pay rent on leased space would assist the CDFFA to carry out and effectuate its purposes, that determination is conclusive and may not be appealed.

Finally, RSA 162-L:2, I, provides that the CDFFA is a nonprofit corporation organized under RSA 292. If this provision did not grant the CDFFA the powers and abilities given to all New Hampshire nonprofit corporations, including the ability to form a subsidiary and purchase real property, then why is it in the statute? Clearly, the legislature intended this provision to mean something. The CDFFA, like all New Hampshire nonprofit corporations, was given not only the apparent authority to establish a subsidiary and own property, but the actual authority to do so.

In late 2000, the CDFFA board was informed that extension of the lease for space it occupied at 14 Dixon Avenue would include a 10 percent increase in rent. For an extended period of time, the CDFFA board of directors researched and discussed the opportunity to purchase the building in which the organization was located, carefully considering the long-term benefit to the CDFFA, location, community development theory and the best use of reserves. They concluded that the

best option for the long-term health of the nonprofit was to make the purchase and create a subsidiary for-profit to hold the real estate.

Ownership would:

- *transform monthly payments by the CDFA and tenants from rent to the landlord to an investment in equity;*
- *stabilize the cost of space for the long-term; and*
- *provide affordable rental arrangements for other nonprofits.*

All incremental costs incurred by the LLC, including mortgage principal, interest, property maintenance and taxes are covered fully by the LLC's rental income. The CDFA has regularly charged the LLC a management fee to serve as a means of recouping profits, not to cover incremental costs. The economic slowdown of the past five years has not allowed the LLC to pay to the CDFA much of the management fees owed, the result of which is the \$401,300 receivable on CDFA's books.

Since inception, the LLC has gained \$430,000 in equity. Rent paid by the CDFA to the LLC remains the same as at purchase, 11 years ago. And, since 2006 the LLC has paid \$4,500 in NH state taxes, \$8,600 in federal taxes and \$400,000 in property taxes to the City of Concord.

We believe the CDFA Board of Directors made a prudent and financially wise decision regarding the purchase of the property.

LBA Rejoinder:

The Legislature expressly eliminated the for-profit aspects of the CDFA with Chapter 334, Laws of 1991 which re-codified RSA 162-L, as there were concerns it competed with the private sector. The CDFA has effectively undone a prior legislative act by creating its own for-profit company.

We recognize the CDFA is authorized to "maintain an office," which could be liberally construed to allow the purchase of an office for its own use. However, the commercial property purchased exceeded the requirements of the CDFA for its own use and is operated as a business without apparent authority in statute.

Observation No. 3: Consider Dissolving Separate Nonprofit Corporation Formed Without Apparent Authority

In 2010, the Board authorized certain Board and staff members to create the Community Development Fund for New Hampshire (CDF-NH) as a separate, nonprofit corporation to become a federally-recognized Community Development Finance Institution (CDFI). The CDF-NH was formed to finance qualified community development projects and for any other lawful purpose. Federal requirements specify CDFIs must be independent of government. The CDFA is

a public instrumentality of the State and could not become a CDFI. At least two other CDFIs existed in New Hampshire.

Monies to fund the CDF-NH were derived from the income of other CDFA programs and totaled \$1.2 million. The money was intended for the Job Retention Fund, or any other lending program at the Board's discretion. The CDF-NH was managed by CDFA staff and availability of the Job Retention Fund was not publicized, as eligibility was limited to entities as established by the Board, and applicants were invited to apply.

CDFA management and counsel reported as a corporation, statute provided unfettered authority to create additional corporations at the CDFA's sole discretion. However, statute does not provide the CDFA explicit authority to form separate nonprofit corporations. The Legislature has traditionally been responsible for creating organizational components of State government, which the CDF-NH appears to constitute. Creating an independent entity with no connection to State government using public funds may represent a usurpation of Legislative prerogative and appears inconsistent with the CDFA's enabling legislation. Further, we interviewed the 11 CDFA Board members and six (55 percent) reported being aware of the existence of the CDF-NH while five (45 percent) reported being unaware. Awareness was higher among members with longer tenures. Combined with: 1) the lack of applicability of the State's right-to-know law, laws related to ethics and conflicts of interest, the CDFA's governing statute, or other statute governing State agency operation to this independent corporation and 2) the requirement the CDF-NH become completely independent to obtain federal recognition, oversight and accountability concerns are created.

Recommendations:

We recommend the CDFA consider dissolving the separate corporation. We further recommend if the CDFA believes formation of separate corporations is the only means by which it can achieve its purpose, that it seek statutory changes and obtain Legislative permission to do so.

CDFA Response:

We do not concur.

The CDFA's response to Observation No. 2 is equally applicable here.

Furthermore, in both Observation No. 2 and Observation No. 3, the LBA characterizes the CDFA subsidiary as an organizational component of state government. For this characterization to be accurate, the CDFA itself would have to be found to be a state agency. In fact, throughout its report the LBA characterizes the CDFA as a state agency. The CDFA is not a state agency. It is a nonprofit corporation which has been statutorily imbued with certain governmental qualities. This will be further addressed in the CDFA's Response to Observation No. 7.

The CDFA FY 2013 Strategic Plan states the following goal: "complete the analysis required for a final decision about becoming a Community Development Finance Institution (CDFI)." The

Fund was created in preparation for application for such a designation, which would make the CDFA eligible for federal matching funds. The Fund is comprised of a portfolio of loans made to the nonprofit regional economic development corporations for the purposes of job retention and creation. It is incorporated in the CDFA financials and reported as such monthly and annually. If analysis produces a conclusion that the CDFA would not receive CDFI designation, the corporation will be dissolved.

LBA Rejoinder:

Allocating \$1.2 million in public funds to what the CDFA claims is a non-State entity creates oversight and accountability questions. Creating an independent entity with no connection to State government using public funds may represent a usurpation of Legislative prerogative and appears inconsistent with the CDFA's purpose.

Observation No. 4: Define Key Terms

The CDFA has not defined key terms which are integral components of its mission and purpose. According to statute, the CDFA may invest in or lend public funds for a specific project if the project:

- contributes “to the development or redevelopment and economic well-being of target areas or target populations;”
- contributes “to the economic development of the state;”
- increases or maintains threatened primary employment of “low and moderate income people;” or
- provides “affordable housing opportunities to low and moderate income people.”

Suitable projects must “be of public benefit and for a public purpose” and a project is “any commercial, industrial, or real estate business or other economic activity designed to create or preserve primary employment for low-income people or to reduce conditions of blight, economic depression, or widespread reliance on public assistance in a target area or of a target population.”

Target area, target population, moderate income, public benefit, economic development, and community development were not defined in statute and the CDFA has not defined these terms either formally in administrative rule or informally in policy. Clearly defined terms are essential features of adequate management control structures and are integral to establishing goals and objectives, and to measuring outcomes. Clearly defined terms can also improve public understanding. Additionally, the CDFA is required to adopt administrative rules detailing its practices and make publically available all written statements of policy or interpretations used.

Recommendation:

We recommend the CDFA define key terms in administrative rules.

CDFA Response:

We concur in part.

Since the CDFA is not a state agency it is not required to adopt administrative rules pursuant to RSA 541-A. Please see the CDFA's Response to Observation No. 7 for a discussion of why the CDFA is not a state agency.

Nevertheless, the CDFA recognizes that defining key terms through a set of operational rules, established by the CDFA staff and board, would be beneficial to the operation of the grant-making process and to the public's understanding of CDFA operations. Accordingly, the CDFA will begin such a process.

LBA Rejoinder:

As we detail in our rejoinder to Observation No. 7, the CDFA appears to be subject to the requirements of RSA 541-A.

Observation No. 5: Measure Outcomes

The CDFA lacked a comprehensive, coherent approach to measuring outcomes. While the CDFA has responsibility for setting and carrying-out aspects of State community development policy, it only collects and reports project-level output data. Without outcome reporting, no clear demonstration of the CDFA's effect can be made, which at best limits the CDFA's ability to show the projects it approves had the intended effect and were related its statutory purpose. State law provides the CDFA may expend public money to: 1) increase development projects, 2) provide capital to business ventures, and 3) stimulate private investment in areas of the State where primary employment is threatened and housing is inadequate when administering non-CDBG programs. State law also authorizes the CDFA to allocate federal funds to eligible municipalities to improve and maintain housing and the economic and physical development of the State's municipalities so as to enhance the quality of life for low- and moderate-income residents. Nearly 38 percent of Board and Community Development Advisory Committee (CDAC) members we interviewed reported they either did not know or could not describe how the CDFA monitored whether it was accomplishing its mission. Over 38 percent of Board and CDAC members we interviewed indicated the CDFA should or could be doing more to monitor mission accomplishment.

Assessing performance is a basic element of adequate management control. This permits understanding of whether a program is achieving its goals and objectives, and how efficiently it is achieving its mission. Further, publicly-disclosed outcome measurement contributes to accountability and public trust. Outcome measurement is increasingly common within, and important to, community development entities. Approaches to outcome measurement should be systematic and formalized with rules, policy, and procedures which define terms, practices, and requirements. Features of systems measuring outcomes include quantifiable objectives, return on investment, and trend analysis.

Recommendation:

We recommend the CDFA develop a formal, comprehensive approach to measuring outcomes to permit measuring progress towards accomplishing goals and objectives, including its statutory purpose.

CDFA Response:

We concur in part.

We understand the importance of outcomes measurement, which is the response to a certain action or intervention. We believe we effectively track outcomes as proposed by applicants and approved in the grant making process. Our capacity through the electronic Grants Management System (GMS) is focused on results such as the number of affordable housing units created, the number of jobs created or the increase in gross revenue, as examples. While we collect reports from grantees over an extended period of years, we do not replicate longitudinal studies or analysis that can be found in academic or industry literature.

In its FY 2013 Strategic Plan the CDFA set out a goal to create a data dashboard and established FY 2014 for that activity. We will continue to track results as described and within the current year, develop a data dashboard that effectively and concisely reports on diverse project results.

LBA Rejoinder:

The CDFA does not describe how continuing to collect project-specific output data will be translated into demonstrated outcomes. Without measuring outcomes, the CDFA cannot describe how its activities achieve the purpose for which it was created, and at what cost. Continuing to collect awardee output data will continue to establish whether the awardee complied with the terms and conditions of the award - not whether and to what degree the award contributed to achieving the CDFA's purpose.

Observation No. 6: Further Limit Barriers To Accessing Programs

Potential structural barriers to accessing CDFA programs existed or may have existed due to program complexity.

The Board asserts it must represent its ownership - all the citizens of New Hampshire. Statute requires the CDFA provide technical assistance to community development corporations, other nonprofit community development organizations, cooperatives, and to persons forming such organizations. This can include assistance with organizational development, planning, applications, and grants to fund operating or other costs. The CDFA's self-stated mission includes developing communities by providing resources for community economic development

efforts, project funding, technical assistance, and financial support to community development organizations and other volunteer citizens groups.

Of the 16 Board and Community Development Advisory Committee members we interviewed, eight (50 percent) indicated some form of barrier to accessing CDFA programs existed, seven (44 percent) indicated there were no barriers, and one member (six percent) was unsure. Of the eight members commenting on observed barriers, six (75 percent) indicated complexity constituted a barrier and five (63 percent) stated some applicants lacked the capacity to deal with the complexity. Two (25 percent) stated applicants need to hire external assistance and five (63 percent) stated larger or established applicants had an advantage over smaller and new applicants. Analyses conducted by third-parties under contract during strategic planning similarly reported CDFA processes were complex, some processes included potential bias against smaller projects, some potential applicants may not participate because of the perceived burden, and some entities have become expert in applying for funds and may crowd out other applicants. Additionally, two members (25 percent) who reported barriers existed believed the barriers were acceptable.

Analyses conducted by third-parties under contract during strategic planning suggested expanded funding capabilities for development organizations was needed. The CDFA offered workshops to aid potential applicants and awarded capacity-building grants during SFY 2013. However, of the 12 CDIP awards made during SFY 2013 which appeared geared towards capacity-building, ten (83 percent) went to existing regional development corporations, one (eight percent) went to an early child education consortium project that originated 11 years ago for the director's salary, and one (eight percent) went to the CDFA itself to distribute for Housing Futures Fund projects.

Third-party analyses conducted during strategic planning indicated improvements to outreach and simplifying administrative requirements to reduce barriers were warranted. The CDFA's *3-Year Strategic Plan, 2013-2016*, approved in September 2013, addresses a possible future use of funds and resources to promote project readiness through pre-development funding, and undertaking proactive outreach to address gaps and expand impact.

Recommendation:

We recommend the CDFA further limit barriers to accessing its programs by seeking to simplify program requirements and facilitating access to its programs by those entities lacking capacity to compete with established organizations.

CDFA Response

We concur in part.

While the CDFA agrees with the goals stated in the observation, the CDFA strongly disputes the conclusion that we currently have not achieved that goal.

Any grant, public or private, requires some level of effort on the part the applicant to demonstrate their qualifications. While this level of detail may be perceived as a barrier, we believe it is critical to making award decisions.

That said, the CDFFA puts extensive effort into making potential applicants aware of its resources and works hard to assist applicants in completing a competitive proposal. Here are some of the things we offer:

- *application workshops prior to any grant making round at which attendees are walked through the application point by point and are offered a one to one consultation with CDFFA program staff regarding their idea or project*
- *annual participation in the Selectman's Conference and NH Municipal Association presentations to discuss application for CDFFA funds*
- *webinars on making an application*
- *a video on our website that goes through the application; and*
- *meetings with any group or individual who wants help...we will walk them through it.*

The LBA cannot recommend creating a larger bureaucracy around the CDFFA's programs and simultaneously recommend reducing the perceived barriers to those programs.

LBA Rejoinder:

We do not state the CDFFA has not achieved its goal. The evidence indicates the CDFFA has not *fully* achieved its goal. We do not recommend the CDFFA create a larger bureaucracy. We are recommending the CDFFA improve its management controls in several areas to help ensure its purpose is achieved, including simplifying the complexity of certain programs, such as the CDBG program and rules.

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

MANAGEMENT CONTROL

Management control covers all aspects of an agency's operations. Management control helps provide reasonable assurance of effectiveness and efficiency in operations, reliability of financial reporting, and compliance with applicable laws and regulations. Management control encompasses the plans and procedures used to meet goals and objectives and is a responsibility shared by the Board of Directors and staff.

The Community Development Finance Authority (CDFA) has many of the obligations of "traditional" government agencies. The lack of exemptions from general statutes applicable to State agencies, such as the right-to-know law, laws related to ethics and conflicts of interest, and RSA 541-A, the *Administrative Procedure Act*, in the CDFA's statute and the lack of CDFA-specific exemptions in those general statutes indicate the Legislature expected the CDFA to comply with general statutes. The Legislature also found the CDFA's nature sufficiently similar to a State administrative agency to assign responsibility for administering the Community Development Block Grant (CDBG) program to the CDFA; provide it quasi-legislative power, by giving it authority to make binding administrative rules; and provide it quasi-judicial power, by giving it authority to hold adjudicative hearings.

Actions taken by the CDFA are statutorily established as essential governmental functions - when the CDFA acts, it is government action. The CDFA is also a nonprofit corporation granted flexibility not generally inherent in "traditional" government agencies. However, corporate status provides no exemption or preemption of other requirements of law. A public instrumentality can exist as a nonprofit corporation and be bound by general and other statutes.

Observation No. 7: Adopt Administrative Rules

CDFA rulemaking was insufficient. The CDFA had authority to "adopt bylaws and rules for the regulation of its affairs and the conduct of its business." In spite of this authority, the CDFA did not promulgate any administrative rules for its non-CDBG programs.

As an instrumentality of the State, the CDFA was not exempt from State rulemaking requirements under RSA 541-A. RSA 541-A requires administrative rules describing an entity's organization, the general course and method of its operations, and the methods by which the public may obtain information or make submissions or requests; detailing the nature and requirement of all formal and informal procedures available, including adjudicative proceedings and public comment hearings for rulemaking; setting the format and procedures for submitting, considering, and disposing of rulemaking petitions; forms; and relating to filing petitions for declaratory rulings and their prompt disposition. Further, agencies must also make publicly available all non-rule, written statements of policy or interpretations, and file with the Director of Legislative Services all declaratory rulings.

Management reported never considering the CDFA was subject to rulemaking requirements, as it considered itself to be a non-profit corporation and not a State agency. Without conforming to rulemaking requirements, the public's and the Legislature's role in overseeing CDFA practices,

procedures, and operational methods, which is exercised in part through the rulemaking process, is limited.

Recommendation:

We recommend the CDFFA promulgate administrative rules for its organization and all of its programs.

CDFFA Response:

We concur in part.

The CDFFA's organizing statute, RSA 162-L contains no requirement that the CDFFA adopt administrative rules pursuant to RSA 541-A. RSA 162-L:4 I(a) does provide that the CDFFA may adopt bylaws and rules for the regulation of its affairs and the conduct of its business. However, the rules referred to in the statute are internal rules of operation, not administrative rules promulgated pursuant to RSA 541-A. Additionally, the CDFFA is not a state agency as defined in RSA 541-A:1, II. Rather, the CDFFA is much more like the New Hampshire Retirement System, which was found to be a "legislatively created entity independent of the executive branch." New Hampshire Retirement System v. Sununu, 126 N.H. 104 (1985). Since the CDFFA is not a state agency it is not required to adopt administrative rules pursuant to RSA 541-A.

Nevertheless, the CDFFA recognizes that creation of a set of operational rules, established by the CDFFA staff and Board, would be beneficial to the operation of the grant-making process and to the public's understanding of CDFFA operations. Accordingly, the CDFFA will begin such a process.

LBA Rejoinder:

The CDFFA appears to be subject to RSA 541-A by virtue of its rulemaking authority in RSA 162-L:16, IV, which makes it fit the statutory definition of agency. If the Legislature intended the CDFFA to be exempt, it would have been provided an exemption like some other authorities.

We believe the comparison to the New Hampshire Retirement System (NHRS) is problematic, as each entities' statutes have distinct features. We also point out the NHRS has a set of Administrative Rules which includes organizational rules, rules of practice and procedure, and three other substantive chapters of Rules.

Observation No. 8: Improve Compliance With Right-To-Know And Financial Disclosure Statutes

The CDFFA did not conform to all applicable statutes.

- The CDFA inconsistently adhered to statutory public notice requirements. Public bodies must place a notice of the time and place of its meetings in two appropriate places at least 24 hours in advance. We found 92 percent (11 of 12) of Board of Directors meetings and 89 percent of CDFA’s Community Development Advisory Committee (CDAC) meetings (eight of nine) were posted in only one place; and the CDFA did not notify the public of its Executive; Personnel; Resources, Innovation, and Opportunities; Finance; or other committee meetings.
- The CDAC inconsistently adhered to statutory requirements when members participated in a meeting via telephone. Members may participate in meetings via telephonic means; however, the minutes must reflect why attendance at the physical meeting location was not practical, and all votes taken must be by roll call. We found three meetings when CDAC members participated over the phone; however, all three meeting minutes did not reflect why members could not be present at the specified meeting location. Additionally, in two of the three meetings, the CDAC did not take a roll call vote. In each meeting, the CDAC voted on administrative matters, and in total reviewed 13 projects, approving eight.
- The CDAC did not meet quorum requirements for at least one meeting. A quorum of members must be present at the location specified in the public notice of the meeting. During one meeting, three CDAC members were physically present at the meeting location while three others participated telephonically. The CDAC voted on administrative matters and recommended approval of one project at this meeting.
- The CDFA could not demonstrate one Board member complied with financial disclosure requirements. Statute prohibits anyone from serving in their appointed capacity prior to filing a statement of financial interests with the Secretary of State. We could not find, and the CDFA could not provide, a statement of financial interest for one Board member who was present, discussed matters, and voted at four meetings during the audit period. Two of these meetings included votes to approve Community Development Investment Program (CDIP) projects.

Recommendation:

We recommend the CDFA ensure all operations conform to all applicable right-to-know and financial disclosure statutory requirements.

CDFA Response:

We concur.

Observation No. 9: Improve Conflict Of Interest And Financial Disclosure Policies And Procedures

The CDFA’s conflict of interest and recusal polices did not fully prohibit Board members, CDAC members, or staff who may have had a conflict of interest from potentially influencing project funding. Executive Branch officials are to avoid conflicts of interest, and they are specifically prohibited from participating “in any matter in which they, or their spouse or

dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.”

Additional Policies Needed

While Board policy required Board members file statements of financial interests, we identified the following issues:

- The *CDFA Board Member Conflict of Interest Policy* found in the *Board of Directors' Manual (Manual)* clearly applied to Board members. It was unclear whether the *Manual* applied to the CDAC. The CDAC did not have a manual or policy covering its members' responsibilities regarding conflict of interest, including filing statements of financial interests.
- The CDFA's *Employee Handbook (Handbook)* required staff to conduct business in a manner which prohibited actual or potential conflicts of interest and required staff to immediately disclose the existence of any conflicts. While staff reviewed applications and made funding recommendations to the Board, staff were not required to affirmatively document the lack of a conflict of interest, making it difficult for CDFA management and Board members to determine whether a potential or actual conflict existed.

We also found:

- Public officials are prohibited from directly or indirectly accepting certain gifts and “certain persons [must] file with the secretary of state a report of any honorariums or expense reimbursements received.” The *Manual* does not address gifts, honorariums, or expense reimbursements. Therefore, there was no apparent connection between statutory requirements and their applicability to Board members or, by extension, to CDAC members.
- The *Handbook* prohibited staff from receiving gifts, gratuities, solicitations, or anything of value; however, it provided an exception for items of insignificant value or “deemed otherwise appropriate.” The *Handbook* did not enumerate instances where it would be deemed appropriate, nor did it outline who had approval for deeming when something was appropriate.

Recusal Policy Should Be Improved

Board policy contained procedures for members to recuse themselves in the event of a real or potential conflict of interest. While the procedure required Board members to “withdraw without comment not only from the vote, but also from the deliberation” it allowed other Board members to “ask the member questions about the project before his or her departure.” The procedure also allowed a Board member who disclosed a conflict to still “participate in presentations or other non-voting, non-deliberative discussions about the project or program.” Additionally, the procedure allowed a Board member who “discloses an affiliation with a project that does not rise to the level of a formal conflict of interest” to “remain and participate in deliberations and voting, after the attending board members decided by vote that he or she does not have a formal

conflict.” However, the policy allowed the member to still recuse themselves. The policy does not discuss the elements which differentiate a “formal” conflict of interest from one which does not rise to the “formal” level.

In seven of 34 CDIP projects discussed at Board meetings during the audit period, we found nine Board members who disclosed a conflict of interest participated in the discussion prior to leaving the room before the motion and vote. In one additional project, we found the minutes indicated one Board member was recused, but did not identify the Board member and did not reflect whether the member left the room prior to the motion and vote.

The Board’s recusal policy was unclear whether the policy applied to CDAC members. We found three CDBG projects in which three members recused themselves. In two instances, the minutes reflected the members “left the Committee table;” in one instance, the minutes did not reflect the member left the room or was otherwise separated from the motion and vote.

It was unclear how the Board differentiated between an abstention and a recusal. We found one instance in which a Board member disclosed a role in promoting and endorsing the entity seeking funds; however, prior to the motion, the Board member abstained from voting on the project. We found an additional instance of a CDAC member with a conflict abstaining from a vote; however, the member did not abstain until after the motion to approve the project was made. The minutes reflected the member did not participate in the vote. The Board’s conflict of interest policy did not address an “abstention” in lieu of a recusal.

Recommendations:

We recommend the CDFA strengthen its conflict of interest and financial disclosure practices by:

- **establishing whether the *CDFA Board Member Conflict of Interest Policy* also applies to CDAC members, and aligning recusal practices;**
- **ensuring all statements of financial interests are filed with the Secretary of State;**
- **establishing a mechanism to identify whether staff could have a potential conflict of interest when reviewing funding applications;**
- **establishing policies for Board and CDAC members regarding gifts, honorariums, and expense reimbursements;**
- **establishing policies for when it may be deemed appropriate for staff to accept gifts, gratuities, solicitations, or anything of value, and establishing policies for requesting approval of these instances;**
- **prohibiting members from participating in discussions about projects in which they have a real or potential conflict of interest; and**
- **differentiating between an abstention in lieu of a recusal, and a recusal, when members have a real or potential conflict of interest with an entity requesting funds.**

CDFA Response:

We concur.

While CDFA's volunteer Board invested significant time in creating a well-thought out and documented Conflict of Interest Policy that addresses both real and perceived conflicts and guidance for staff and Board activities, there is always room for improvement. We will address the recommended changes when the Board Manual is next reviewed and revised. We have immediately addressed the need for detail in meeting minutes.

The Board feels strongly that one of its strengths is its diverse sector representation and the knowledge of particular geographies of the State. RSA 162-L explicitly states that Board membership be comprised of individuals representing various industries and sectors of the nonprofit community development discipline. As stated above, the Board is cognizant that it needs to avoid the perception of conflict even where no financial conflict exists. That said, practice will be tempered by the benefit for the deliberative body of specialized member knowledge. CDFA will craft an approach that addresses concerns and interests.

Observation No. 10: Improve Governance And Management Controls Over Risk And Public Interface

Governance and management control in several areas should be improved. Both the Board and CDFA management have a role in accountability. The Board, charged with governance, is responsible for providing strategic direction. Managers are responsible for developing detailed policies, procedures, and practices and ensuring they are institutionalized.

Governance

The CDFA completed a strategic planning process during calendar year 2013 and established a goal of strengthening governance and organizational capacity. Although the Board produced a manual containing a mission statement and other guidance, prior to and during the audit period, there was no formal strategic plan. Management control at the CDFA was largely delegated to staff, primarily the Executive Director. The Board exercised minimal oversight over procurement, lacked a full understanding of the scope and nature of certain CDFA programs, and instituted limited policy and procedure clearly delegating responsibilities to the staff level. Additionally, the CDFA lacked a formal approach for managing risk and for interfacing with the general public.

Risk Management

Risk management is one of five elements of management control. However, the CDFA lacked a formal approach to managing risk and addressing potential fraud, waste, and abuse. We found nearly 73 percent of Board members reported no formal risk management process existed, while the same 73 percent of Board members recognized varying degrees of risk faced the CDFA. Over 36 percent of Board members did report risks were discussed generally. However, nearly

64 percent of Board members reported fraud, waste, and abuse detection was delegated to either CDFA staff, the annual audits for which the CDFA contracts, or grantee project-level management. Further, risk management was not addressed in staff or Board manuals or the Board's *3-Year Strategic Plan, 2013-2016*.

Public Interface

Information and communication is another of the five elements of management control. Public entities demonstrate accountability and foster transparency, in part, through public interface. However, over 54 percent of Board members reported the CDFA's mission and purpose was not well understood by the general public and over 18 percent of Board members reported there were some public misperceptions of the CDFA's mission and purpose. No Board member reported the CDFA's mission and purpose was clearly understood by the public.

Nearly 73 percent of Board members did not comment when asked about a public appeals process, and over 27 percent of Board members reported being unsure about there being an appeal process, with one Board member noting a single CDFA program had such a process. Additionally, over 36 percent of Board members reported there was no complaint process, over 18 percent of Board members reported they did not know of a complaint process, and over 27 percent of Board members did not comment on a CDFA complaint process. Over 18 percent of Board members reported staff would handle complaints.

While communities and citizens are the focus of the Board's mission, there was no complaint, appeal, or citizen interface process contained in the CDFA's Board or staff manuals, or related goals in the Board's *3-Year Strategic Plan 2013-2016*.

Recommendations:

We recommend the Board improve its governance of the CDFA by:

- **expanding its understanding of agency operations, including all programs, and procurement;**
- **improving management controls related to risk by formalizing and institutionalizing a risk management policy, including risks associated with the potential for fraud, waste, and abuse; and**
- **improving management controls related to public interface by formalizing policy and adopting administrative rules providing for public interaction, including complaint and appeal processes.**

We also recommend CDFA management develop the detailed policies and procedures that clearly delegate management responsibilities and submit them to the Board for approval.

CDFA Response:

We concur in part.

It should be noted that there are six relatively new members of the volunteer Board – 55 percent turnover in the last 25 months. New Board members receive an orientation to CDFFA operations and programs, which are varied and extensive. And, some programs and projects were created and completed prior to these changes in membership so were not emphasized in the Board orientation for these new members. The learning curve is steep and if additional attention to Board education is needed, it will be provided. In its FY 2013 Strategic Plan, the CDFFA identified the need to enhance the Board orientation. This was addressed in early FY 2014 and is complete.

The Board of Director’s Manual which was developed and approved by the Board, presents policies and operations guidance relative to Executive Director responsibility in the areas of finance management (which includes financial planning, financial management, asset protection, and investment of operating reserve and board designated cash funds), equity investments, grants, loans, contracts and personnel.

The Executive Director’s contact information for direct communication from the public appears on the CDFFA website so that complaints may be relayed directly to him/her. This has been effective to date. Relative to an appeal process, RSA 162-L states “The findings of the community development finance authority under this section shall be conclusive and may not be appealed.”

Observation No. 11: Improve Management Controls Over Purchasing And Procurement

The CDFFA lacked a policy or documented procedure outlining purchasing and procurement for supplies and services and lacked written contracts for several essential services.

During State fiscal year (SFY) 2013, the CDFFA had written agreements in place for a human resources consultant, external auditors, a property manager, office equipment lease and maintenance, and web services. None of these agreements were reviewed by anyone outside of the CDFFA, such as Governor and Council or the Attorney General’s Office. Additionally, it did not have written agreements or contracts with its information technology manager, whose services totaled \$21,800, or legal counsel, whose services totaled \$10,600.

The CDFFA also did not utilize statewide contracts established by the Department of Administrative Services (DAS), Division of Plant and Property Management when purchasing commodities and services. The CDFFA was not exempt from statutory purchasing requirements, including requirements that all agencies use statewide contracts established by the DAS unless they have been granted a waiver, and following specific competitive bidding requirements. A CDFFA manager reported the CDFFA was not a State agency; therefore statewide DAS contracts were not available for CDFFA use. However, the CDFFA is an “instrumentality of the state” and the exercise of its statutory powers are “the performance of essential governmental functions.” Further, the CDFFA appears to fall under the statutory definition of a State agency which establishes agencies subject to DAS procurement statutes and rules.

Without formal procedures outlining purchasing and procurement, the CDFFA cannot ensure its procurement practices fully aligned with State requirements. Additionally, without formal

agreements or contracts with its service providers, the CDFA did not have documentation of the terms, conditions, or expectations of the relationship with its providers. Legal recourse would be more difficult if the service provider does not perform according to CDFA expectations. As a public instrumentality of the State, the CDFA is responsible for ensuring prudent expenditures of its funds. It should seek opportunities to maximize its purchasing power by leveraging opportunities established in contracts for statewide use.

In December 2013, the Board approved a purchasing and procurement policy.

Recommendations:

We recommend the CDFA:

- **establish a purchasing and procurement procedure that is consistent with requirements established in State purchasing and procurement statutes;**
- **establish formal contracts with its service providers; and**
- **utilize statewide contracts for purchasing commodities and services available to other State agencies.**

CDFA Response:

We concur in part.

The CDFA has considered in draft form a procurement policy in line with those typical of nonprofit corporations that receive federal funds. The policy will be in place in early 2014.

The CDFA is not a State agency and thus does not use or provide State services. Further, the CDFA uses prudent and responsible decision making in the purchases, which will be guided by the policy once in place.

In the most recent fiscal year, the CDFA purchased under \$8,500 of office supplies, which include toner cartridges, pens, window envelopes, printer paper and monitors, as examples. Our purchases are, on scale, minimal and the current system efficient and cost-effective. We see no gain to the investigation of an alternate process that may or may not save money and likely will increase the cost of staff time dedicated to an expanded purchase process.

LBA Rejoinder:

The CDFA appears to meet the definition of an agency under RSA 21-I for the purposes of purchasing and contracting. If the Legislature had intended for the CDFA to be exempt, it would have provided an explicit exemption, such as those provided to the University System, Legislature, Judicial Branch, and the NHRS.

Observation No. 12: Improve Management Controls Over Information Technology

The CDFA lacked general policies and procedures over its information technology (IT) systems and controls over its IT environment need improvement. The CDFA lacked proactive security management procedures, as issues were addressed when they arose, rather than identified through systematic security analysis.

The CDFA relied on its network and grants management system (GMS) to maintain a record of grant requests, awards, and on-going project data. GMS permitted online registration of applicants for major CDFA programs, management and submission of applications, tracing applications through the process, and requesting and approving funds post-award. Management was responsible for protecting information systems from unauthorized access and should maintain security plans to address risk. However, the CDFA lacked policies for reviewing IT security or ensuring physical security over IT equipment, had no agency-wide or GMS-specific security plans, and did not generate or review access logs.

The CDFA retained an independent contractor to manage its IT services; however, it did not have a written contract or agreement outlining the roles and responsibilities of each party. The contractor had access to all systems and equipment, as well as all information contained within them; however, the CDFA did not conduct a background check prior to retaining these services. Further, we found:

- Physical access to the computer room housing the server and telephone equipment was not controlled. The room was located in an area accessible to all staff, contractors, and visitors; kept open; and not monitored to ensure only authorized personnel had access to sensitive equipment.
- There was no review of who physically accessed the server, nor was there any review of when, why, or how often the contracted IT manager accessed the server or other IT equipment remotely. There was also no review of after-hours access to the server or other IT equipment.
- The computer room was not protected from environmental hazards. The room housing the server did not have a waterless fire suppression system and was left open because it did not have adequate temperature controls. According to CDFA personnel, if there was a fire in the office, the CDFA would lose the server as well as the back-up server, which was collocated. However, GMS data were backed up hourly to an off-site facility and some GMS functionality could reportedly be restored from the off-site server.
- Two active and one inactive network switches were not properly secured. One network switch was located within the CDFA office, however; the other two were located in rental units in other CDFA-controlled buildings.
- The CDFA did not have a password change policy. CDFA management could request staff change their passwords; however, there was no way to determine whether staff complied with the request. The CDFA was unsure whether the system automatically prompted users to change their passwords; however, as of October 2013, management had not requested a password change in almost a year.

- Ongoing reviews of logs and audit trails are an essential component of an IT control system; while logging capabilities exist for some systems, the CDFA was unsure if they were enabled. Additionally, any enabled logs were not reviewed.
- The IT contractor had remote access to the server, backup server, and all devices on the network. Logs detailing system changes were not generated and the CDFA did not receive a report of when devices were accessed, the purpose for accessing the devices, or the changes made.
- There was no policy regarding removable storage devices or downloading programs off the Internet. While staff were discouraged from downloading programs, according to CDFA management, it was difficult to enforce.

Recommendations:

We recommend the CDFA improve information technology controls by:

- **conducting a comprehensive risk assessment;**
- **ensuring access logs are enabled and reviewed; and**
- **formalizing the relationship between the CDFA and the IT contractor by defining the roles, responsibilities, and duties of each party in a written contract.**

Further, we recommend the CDFA develop a comprehensive agency-wide information security plan including:

- **establishing a password change policy and ensuring staff implement password changes;**
- **securing data access points and limiting physical access to the computer room; and**
- **developing procedures for monitoring and following up on remote access to IT equipment.**

CDFA Response:

We concur.

We agree that the controls over our IT environment need to be tightened and we will be taking steps to do so. CDFA data on the primary server is backed up on a continuous basis to the back-up server as well as hourly to the offsite backup service maintained by an outside vendor.

We acknowledge that the physical location of the server is less than desirable, but note that alternatives explored to date would require costly renovation. We will continue to seek a reasonable solution.

The Grants Management System (“GMS”), used for potential grantees to apply for funding and to administer grant awards, is hosted by an offsite hosting provider who maintains multiple data centers at which it has proper controls and security in place as evidenced by a Service Organization Control Report (SOC1) prepared by an independent auditor.

Observation No. 13: Improve Management Controls Over Internal Grant And Loan Programs

The CDFA administered eight programs using grants, CDFA reserves, and CDFA-operated revolving loan funds (RLF) reportedly targeting community development and job creation. These programs were neither the formal CDIP nor CDBG programs. Table 1 details assets managed by each program as of and for the SFY ended June 30, 2013.

Table 1

CDFA Internal Grant And Loan Programs

	Funding Source	SFY 2013		Program Balance As Of June 30, 2013
		Inflows ¹	Outflows ²	
Loan Programs				
BetterBuildings	RLF	\$ 2,566,723	\$ 2,522,399	\$ 3,174,320
CDBG Bridge Loan	CDFA Reserves	305,022	775,000	900,000
Community Development Fund for New Hampshire (CDF-NH), Job Retention Fund	CDFA Reserves	107,035	0	1,200,000
Enterprise Energy Fund	RLF	1,022,400	714,475	4,198,630
Municipal Energy Reduction Fund	RLF	132,105	9,609	1,395,652
Grant Programs				
Ventures Fund	CDFA Reserves	n/a ³	25,000	1,715,442
Housing Futures Fund	CDIP	73,885	160,000	n/a ⁴
Regional Development Corporation Capacity Building Fund	CDIP and CDBG	487,781	429,381	n/a ⁴
Total		\$ 4,694,951	\$ 4,635,864	\$12,584,044

Notes:

¹ Inflows represent grants, interest, and principal repayments received

² Outflows represent loans or grants made and program delivery costs paid

³ Not applicable - there was no expected inflow in SFY 2013

⁴ Not applicable - there was no program value for these pass-through activities

Source: Unaudited CDFA data.

According to CDFA staff, the Board determined eligibility for the CDF-NH, CDBG Bridge Loan Program, and the Ventures Fund. The Regional Development Corporation Capacity fund was dedicated to select entities. The Housing Futures Fund advisory committee, consisting of representatives from for-profit business donors, reviewed applications and made award

recommendations to the Board. BetterBuildings, Enterprise Energy, and Municipal Energy Reduction revolving loan program eligibility was determined based on the terms of the original federal grant award. All these programs lacked codified policies or procedures for internal management. The programs were not generally available to the public, and eligible parties were invited to apply by CDFA staff who were also responsible for marketing the programs to eligible parties. The CDBG Bridge Loan Program and Ventures Fund did not appear in the SFY 2013 CDFA audited financial statements. When the 11 Board members were asked about separate programs, six (55 percent) reported being aware of the existence of the CDF-NH. One member (nine percent) reported being aware of the Ventures Fund.

Management controls help ensure an agency meets its mission and goals, provide accountability for its operations, and provide reasonable assurance that the objectives of the organization are being achieved. The lack of policies and procedures may increase the risk of fraud, inconsistent administration, and error. Formalized policies and procedures improve control and increase transparency, uniformity, and accessibility to all interested parties. Moreover, most Board members reported being unaware of the funds existence, but were reportedly responsible for administering these funds and were charged with overall governance.

Recommendations:

We recommend the CDFA develop formal policy, procedures, and practices for its internal grant and loan programs to ensure adequate management control, transparency, and uniformity in administering them.

We also recommend the Board exert greater oversight of all CDFA programs to help ensure it fulfills its governance role.

CDFA Response:

We concur.

Included in the CDFA's FY 2013 Strategic Plan is the formalization of the policies and procedures for its lending programs and designated funds. All programs funded with federal or state funds will include the continuing requirements of the RLF by the funders. The purposes of funds designated by the Board of Directors will be formalized as part of this process. A benefit of this process will be to provide clear programmatic descriptions to the Board.

The status of these programs continues to appear on the CDFA's financial statements presented to the Board each month. This provides the Board the opportunity to understand the activity in each of the funds and the opportunity to evaluate the potential uses of the CDFA's reserves.

Observation No. 14: Improve Advisory Committee, Subcommittee, And Staff Policies and Procedures

The CDFA lacked policies and procedures to efficiently and effectively manage the Board's relationship with the CDAC, staff, and Board-created committees and provide reasonable assurance its directives are carried out. Codified policies, procedures, and practices help ensure operations are carried out efficiently and effectively. Management is responsible for developing detailed policies, procedures, and practices and ensuring they are built into routine operations.

Community Development Advisory Committee

The CDAC was created by statute and is to provide its consent for CDBG projects which are then presented to Governor and Council for approval. The CDFA is required to make final awards of CDBGs and enter into contractual relationships with recipients. A majority of Board and CDAC members stated there was no substantive relationship between the Board and the CDAC. The CDFA Executive Director and staff were reportedly the only link between the two decision-making bodies. There were no codified policies and procedures establishing or structuring a relationship between the two bodies, providing direction to the CDAC, or clarifying the applicability of the Board's *Manual* or other Board policy to the CDAC. A majority of the Board members stated the CDBG process could be more effective if the Board and the CDAC worked closer.

Staff

Staff were responsible for daily operation and applicant interface. There was no staff practices manual or other consolidation of procedure approved by the Board in place during the audit period.

Board-created Subcommittees And Committees

The Board created at least six subcommittees to aid the Board. Board members expressed mixed opinions about the effectiveness and the adequacy of oversight of the subcommittees. Over one-half of the Board members reported subcommittees were insufficiently formalized. At least one subcommittee included CDFA staff and Board members, and an external, non-CDFA member. The CDFA also created an advisory committee consisting of representatives from for-profit business donors to review Housing Futures Fund applications and make recommendations on awards to the Board. The CDFA also created an advisory committee of public and private members to oversee an energy program. There were no codified policies and procedures structuring the committees and subcommittees; detailing their operation; or defining the applicability of the State's right-to-know law, laws related to ethics and conflicts of interest, the CDFA's governing statute, or other statutes governing State agency operation.

Board members reported being in the process of restructuring subcommittees.

Recommendations:

We recommend CDFA develop formal policy, procedures, and practices related to the CDAC, staff, and Board-created committees and subcommittees to ensure the organization's mission and goals are carried out efficiently and effectively.

CDFA Response:

We concur.

The CDFA identified this as an area in need of clarification in its FY 2013 strategic planning and, thus, incorporated these in planned FY 2014 activities, which for this item commenced in November 2013.

Observation No. 15: Improve Annual Reporting

Publications issued or submitted by the CDFA for annual reporting purposes did not conform to statutory reporting requirements or provide sufficient information on the entirety of the CDFA's operations.

Noncompliance

State law requires the CDFA submit an annual report of its activities on or before September 1 of each year to the President of the Senate, Speaker of the House, Governor, and Treasurer. State law also provides annual reports of State agencies will be distributed to Executive Councilors, the State House press room, and other government agencies and officials. The report must include complete operating and financial statements from the prior SFY. The CDFA is also required to obtain an audit of its books and accounts each SFY.

The CDFA's reporting was untimely. In SFY 2013 the CDFA obtained an audit of its financial statements and submitted it for accounting purposes to the DAS and began drafting a *2013 Annual Report*, but neither document was available by September 1, 2013. The *2013 Annual Report* had not been published as of December 2013. Additionally, the CDFA's reported distribution of its publications did not fully comply with statutory requirements. The CDFA's *2012 Annual Report* was designed as a marketing brochure and contained some financial and operational information. It was reportedly distributed only to the President of the Senate, Speaker of the House, and the Governor.

Lacking Sufficiency

Audited CDFA financial statements for the fiscal years ended June 30, 2013 and 2012 include the CDF-NH. The separately audited financial statements of the CDFA's limited liability company (LLC) were not submitted to the DAS, and were not included in the CDFA's *2012 Annual Report*. The LLC's audited financial statements, contained in Appendix G, detailed

increasing liabilities, losses of equity, and that the CDFA financially supported the LLC's operations with public funds.

Designed as a marketing brochure, the *2012 Annual Report* included data from multiple periods, comingled reported outputs with potential outputs, and lacked linkages to outcomes and the CDFA's purpose. The *2012 Annual Report* contained anecdotal cases which were arrayed with output data in such a manner as to facilitate inferential connection and causation between reported or planned outputs and outcomes. There was no demonstrated causation, even though there may have been some association.

The CDFA lacked a formal, codified approach to annual reporting and to outcome measurement. Effective reporting is management's responsibility. Reporting should be timely, accurate, and informative. It should permit a reasonable understanding of agency operations and help users better understand the agency's mission, goals, objectives, and risks. Reporting facilitates transparency and oversight, and demonstrates accountability for resources and program results.

Recommendations:

We recommend the CDFA timely produce an annual report focused on outcomes, include the entirety of the CDFA's operations, and ensure required distribution is made.

CDFA Response:

We concur.

Based on RSA 162-L:6, Reporting Requirements, for the past twelve years the CDFA has submitted its annual audit to the Department of Administrative Services with the understanding that this fulfilled the reporting obligation.

Commencing with FY 2014, the CDFA will provide the expanded report as described in the above observation.

Note that the CDFA has created an annual marketing piece called the 2012 Annual Report. It is not intended to fulfill the reporting requirement described above. It is a document produced mid-fiscal year as a mechanism for thanking donors, showcasing completed projects and summarizing results of CDFA investments. It does comingle multiple years – completed projects are often those funded up to three years prior to the reporting year and the CDBG “year” is the calendar rather than fiscal year. Numbers included in this report are primarily from two sources – the CDFA audited financial statements and the project reporting databases. We stand by the accuracy of those numbers and the narrative presentation of the project results.

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

**APPENDIX A
OBJECTIVE, SCOPE, AND METHODOLOGY**

Objective And Scope

This performance audit addresses the following question:

During State fiscal year (SFY) 2013, were the Community Development Finance Authority's (CDFA) management controls adequate to provide reasonable assurance awards were made or denied consistent with statute and rule?

Methodology

To address the audit objective, we:

- reviewed Governor and Council meeting minutes and Senate Research documents;
- reviewed State and federal laws and rules;
- attended Board of Directors (Board) and Community Development Advisory Committee (CDAC) meetings, reviewed Board and CDAC meeting minutes, met with CDFFA legal counsel, and met with responsible CDFFA officials;
- interviewed Board members and the CDAC's public members;
- reviewed CDFFA documents and data, including Grants Management System (GMS) data, financial data, policies, and manuals;
- reviewed third-party audit reports of the CDFFA, its limited liability company, and the CDFFA's compliance with the U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations* under the Single Audit Act;
- reviewed federal monitoring reports and census data;
- reviewed the contracted external review of the State Community Development Block Grant (CDBG) program, the contracted external review of the CDFFA's organizational effectiveness, the CDFFA's 2012 self-assessment, third-party conducted stakeholder interviews for the CDFFA's strategic planning, and the CDFFA's *3-Year Strategic Plan, 2013-2016*;
- reviewed corporate and financial interest filings with the Secretary of State and Department of Justice publications;
- reviewed academic and interest group-produced materials and other jurisdictions audits, evaluations, and related materials addressing relevant community development, economic development, and related issues; and
- reviewed information technology general controls.

We also conducted a file review of 28 Community Development Investment Program (CDIP) approved projects and 32 CDBG projects active during SFY 2013 to review for actual or potential conflicts of interest in granting program funds and to assess whether the projects met the CDFFA's original purpose and other statutory provisions. Using GMS data we subjectively selected ten projects of each type based on: a range of funding amounts, geographic location, type of entity receiving funds, and project scope, and one because a Board member was involved

in the project. The results of the two file reviews were not intended to be extrapolated to the universe of CDFA projects.

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

**APPENDIX B
AGENCY RESPONSE TO AUDIT**



December 16, 2013

The Honorable Mary Jane Wallner, Chair
Joint Fiscal Committee of the General Court
Concord, New Hampshire 03301

RE: New Hampshire Community Development Finance Authority (CDFA) Performance Audit

Dear Chairman Wallner:

Thank you for the opportunity to comment on the "NH CDFA Performance Audit Report December 2013" written by the Legislative Budget Assistant's Audit Division.

First, on behalf of the Board and staff of the CDFA, I want to express appreciation for the work of the audit staff. LBA staff maintained a cordial and professional relationship throughout the process. I also want to thank the staff of the CDFA for their dedication to continuously improving the quality of work we do in service to New Hampshire communities, which drove their interest in productive feedback on how to do it better!

For thirty years, the CDFA has provided critical incentives for New Hampshire businesses to invest in transformational community projects. These projects are as diverse as the communities we work with – to repurpose an abandoned social hall in a low-income neighborhood, to establish an independent nonprofit theatre to generate economic activity in a declining downtown, to reestablish a grand hotel in New Hampshire's North Country or to help a child care center for working parents expand. For the last decade, we've continued to expand access to a complex federal program – the Community Development Block Grant program – which helps communities secure clean water, build community facilities or create jobs.

We were gratified to see that many performance goals identified in our own strategic planning process, begun in 2012, mirrored those made by the audit staff. We concurred fully or in part and want to assure you that we have incorporated many of the observed opportunities for improvement in our work plan.

We also recognize that we and the auditors have a significantly different interpretation of the community development standard established in RSA 162L. We believe our charge is to be flexible in responding to community identified challenges and solutions, a founding principle of community economic development. That said, we will continue to work to articulate more clearly to benefits and results to be gained from this approach.

In closing, the CDFA's participation in process may yield efficiencies that enhance our effectiveness as a community development resource.

We thank you for your consideration and encourage you to contact us directly if you have questions concerning our response to the Audit Report. Janet may be reached at 488-6022 or by email at jackerman@optimabank.com. Kathy may be reached at 717-9110 or by email at kshields@nhcdfa.org.

Sincerely,



Janet Ackerman
Chair, NH CDFA Board



Katharine Bogle Shields
Executive Director

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

**APPENDIX C
LBA ASSESSMENT OF SELECT COMMUNITY DEVELOPMENT
INVESTMENT PROGRAM PROJECTS**

LBA assessment of project conformity with the Community Development Finance Authority's purpose in law of "[i]ncreasing the number of development projects in areas where primary employment is threatened and housing is inadequate, and providing capital to business ventures within these areas, and stimulating private investment in these areas are public uses and purposes for which public money may be expended and invested." (Chapter 326:2, III, Laws of 1983 as amended by Chapter 334:2, Laws of 1991)					
Project Name	LBA scope based on unaudited Grants Management System data	LBA assessment - met statutory purpose? (Y/N)	Increase development projects in area where primary employment is threatened/housing is inadequate?	Provide capital to business venture where primary employment is threatened/housing is inadequate?	Stimulate private investment where primary employment is threatened/housing is inadequate?
TCCAP: Working Capital Stabilization Project	Provide working capital for basic operations to Community Action Program	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Red River Theatres Digital Conversion	Fund digital projection upgrade	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Bow Highlands II (CATCH)	Construct 16 units of affordable housing	Y	Yes, increased housing development project	No business venture	No private investment stimulation
Housing Futures Fund	Build nonprofit housing organization capacity	Y	Yes, increased housing development project	No business venture	No private investment stimulation
Palace Theatre	Theater building upgrades, including safety code and repointing	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Cotton Mill Square	Funding to reuse abandoned cotton mill, including 55 low-income and 54 market-rate housing	Y	Yes, increased housing development project	No business venture	No private investment stimulation

Project Name	LBA scope based on unaudited Grants Management System data	LBA assessment – met statutory purpose? (Y/N)	Increase development projects in area where primary employment is threatened/housing is inadequate?	Provide capital to business venture where primary employment is threatened/housing is inadequate?	Stimulate private investment where primary employment is threatened/housing is inadequate?
Petersborough Players On-campus Housing	Build housing for up to 28 seasonal theater employees	N	No increased development projects	No business venture	No private investment stimulation
Hollow Neighborhood Revitalization Project	Repairs and interior renovations to non-residential public facility	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
801 Elm Street Downtown Revitalization (NeighborWorks Southern NH)	Purchase and renovation of a downtown building for mixed commercial and non-profit use	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Lakes Region High School Internship Program (Belknap County Economic Council)	Develop online internship and job-shadowing database for six Lakes Region high schools	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Enterprise Center at Plymouth II	Additional funding for constructing a business incubator	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Prescott Park Pavilion	Renovation of a park pavilion and purchase of new kitchen equipment	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Friendly Kitchen	Construct soup kitchen	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation

Project Name	LBA scope based on unaudited Grants Management System data	LBA assessment – met statutory purpose? (Y/N)	Increase development projects in area where primary employment is threatened/housing is inadequate?	Provide capital to business venture where primary employment is threatened/housing is inadequate?	Stimulate private investment where primary employment is threatened/housing is inadequate?
FastRoads II	Additional funding for broadband access via residential and commercial connections	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Boys & Girls Club of Greater Concord Bradley Street Clubhouse Rebuild	Renovation and expansion of a nonprofit corporation facility	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Lisbon Pool	Reconstruct nonprofit corporation pool and bath house, including accessibility	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Jean's Playhouse II	Additional funding for construction of a community arts theater	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation
Belknap County Economic Development Council	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Capital Regional Development Council	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Coastal Economic Development Council	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Coos Economic Development Corporation	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Grafton County Economic Development Council	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation

Project Name	LBA scope based on unaudited Grants Management System data	LBA assessment – met statutory purpose? (Y/N)	Increase development projects in area where primary employment is threatened/housing is inadequate?	Provide capital to business venture where primary employment is threatened/housing is inadequate?	Stimulate private investment where primary employment is threatened/housing is inadequate?
Monadnock Economic Development Council	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Mt. Washington Valley Economic Council	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Regional Economic Development Corporation	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Strafford Economic Development Corporation	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Wentworth Economic Development Corporation	Organizational capacity funding ¹	Y	Yes, increased economic development project	No business venture	No private investment stimulation
Asset Building and Quality Improvement for Early Childhood (Early Learning NH)	Director's salary for organizational development and administrative services for child development consortium	N	No increased housing/primary employment development projects	No business venture	No private investment stimulation

Note:

¹ Funding for capacity building is intended to enable a recipient to reduce the time the recipient needs to dedicate to seeking operational funding, thereby giving it more time to focus their organization's purpose.

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

**APPENDIX D
COMMUNITY DEVELOPMENT FINANCE AUTHORITY (CDFA)
RESPONSE TO THE LBA ASSESSMENT OF SELECT COMMUNITY
DEVELOPMENT INVESTMENT PROGRAM PROJECTS**

CDFA Response - Observation No. 1			
Project Name	LBA assessment - met statutory purpose? (Y/N)	CDFA Assessment	RSA 162-L Reference
TCCAP: Working Capital Stabilization Project	N	Emergency funding for north country social service agency in crisis to preserve critical services like Meals On Wheels and heating assistance to low-income clients in Carroll, Coös, and Grafton counties. The award helped retain a large number of jobs at the nonprofit.	Direct benefit to low-income people and jobs retained.
Red River Theatres Digital Conversion	N	Convert to industry standard at independent, nonprofit theatre with proven track record in sparking economic activity. The grant retained 4 full-time and 13 part-time positions. This nonprofit's forecast annual economic impact to downtown Concord is \$900,000, based on a market study.	Contributes to economic well-being of target area.
Bow Highlands II (CATCH)	Y	Acquire land and rights to develop 16 units of affordable housing for low- and moderate-income people.	Provides affordable housing for low- and moderate-income people.
Housing Futures Fund	Y	Provides capacity funding to statewide network of nonprofit affordable housing developers who created 180 units of affordable housing throughout the state in the prior year.	Facilitates development of affordable housing opportunities for people of low- and/or moderate-income.
Palace Theatre	N	Fund critical safety measures at cultural economic driver at risk of closure due to code non-compliance. The organization provides a \$5,365,308 impact direct, indirect and induced economic benefit to the city of Manchester annually. (Economic Impact of the Palace Theatre 2009, SNHU)	Contributes to economic well-being of target area.
Cotton Mill Square	Y	Rehabilitation of city center empty cotton mill for reuse as affordable housing. The project will create 55 units of affordable workforce housing and 55 units of market rate housing in downtown Nashua. The project also provides flood mitigation for more than 70 buildings along the Nashua River.	Creates affordable housing, addresses blight and downtown redevelopment.

Project Name	LBA assessment - met statutory purpose? (Y/N)	CDFA Assessment	RSA 162-L Reference
Peterborough Players On-campus Housing	N	Project will provide 28 units of housing for "players" in Peterborough. It will save the nonprofit \$25,000-30,000 per year in housing and transportation costs. This organization has an economic impact of \$769,000 on the local community. (Arts and Prosperity III study of the Economic Impact of Nonprofit Arts and Culture Organizations and Audiences in New Hampshire's Monadnock Region, Copyright 2009 by Americans for the Arts)	Cultural organization contributes to economic well-being of target area.
Hollow Neighborhood Revitalization Project	N	Redevelopment of 20 year abandoned structure in low-income urban neighborhood for the purposes of consolidating services, including workforce development, job placement and refugee ESL programs. This building is a key component of a \$16 million federal Neighborhood Stabilization Program to target areas of blight and distressed or abandoned buildings.	Reduces blight and reliance on public assistance.
801 Elm Street Downtown Revitalization (NeighborWorks Southern NH)	N	Assist nonprofit affordable housing organization acquire downtown building to serve as a permanent location for the nonprofit's business and direct service operations, including the homeownership center. This project also addresses documented disinvestment and increased vacancy in downtown second story office space.	Creates access to first-time homebuyer center, stabilizes nonprofit affordable housing developer's operating costs and invests in downtown economic health.
Lakes Region High School Internship Program (Belknap County Economic Council)	N	Support the development and implementation of an accessible on-line internship and job shadow database for six Lakes Region high schools and their students. Goals: reduce poverty by introducing students to high quality employment opportunities, retain young talent in the region and increase the number of entry level workers in select industries such as advanced manufacturing. More than 210 students are expected to benefit from this school-to-work initiative.	Contributes to the economic well-being of target area and target population - the Lakes Region and high school students (future employees).
Enterprise Center at Plymouth II	N	Business and micro-business incubator serving the White Mountains gateway region.	Contributes to economic well-being of target area.
Prescott Park Pavilion	N	Arts nonprofit drawing 1,000s of people to the city center, to add commissary capacity to increase revenue and amenities to encourage attendance.	Contributes to economic well-being of target area.
Friendly Kitchen	N	Construction of community soup kitchen in Capitol City serving an average of 133 meals a day to homeless and low-income.	Reduces reliance on public assistance.
FastRoads II	N	Bring broadband to 220 businesses and 55,000 residents in underserved communities in Cheshire, Sullivan and Hillsborough Counties.	Contributes to economic well-being of target area.

Project Name	LBA assessment - met statutory purpose? (Y/N)	CDFA Assessment	RSA 162-L Reference
Boys & Girls Club of Greater Concord Bradley Street Clubhouse Rebuild	N	Expand units of affordable childcare for low-income working families.	Reduces public assistance and contributes to the economic well-being of target population.
Lisbon Pool	N	In a northern community with 72% of population low-and/or moderate-income, provide for a safe and ADA accessible recreation facility for public use and meet requirements put in place by the NHDES, due to a water leak.	This project provides a public benefit through improved standard of living and development that affects economic well-being of the target area.
Jean's Playhouse II	N	Fit-up for community theater located in Lincoln to establish four season destination for tourists and area residents.	Contributes to economic well-being of target area.
Belknap County Economic Development Council	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Capital Regional Development Council	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Coastal Economic Development Council	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Coos Economic Development Corporation	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Grafton County Economic Development Council	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Monadnock Economic Development Council	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Mt. Washington Valley Economic Council	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.

Project Name	LBA assessment - met statutory purpose? (Y/N)	CDFA Assessment	RSA 162-L Reference
Regional Economic Development Center	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Strafford Economic Development Corporation	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Wentworth Economic Development Corporation	Y	Capacity funds for regional economic development organization providing business support and lending services.	Addresses job creation and economic well-being of target area.
Asset Building and Quality Improvement for Early Childhood	N	Pilot project to reduce or stabilize costs for child care centers through shared services, training and operations resources. Goals: strengthen child care programs and reduce or stabilize fees to working families.	Reduces reliance on public assistance and contributes to economic well-being of target populations.

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

**APPENDIX E
COMMUNITY DEVELOPMENT INVESTMENT PROGRAM AWARDS,
STATE FISCAL YEAR 2013**

Recipient Location ¹ Scope of Project	Aggregate Amount Of Awards Amount By Project	Number Of Awards
Berlin	\$ 125,000	1
Provide working capital for basic operations to Community Action Program	125,000	1
Concord	2,374,865	7
Build nonprofit housing organization capacity	21,115	1
Fund digital movie theatre projection upgrade	125,000	1
Construct 16 units of affordable housing	935,000	1
Construct a soup kitchen	300,000	1
Renovations and expansion of nonprofit corporation facility	700,000	1
Organizational capacity funding ²	25,000	1
Salary for project director of organizational development and administrative services for child development consortium	268,750	1
Conway	25,000	1
Organizational capacity funding ²	25,000	1
Dover	25,000	1
Organizational capacity funding ²	25,000	1
Exeter	25,000	1
Organizational capacity funding ²	25,000	1
Keene	325,000	2
Organizational capacity funding ²	25,000	1
Additional funding for Broadband access via residential and commercial connections	300,000	1
Laconia	175,000	2
Develop online internship and job-shadowing database for six high schools	150,000	1
Organizational capacity funding ²	25,000	1
Lancaster	16,000	1
Organizational capacity funding ²	16,000	1
Lincoln	250,000	1
Additional funding for construction of a community arts theatre	250,000	1
Lisbon	200,000	1
Reconstruct nonprofit corporation pool and bath house, including accessibility	200,000	1
Manchester	2,300,000	4
Theater building upgrades, including safety code and repointing	500,000	1
Purchase and renovation of a downtown building for mixed commercial and nonprofit use	300,000	1

Recipient Location ¹ Scope of Project	Aggregate Amount Of Awards Amount By Project	Number Of Awards
Manchester (Continued)	2,300,000	4
Funding to reuse abandoned cotton mill, including 55 low-income and 54 market-rate housing	1,000,000	1
Repairs and interior renovations to non-residential public facility	500,000	1
North Hampton	25,000	1
Organizational capacity funding ²	25,000	1
Peterborough	155,000	1
Build housing for up to 28 seasonal theater employees	155,000	1
Plymouth	225,000	2
Additional funding for construction of a business incubator	200,000	1
Organizational capacity funding ²	25,000	1
Portsmouth	250,000	1
Renovation of a park pavilion and purchase of new kitchen equipment	250,000	1
Wolfeboro	21,000	1
Organizational capacity funding ²	21,000	1
Grand Total	\$ 6,516,865	28

Notes:

¹ Sub-recipient location many differ from recipient location.

² Funding for capacity building is intended to enable a recipient to reduce the time the recipient needs to dedicate to seeking operational funding, thereby giving it more time to focus their organization's purpose.

Source: Community Development Finance Authority Grants Management System data.

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

**APPENDIX F
SELECTED COMMUNITY DEVELOPMENT BLOCK GRANT PROJECTS ACTIVE
DURING STATE FISCAL YEAR 2013**

Recipient Location Scope Of Project	Aggregate Amount Of Awards Amount By Project	Number Of Awards
Belmont	\$ 12,000	1
Infrastructure Study	12,000	1
Berlin	500,000	1
Affordable Housing	500,000	1
Boscawen	1,500,000	4
Affordable Housing	1,000,000	3
Public Infrastructure	500,000	1
Brentwood	500,000	1
Private Business Expansion	500,000	1
Concord	512,000	2
Community Resource Renovation/Expansion	500,000	1
Community Resource Improvement Study	12,000	1
Conway	266,342	1
Buy-out Flood Prone Homes	266,342	1
Farmington	480,000	1
Private Business Expansion	480,000	1
Goffstown	250,000	1
Community Resource Renovation/Expansion	250,000	1
Gorham	12,000	1
Infrastructure Study	12,000	1
Greenville	208,776	1
Public Infrastructure	208,776	1
Haverhill	200,000	1
Regional Planning	200,000	1
Keene	1,900,000	4
Affordable Housing	500,000	1
Private Business Expansion	900,000	2
Public Infrastructure	500,000	1
Laconia	640,000	2
Community Resource Renovation/Expansion	500,000	1
Purchase Equipment For Community College	140,000	1
Marlborough	492,500	1
Affordable Housing	492,500	1
Milford	388,800	1
Affordable Housing	388,800	1
Newport	220,000	1
Regional Planning	220,000	1
Pittsburg	500,000	1
Public Infrastructure	500,000	1

Recipient Location Scope Of Project	Aggregate Amount Of Awards Amount By Project	Number Of Awards
Plymouth	152,000	2
Infrastructure Study	12,000	1
Private Business Expansion	140,000	1
Rindge	100,000	1
Private Business Expansion	100,000	1
Salem	320,000	1
Private Business Expansion	320,000	1
Swanzy	300,000	1
Public Infrastructure	300,000	1
Warner	350,000	1
Public Infrastructure	350,000	1
Wolfeboro	500,000	1
Affordable Housing	500,000	1
Grand Total	\$ 10,304,418	32

Source: Community Development Finance Authority Grants Management System data.

**STATE OF NEW HAMPSHIRE
COMMUNITY DEVELOPMENT FINANCE AUTHORITY**

**APPENDIX G
14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
STATE FISCAL YEARS 2013 AND 2012 FINANCIAL STATEMENTS**

*14 DIXON AVENUE
DEVELOPMENT COMPANY, LLC
FINANCIAL STATEMENTS
FOR THE FISCAL YEARS ENDED
JUNE 30, 2013 AND 2012*

INDEX TO FINANCIAL STATEMENTS

Independent Auditor's Report.....	1-2
Balance Sheets	3
Statements of Income and Member's Equity	4
Statements of Cash Flows	5
Notes to Financial Statements.....	6-12



MASON + RICH

PROFESSIONAL ASSOCIATION
Certified Public Accountants
INDEPENDENT AUDITOR'S REPORT

To the Member of
 14 Dixon Avenue Development Company, LLC
 Concord, New Hampshire 03301

Report on the Financial Statements

We have audited the accompanying financial statements of 14 Dixon Avenue Development Company, LLC, which comprise the balance sheets as of June 30, 2013 and 2012, and the related statements of income and member's equity and cash flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Basis for Qualified Opinion

The Company's financial statements do not report, at fair market value, the derivative instruments as noted in Note D. In our opinion, disclosure of that information is required to conform with accounting principles generally accepted in the United States of America.

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Qualified Opinion

In our opinion, except for the effects of not reporting the derivative instruments at fair market value as discussed in the preceding paragraph, the financial statements referred to above present fairly, in all material respects, the financial position of 14 Dixon Avenue Development Company, LLC as of June 30, 2013 and 2012, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Respectfully submitted,

MASON + RICH PROFESSIONAL ASSOCIATION
Certified Public Accountants

September 10, 2013

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC

BALANCE SHEETS

JUNE 30, 2013 AND 2012

ASSETS		
	2013	2012
CURRENT ASSETS		
Cash	\$ 3,455	\$ 13,278
Accounts Receivable	2,564	185
Prepaid Insurance	8,729	8,027
Deferred Income Tax Benefit	97,560	75,058
<i>Total Current Assets</i>	<u>112,308</u>	<u>96,548</u>
PROPERTY AND EQUIPMENT		
Property and Equipment	1,943,193	1,929,661
Less Accumulated Depreciation	(406,958)	(363,963)
<i>Net Property and Equipment</i>	<u>1,536,235</u>	<u>1,565,698</u>
TOTAL ASSETS	<u>\$ 1,648,543</u>	<u>\$ 1,662,246</u>
LIABILITIES AND MEMBER'S EQUITY		
CURRENT LIABILITIES		
Accounts Payable	\$ 8,147	\$ 17,477
Current Portion of Long-Term Debt	53,244	53,658
Accrued Interest	4,335	4,335
Due to Related Party	401,301	294,779
<i>Total Current Liabilities</i>	<u>467,027</u>	<u>370,249</u>
LONG-TERM LIABILITIES		
Long-Term Debt, Net of Current Portion	1,013,840	1,067,583
Security Deposits and Deferred Rent	12,734	14,074
Deferred Income Taxes	-	395
<i>Total Long-Term Liabilities</i>	<u>1,026,574</u>	<u>1,082,052</u>
TOTAL LIABILITIES	<u>1,493,601</u>	<u>1,452,301</u>
MEMBER'S EQUITY	<u>154,942</u>	<u>209,945</u>
TOTAL LIABILITIES AND MEMBER'S EQUITY	<u>\$ 1,648,543</u>	<u>\$ 1,662,246</u>

The Accompanying Notes are an Integral Part of These Financial Statements

- Page 3 -

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
 STATEMENTS OF INCOME AND MEMBER'S EQUITY
 FOR THE YEARS ENDED JUNE 30, 2013 AND 2012

	2013	2012
REVENUE		
Rental Income	\$ 241,431	\$ 246,043
Parking Income	40,221	41,645
Total Revenue	<u>281,652</u>	<u>\$ 287,688</u>
OPERATING EXPENSES		
Administration Fees - Related Party	72,000	72,000
Depreciation	42,996	45,084
NH Business Enterprise Tax	516	578
Office Supplies	1,233	1,257
Professional Fees	4,804	7,546
Property Operating Costs	41,453	57,516
Property Taxes	75,837	62,667
Rental Management Fees	12,220	16,070
Utilities	32,274	34,464
Total Operating Expenses	<u>283,333</u>	<u>297,182</u>
LOSS FROM OPERATIONS	<u>(1,681)</u>	<u>(9,494)</u>
OTHER INCOME (EXPENSE)		
Other Income	-	54
Interest Expense	(70,510)	(73,341)
Total Other Expense	<u>(70,510)</u>	<u>(73,287)</u>
LOSS BEFORE INCOME TAXES	<u>(72,191)</u>	<u>(82,781)</u>
PROVISION FOR INCOME TAXES		
Current Income Taxes	5,709	-
Deferred Income Tax Benefit	(22,897)	(21,618)
Total Provision for Income Taxes	<u>(17,188)</u>	<u>(21,618)</u>
NET LOSS	(55,003)	(61,163)
MEMBER'S EQUITY, BEGINNING OF YEAR	<u>209,945</u>	<u>271,108</u>
MEMBER'S EQUITY, END OF YEAR	<u>\$ 154,942</u>	<u>\$ 209,945</u>

The Accompanying Notes are an Integral Part of These Financial Statements

-Page 4 -

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC

STATEMENTS OF CASH FLOWS

FOR THE YEARS ENDED JUNE 30, 2013 AND 2012

	2013	2012
CASH FLOWS FROM OPERATING ACTIVITIES		
Net Loss	\$ (55,003)	\$ (61,163)
Adjustments to Reconcile Loss to Net Cash Provided by (Used in) Operating Activities:		
Depreciation	42,996	45,084
Deferred Income Taxes	(22,897)	(21,618)
(Increase) Decrease in Operating Assets:		
Accounts Receivable	(2,379)	(10)
Prepaid Insurance	(702)	(2,653)
Increase (Decrease) in Operating Liabilities:		
Accounts Payable	(9,331)	4,100
Accrued Interest	-	(727)
Security Deposits and Deferred Rent	(1,340)	8,685
Total Adjustments	<u>6,347</u>	<u>32,861</u>
<i>Net Cash Used in Operating Activities</i>	<u>(48,656)</u>	<u>(28,302)</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Property and Equipment Purchases	<u>(13,532)</u>	-
<i>Net Cash Used in Investing Activities</i>	<u>(13,532)</u>	-
CASH FLOWS FROM FINANCING ACTIVITIES		
Repayment of Long-Term Debt	(54,157)	(50,670)
Due to Related Party	<u>106,522</u>	<u>80,757</u>
<i>Net Cash Provided by Financing Activities</i>	<u>52,365</u>	<u>30,087</u>
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	\$ (9,823)	\$ 1,785
<i>Cash and Equivalents, Beginning of Year</i>	<u>13,278</u>	<u>11,493</u>
<i>Cash and Equivalents, End of Year</i>	<u>\$ 3,455</u>	<u>\$ 13,278</u>
Supplemental Disclosure of Cash Flow Information		
Cash Paid During the Year For:		
Income Taxes	<u>\$ 5,709</u>	<u>\$ 578</u>
Interest	<u>\$ 70,510</u>	<u>\$ 74,068</u>

The Accompanying Notes are an Integral Part of These Financial Statements

-Page 5 -

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
NOTES TO FINANCIAL STATEMENTS

A | ORGANIZATION AND NATURE OF OPERATIONS

14 Dixon Avenue Development Company, LLC is a limited liability company which owns commercial real estate property located in Concord, New Hampshire and leases units and parking spaces to tenants.

B | SUMMARY OF ACCOUNTING POLICIES

This summary of significant accounting policies of 14 Dixon Avenue Development Company, LLC (the Company) is presented to assist in understanding these financial statements. The financial statements and notes are the representations of the Company's management who are responsible for their integrity and objectivity. These accounting policies conform to generally accepted accounting principles (GAAP), except for not reporting derivative instruments at fair market value as disclosed in Note D, and have been consistently applied in the preparation of the financial statements.

Basis of Accounting

The Company uses the accrual basis of accounting for financial statements. Under this basis, revenue is recognized when earned rather than when payment is received, and expenses and purchases of assets are recognized when the obligation is incurred rather than when the cash is disbursed.

Use of Estimates

The preparation of financial statements and related disclosures in conformity with generally accepted accounting principles accepted in the United States requires management to make estimates and assumptions that affect certain amounts reported in the financial statements and accompanying notes. Actual results experienced by the Company may differ from management's estimates.

Cash and Cash Equivalents

For purposes of the statement of cash flows, cash includes cash on hand, funds on deposit with financial institutions, and investments with original maturities of three months or less.

Derivative Instruments

The Company uses derivatives to manage risks related to interest rate movements. Interest rate swap contracts designated and qualifying as cash flow hedges are settled monthly. The effective portion of the hedge is recognized in earnings. The Company's interest rate risk management strategy is to stabilize cash flow requirements by maintaining interest rate swap contracts to convert variable-rate debt to a fixed rate.

Accounts Receivable

Accounts receivable are stated at the amount management expects to collect from outstanding balances. Management evaluates the collectability of customer accounts by considering factors such as historical experience, the age of the accounts receivable balance, and current economic conditions that may affect a customer's ability to pay. Past due receivables are written off at management's discretion using the direct write off method; this is not considered a departure from accounting principles generally accepted in the United States because the effects of the direct write off method approximate those of the allowance method. The Company does not charge interest on accounts receivable.

(Continued on next page)

- Page 6 -

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
NOTES TO FINANCIAL STATEMENTS

Property and Equipment

The Company's policy is to capitalize individual purchases, renewals and betterments of property and equipment in excess of \$5,000. Maintenance, repairs and minor renewals are charged to expense as incurred. Periodically, management evaluates property and equipment for impairment when events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. When items of property and equipment are sold or retired, the related cost and accumulated depreciation are removed from the accounts and any gain or loss is included in the statements of income. These items are depreciated using the straight-line method over their estimated useful lives as follows:

Equipment	5 - 10 Years
Building and Building Improvements	3 - 39 Years

Income Taxes

Federal and state income taxes are provided for the tax effects of transactions reported in the financial statements and consist of taxes currently due plus deferred taxes. Deferred tax assets and liabilities are recognized for the expected tax consequences of temporary differences between the tax basis of assets and liabilities and their reported amounts. Valuation allowances are recorded to reduce deferred tax assets to the amount that will more likely than not be realized.

Management evaluates its tax positions in accordance with FASB ASC 740-10, *Accounting for Uncertain Tax Positions*. The Company's policy is to recognize interest and penalties related to unrecognized tax benefits as tax expense.

C | CONCENTRATIONS

The Company maintains substantially all its cash in one financial institution. The account is secured by the Federal Deposit Insurance Corporation (FDIC).

Major Customer/Lender

The Company rents space to the Member on a month to month basis as disclosed in Note G. Total rent payments from the related party were \$100,260 and approximately 42% of rent revenue for the years ended June 30, 2013 and 2012. Additionally, the Company has an amount that is owed to the Member which is used to help fund operations. See Note G for additional information about the amount owed to the Member.

D | DERIVATIVE INSTRUMENTS

As disclosed in Note F, the note payable to a bank bears interest monthly at the one month LIBOR (London Interbank Offered Rate) plus 1.5%. To minimize the effect of changes in the LIBOR, the Company entered into an interest rate swap contract under which it pays interest at a fixed 6.34% and receives interest at the LIBOR rate plus 1.5%. The arrangement is scheduled to expire on August 9, 2015. The notional amount of the contract was \$1,500,000. Accordingly, the swap arrangement is classified as a cash flow hedge.

(Continued on next page)

- Page 7 -

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
NOTES TO FINANCIAL STATEMENTS

The derivative instrument is not being reported at fair market value, which is a departure from accounting principles generally accepted in the United States of America.

E | PROPERTY AND EQUIPMENT

At June 30, property and equipment and the related accumulated depreciation was comprised of the following:

	<u>2013</u>	<u>2012</u>
Equipment	\$ 12,435	\$ 12,435
Land	637,000	637,000
Building	1,183,000	1,183,000
Building Improvements	<u>110,758</u>	<u>97,226</u>
Total	1,943,193	1,929,661
Less Accumulated Depreciation	<u>(406,958)</u>	<u>(363,963)</u>
Net Depreciated Value	<u>\$ 1,536,235</u>	<u>\$ 1,565,698</u>

F | LONG-TERM DEBT

	<u>2013</u>	<u>2012</u>
Note payable to a bank, payable in monthly installments of \$3,533 (adjusted annually) plus interest adjusted by a swap agreement with a fixed rate of 6.34%, adjusted by the difference between the fixed amount and a rate of interest equal to the one month LIBOR plus 1.5%, secured by the certain real property and improvements located at 14 Dixon Avenue and interest in certain rents and profits.	\$ 1,067,084	\$ 1,121,241
Less Current Portion of Long-Term Debt	<u>(53,244)</u>	<u>(53,658)</u>
Long-Term Debt, Net of Current Portion	<u>\$ 1,013,840</u>	<u>\$ 1,067,583</u>

Maturities of Long-Term Debt are as follows:

<u>Years Ending June 30,</u>	
2014	\$ 53,244
2015	54,177
2016	55,127
2017	56,093
2018	57,076
Thereafter	<u>738,123</u>
Total Long-Term	<u>\$ 1,013,840</u>

(Continued on next page)

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
NOTES TO FINANCIAL STATEMENTS

The term loan agreement contains covenants including the maintenance of certain ratios of the Company at its fiscal year-end. Under the covenant for the term loan agreement, the Company must maintain a minimum debt service coverage ratio of 1.25:1. The Company was not in compliance of its debt service coverage ratio covenant at June 30, 2013 and 2012, for which it received a waiver of the covenant by the bank.

G | RELATED PARTY TRANSACTIONS

The Company leases space to the Member on a month to month basis. The rent was \$8,355 per month for the years ended June 30, 2013 and 2012. Related party rental income for the years ended June 30, 2013 and 2012 was \$100,260.

The Company also pays a monthly management fee to the Member. The fee was \$6,000 per month for the years ended June 30, 2013 and 2012. Management fees for the years ended June 30, 2013 and 2012 were \$72,000.

The Company has an amount due to the Member in the amount of \$401,301 and \$294,779 as of June 30, 2013 and 2012, respectively.

H | LEASING ARRANGEMENTS

As disclosed in Note G, the Company leases space to a related party on a month to month basis.

Additionally, the Company leases commercial office space to a number of unrelated tenants. The terms of the leases vary by tenant; however, all leases require the monthly payment of a base rent as well as a proportionate share of operating expenses. The proportionate share is calculated based upon square footage as a percentage of total rentable space. The terms of the leases and a summary of future minimum rental incomes is presented on page 10.

(Continued on next page)

- Page 9 -

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
NOTES TO FINANCIAL STATEMENTS

Tenant	Lease Term	2014	2015	2016	2017	Total
Lease - Related Party	Month-to-month	\$ -	\$ -	\$ -	\$ -	\$ -
Lease A	05/01/12 - 04/30/17	12,772	13,742	14,550	12,125	53,189
Lease B	09/01/11 - 08/31/13	2,978	-	-	-	2,978
Lease C	Month-to-month	-	-	-	-	-
Lease D	10/01/10 - 09/30/15	16,000	16,000	4,000	-	36,000
Lease E	Month-to-month	-	-	-	-	-
Lease F	11/01/10 - 10/31/13	2,500	-	-	-	2,500
Lease G	07/01/11 - 06/30/14	38,400	-	-	-	38,400
Lease H	Unoccupied	-	-	-	-	-
Totals		<u>\$ 72,650</u>	<u>\$ 29,742</u>	<u>\$ 18,550</u>	<u>\$ 12,125</u>	<u>\$ 133,067</u>

(Continued on next page)
- Page 10 -

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
NOTES TO FINANCIAL STATEMENTS

I | INCOME TAXES

The Company has elected to be taxed under the provisions of Subchapter C of the Internal Revenue Code.

The provision for income taxes includes:

	<u>2013</u>	<u>2012</u>
Federal Income Tax Expense	\$ 5,709	\$ -
Deferred Income Tax Benefit	<u>(22,897)</u>	<u>(21,618)</u>
Net Income Tax Benefit	<u>(\$ 17,188)</u>	<u>(\$ 21,618)</u>

Deferred income taxes are provided for timing differences between financial statement and income tax reporting, principally from the use of accelerated depreciation and cash basis reporting for income tax purposes.

Deferred Income Taxes

The Company's federal deferred tax assets and deferred tax liabilities at June 30 are as follows:

	<u>2013</u>	<u>2012</u>
Total Short-Term Deferred Tax Assets	<u>\$ 61,943</u>	<u>\$ 47,909</u>
Total Long-Term Deferred Tax Liabilities	<u>-</u>	<u>(1,761)</u>

The Company's state deferred tax assets and deferred tax liabilities at June 30, are as follows:

Total Short-Term Deferred Tax Assets	<u>\$ 35,617</u>	<u>\$ 27,149</u>
Total Long-Term Deferred Tax Assets	\$ -	\$ 1,601
Total Long-Term Deferred Tax Liabilities	<u>-</u>	<u>(235)</u>
Net Long-Term Deferred Tax Asset	<u>\$ -</u>	<u>\$ 1,366</u>

(Continued on next page)

- Page 11 -

14 DIXON AVENUE DEVELOPMENT COMPANY, LLC
NOTES TO FINANCIAL STATEMENTS

For the year ended June 30, 2013 and 2012, management has evaluated its tax positions in accordance with financial accounting standards board (FASB) accounting standards codification (ASC) 740-10, *accounting for uncertain tax positions*. The Company's management does not believe they have taken uncertain tax positions, therefore, a liability for income taxes associated with uncertain tax positions has not been recognized. Additionally, the Company did not recognize interest or penalties resulting from tax liabilities associated with recognizing uncertain tax positions for the years ended June 30, 2013 and 2012.

The Company conducts business locally and, as a result, files federal and State of New Hampshire tax returns. In the normal course of business, the Company is subject to examination by taxing authorities. With few exceptions, the Company is no longer subject to federal or State of New Hampshire income tax examinations for years before 2009.

J | RECLASSIFICATION

Certain amounts in the 2012 financial statements have been reclassified to conform to the 2013 presentation.

K | SUBSEQUENT EVENTS

Management has evaluated subsequent events through September 10, 2013, the date which the financial statements were available to be issued, and has not evaluated subsequent events after that date. The Company did not identify any subsequent events that would require disclosure in the financial statements.