

STATE OF NORTH CAROLINA

INVESTIGATIVE REPORT

**NORTH CAROLINA DEPARTMENT OF CRIME CONTROL AND
PUBLIC SAFETY**

GOVERNOR'S CRIME COMMISSION

TOWN OF EAST SPENCER

JULY 2011

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

STATE AUDITOR

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Beth A. Wood, CPA
State Auditor

STATE OF NORTH CAROLINA
Office of the State Auditor

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AUDITOR'S TRANSMITTAL

The Honorable Beverly Perdue, Governor
Members of the North Carolina General Assembly
Reuben Young, Secretary, North Carolina Department of Crime Control and Public Safety
Scott Thomas, Chairperson, Governor's Crime Commission
John Cowan, Mayor, Town of East Spencer

Ladies and Gentlemen:

Pursuant to North Carolina General Statute § 147-64.6(c)(16), we have completed our investigation of allegations concerning a grant awarded by the North Carolina Department of Crime Control and Public Safety's Governor's Crime Commission to the Town of East Spencer. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General and other appropriate officials in accordance with North Carolina General Statute § 147-64.6 (c) (12).

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

July 14, 2011

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INTRODUCTION

The Office of the State Auditor was contacted by the North Carolina Department of Crime Control and Public Safety's Governor's Crime Commission (Commission) after becoming concerned with the Town of East Spencer's (Town) failure to submit timely and accurate cost reports. In June 2009, the Town received a two-year grant award for \$539,834 from the Commission. Allegedly, the Town's grant administrator submitted cost reports late with information that was inaccurate and inconsistent with the approved grant budget. As a result of these concerns, the Commission suspended further grant payments pending the results of this investigation.

To conduct our investigation, we performed the following procedures:

- Review of applicable North Carolina General Statutes and grant policies and procedures
- Examination of relevant documents and records related to the grant award
- Interviews with current and former Town officials and employees, Town Council members, and Commission officials responsible for overseeing the grant

This report presents the results of our investigation. It was conducted pursuant to North Carolina General Statute § 147-64.6 (c) (16).

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ORGANIZATION OVERVIEW

North Carolina Governor’s Crime Commission

The Governor’s Crime Commission (Commission) serves as the chief advisory body to the Governor and the Secretary of the Department of Crime Control and Public Safety on crime and justice issues. The Commission has 44 members, including heads of statewide criminal justice and human service agencies and representatives from the courts, law enforcement, local government, the General Assembly, and private citizens.

The Commission sets program priorities, reviews applications, and makes recommendations to the Governor for the State’s criminal justice and juvenile justice Federal block grants.¹ Federal block grants are awarded each year to government, education, and social service agencies to start new and innovative programs in the areas of Criminal Justice System Improvement, Crime Victims’ Services, and Juvenile Justice Planning.

The Commission also administers the grants that it awards. The Commission’s Grants Management Section oversees Federal grants that are administered by the Commission, assuring that money is spent in accordance with both Federal and State regulations. Individual grant managers oversee grants within their assigned area and provide technical assistance to grantees. Grant managers process cost reports, grant adjustments, and other required reports; monitor cash flows to ensure the projects are on-schedule financially; and perform on-site monitoring to ensure the grantees are in compliance with various guidelines. Finally, grant managers recommend grant funding increases or decreases to the Grants Management Section Director.

The Town of East Spencer

The Town of East Spencer (Town) is located in Rowan County and is approximately 50 miles north of Charlotte, North Carolina. The Town was incorporated in 1901 and, as of the 2010 United States Census, had a population of 1,534. The Town of East Spencer’s leadership structure is established as a “mayor-council” model of government and consists of a Mayor who serves two-year terms and a six-member council called the “Board of Aldermen.” (Council)

A Mayor Pro-Tem is appointed by the Mayor from among the six Council members. The Council members each serve a four-year term on a staggered basis with one-half of the Council up for election each election cycle. The Town employs a Town Administrator to supervise all departments.²

¹ The Federal government awards block grants to state and local governments in a lump sum for a specific issue or problem. The local/state governments set up more specific granting guidelines within their own jurisdictions for making smaller grants to various agencies and non-profits. The local government creates and manages a process to identify local needs and for coordinating the grant-making process, monitoring, and evaluating the outcomes. <http://nonprofit.about.com/od/b/g/blockgrant.htm>

² <http://www.sog.unc.edu/pubs/FOG/view.php>

ORGANIZATION OVERVIEW (CONCLUDED)

The East Spencer Gang Prevention Grant

The East Spencer Gang Prevention Grant was awarded by the Commission to fund a project targeted to youth ages 7 to 14 that may be at risk for joining a gang. It is a preventive model and the project was essentially an after-school program. The program is designed to show participants how to recognize a gang problem and address the issues related to gangs. It also provides activities that encourage community organization and participation; collaboration with schools, criminal justice, social services, and community agencies; and development and implementation of long-term strategies, short-range suppression, and outreach activities to assist in preventing gang involvement.

The East Spencer Gang Prevention Grant was funded under the “2008-09 North Carolina Street Gang Prevention and Intervention Grant Initiative”³ which was created by North Carolina Senate Bill 1358 during the 2007-08 Session of the General Assembly.⁴ The Edward Byrne Memorial Justice Assistance Grant Program provided the funding for the East Spencer Gang Prevention Grant.

The Town’s Project Director presented the Gang Prevention Grant opportunity to Town officials and she suggested that she write the grant proposal to be submitted to the Commission. At its December 1, 2008 meeting, the Council authorized, by unanimous vote of Council members present, the Project Director to apply for the Gang Prevention Grant. On July 20, 2009, the Commission awarded the grant to the Town.

The Edward Byrne Memorial Justice Assistance Grant Program

The Edward Byrne Memorial Justice Assistance Grant (JAG) is the primary provider of Federal criminal justice funding to state and local jurisdictions. According to the JAG Program Fiscal Year 2009 Solicitation document produced by the United States Department of Justice’s Bureau of Justice Assistance, these funds may be used for activities that “improve or enhance” principal “purpose areas” such as law enforcement programs, prosecution or court programs, prevention and education programs, and corrections and community corrections programs.

The JAG Program allows states and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends the previous Byrne Formula and Local Law Enforcement Block Grant Programs to provide agencies with the flexibility to prioritize and place Department of Justice funds where they are needed most.⁵

³ <http://www.nccrimecontrol.org/Index2.cfm?a=000003,000011,000601,001774>

⁴ <http://www.ncga.state.nc.us/Sessions/2007/Bills/Senate/PDF/S1358v5.pdf>

⁵ http://www.ojp.usdoj.gov/BJA/pdf/JAG_Fact_Sheet.pdf

FINDINGS AND RECOMMENDATIONS

1. THE COMMISSION APPROVED A GRANT APPLICATION THAT INCLUDED ITEMS THAT WERE UNALLOWABLE ACCORDING TO GRANT REGULATIONS.

On July 20, 2009, the Governor's Crime Commission (Commission) approved a \$332,184.75 grant award for gang prevention to the Town of East Spencer (Town) that represented the first year of a two-year grant award that totaled \$539,834. The Commission approved the Town's grant proposal with the items that it later disallowed even though these items were clearly identified in the budget and narrative of the approved proposal. While Commission officials described to us a detailed, thorough review process of grant applications, the grant was approved with unallowable items clearly included. These items were not allowable in accordance with the Commission's own grant regulations.

Commission officials could not fully explain how the grant was approved with unallowable costs included given their extensive review process. Commission officials indicated that this grant was awarded during a time that there was an emphasis on getting grant dollars out to grantees as part of the Federal economic stimulus initiative. Therefore, the grant was approved without the Commission's normal review.

On March 30, 2010, subsequent to an on-site visit by Commission officials, Town officials were notified that numerous items contained on the grant budget were not allowable according to the grant agreement and would not be reimbursed by the Commission. As a result, future payments on the grant contract were suspended.

Board of Aldermen (Council) members and Town officials said the Project Director presented the grant opportunity as a way to provide needed equipment and personnel for the Town's Police and Fire Departments. As a result, the Project Director asked the Police Chief to submit a list of desired equipment and personnel needs without restrictions. On December 1, 2008, the Council authorized the Project Director to proceed with applying for the Gang Prevention Grant. At that time, there was no discussion about the need to only include equipment or personnel that would be related to gang prevention activities. The Police Chief said that he believed the grant was for equipment that was needed above and beyond what the Town could furnish in its regular budget and not necessarily specific to gang prevention.

The Project Director completed and submitted to the Commission on January 31, 2009 the grant pre-application that included a proposed budget and narrative of program activities. The narrative clearly indicated the Town's intention to use the Fire Department to perform some grant activities. The grant pre-application stated "...police and fire department equipment and personnel will be addressed to serve and protect the community by the utilization of improved fire protection from arson and increased police patrols creating a greater visibility of personnel on nights and weekends." In addition, the budget included an allocation for two part-time, weekend firefighter positions as well as some fire-related equipment and extra police equipment plus physical exams for 35 employees.

FINDINGS AND RECOMMENDATIONS (CONTINUED)

On March 31, 2009, the Commission sent the Town's Project Director a letter that stated, "the Governor's Crime Commission is pleased to inform you that your pre-application East Spencer Gang Prevention Project has been selected to submit a full application." The letter instructed the Project Director to complete a new "full" application, refer to a "Special Conditions" letter that was attached, and incorporate any revisions to the pre-application that were identified.

The Special Conditions letter indicated that the only budget changes required were to "Reduce Contractual Services Costs." Also, the letter included a request to submit a job description for "each position listed that includes job title, key responsibilities, and all required day-to-day activities of that position as it directly relates to the grant." In addition, the letter instructed the Project Director to delete from the equipment category vehicles and aircraft as these items were not allowable under Office of Management and Budget Guidelines even though no vehicles or aircraft were included in the budget. There were no other statements that questioned any line-item included in the pre-application or budget.

During the November 5, 2009 on-site monitoring visit, Commission officials noted on their site visit worksheet that "...there was disagreement as to how the grant funds should be utilized. The grantee was advised concerning supplanting and given suggestions as to how they can affect change within the guidelines of the grant." Commission officials informed Town officials that changes to the budget were permitted but only after the Town submitted a "Grant Adjustment Request." In addition, Town officials were advised that the two un-filled positions listed on the approved grant budget for part-time firefighters had to be removed because they "have no direct correlation with the program or its services." This was the Commission's first notification to the Town that these positions were not allowable.

According to Commission officials, expenditures from grant funds must be spent only on gang prevention activities, personnel, and equipment. Further, Commission officials said that grant funds can not be used to "supplant" or replace any such items that would normally be included in the Town's General Fund budget.

On March 16, 2010, Commission officials conducted a follow-up visit to the Town to address continuing problems with the grant's administration. At this meeting, Commission officials noted that "the grant could only outfit and pay the salary for the two police officers, the project director, assistant project director and community gang intervention specialist." Town officials were told that if items included on the grant budget were not specifically used by the two "gang prevention" officers, they were not allowable items. On March 30, 2010, Commission officials notified the Town by letter that "[a]s a result of these findings, the East Spencer Gang Prevention Project funding [should] be suspended indefinitely..."⁶

⁶ The Commission reimbursed the Town \$41,287 prior to suspending payment. These payments were related to services of the two police officers, the Project Director and Associate Project Director, and rental of the building that housed the after-school program.

FINDINGS AND RECOMMENDATIONS (CONTINUED)

The Town relied on the approved grant and began to plan for expenditures and add positions outlined in the approved grant. There was on-going confusion within Town management as to how grant funds should be allocated; therefore, minimal grant funds were expended. However, if the Town had actually incurred expenses associated with the approved grant, especially salaries related to additional personnel, the Commission would have not reimbursed the Town for those items.

RECOMMENDATION

Commission management should review and/or incorporate additional internal controls related to review of grant applications to prevent any future approval of unallowable items in grant proposals. Conversely, grant recipients should expect that expenses incurred for any items in the approved grant application will be reimbursed.

2. THE GRANT-FUNDED POLICE OFFICERS PERFORMED LIMITED GANG PREVENTION ACTIVITIES.

The East Spencer Gang Prevention Grant included funding for two full-time police officer positions. According to Commission officials and the grant application submitted by the Town, the police officers were supposed to be engaged in gang prevention activities. However, our investigation determined that these two police officers were actually regular patrol officers and conducted little “gang prevention” activities as stipulated in the grant award.

On July 10, 2009, the Commission approved the Town’s grant application after the Town submitted job descriptions for the two police officer positions. The positions were included in the budget approved by the Commission. The job descriptions submitted to the Commission indicated that the police officers’ duties would be to “assist with all areas of the program as it relates to gang prevention” and assist in the development of preventive programs such as domestic violence prevention and Community Watch.

Commission officials told us that the Federal guidelines related to this grant stipulated that grant funds could not be used to fund positions that would normally be included in the Town’s general operating budget. Special conditions included with the grant award stated “[t]he recipient agrees that funds received under this award will not be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.”

A review of available cost reports revealed that the Town requested and received reimbursement for \$12,815.21 between September and December 2009 for salaries paid to the two police officers. An additional cost report submitted for \$4,680.62 related to the police officers’ salaries for the month of December was set aside and not reimbursed by the Commission.

FINDINGS AND RECOMMENDATIONS (CONTINUED)

Our investigation discovered that the police officers were performing regular patrol duties and had little to no involvement with the gang prevention project. The police officers said that they considered themselves “regular patrol officers” and spent no more than “three to four hours per week...probably up to an hour or so per shift” working with the gang prevention program.

The former Police Chief said that gang prevention work was not tracked any differently from regular patrol work. The police officers said that they recorded their time on a different colored timesheet from the other police officers but that the time marked was “regular patrol work” and not gang prevention work. When referring to the gang prevention program facility, one of the police officers said that, when she was at the facility, she would “take calls to avoid getting in trouble for spending too much time there.”

Our investigation also determined that a police officer paid through the grant was routinely the only officer on duty in the Town. In addition, one of the police officers also functioned as a patrol supervisor. As a result, it does not appear that the “gang prevention” officers were used solely for gang prevention duties in accordance with grant requirements. The former Police Chief said he was never informed that the officers were to be fully devoted to gang prevention work. Further, he did not believe the Town had a serious enough gang problem to justify a police officer devoted strictly to gang prevention.

We determined through our investigation that a misunderstanding existed between the Town and the Commission regarding primary duties of the police officers funded by the Gang Prevention Grant. The misunderstanding occurred because the Town’s Project Director misinterpreted the grant’s purpose and intent and communicated to Town officials the availability of funds simply for two police officer positions. Town officials believed the grant was available to supplement the Town’s General Fund and subsequently applied the grant funds to police service instead of directly to “gang prevention” activities.

Our investigation revealed no evidence that Town officials intentionally misrepresented their plans with regard to obtaining and using the grant funds for these two positions. It is clear that Town officials always intended to use the grant funds to pay for two needed patrol officers. Therefore, Town officials supplanted normal operating expenses with Federal grant funds.

RECOMMENDATION

Commission management should evaluate the appropriateness of requiring reimbursement from the Town for the grant funds expended on the police officers. In addition, Town officials should ensure that any future grant administrator has appropriate expertise and training in grant administration before applying for grants.

FINDINGS AND RECOMMENDATIONS (CONTINUED)

3. THE TOWN DID NOT COMPLY WITH GRANT REQUIREMENTS RELATED TO COST REPORTING, BUDGET CHANGES, AND PERSONNEL CHANGES.

The Town did not submit monthly cost reports in a timely manner as required by the grant agreement. Also, budgetary and personnel changes to the original grant award were not submitted to and approved by the Commission as required by the grant agreement. According to Commission officials, the monthly cost reports and change approvals provided documentation to ensure that expenditures from grant funds are spent only on gang prevention activities, personnel, and equipment.

On November 5, 2009, the Commission conducted an on-site monitoring visit and meeting with Town officials. The Mayor, Police Chief, Town Administrator, Town Clerk, Project Director, and Associate Project Director attended the meeting. According to the Grant Monitoring Site Visit Worksheet, the Project Director stated that the after-school portion of the grant activities was operational; however, there was disagreement as to how the grant funds should be utilized. The on-site monitoring worksheet indicated that Commission officials informed Town management that they could make changes to the budget but they must first submit a "Grant Adjustment Request." In addition, Commission officials stated in their comments that "the grantee has yet to submit any cost reports or grant adjustments for this grant to date."

Interviews of various Town officials and review of Council meeting minutes and recorded meetings revealed that there was continuing discussion after the grant was officially approved and awarded to the Town as to the amounts related to the two "gang prevention" officers that were included in the grant budget. The amount of base salary included was inconsistent with other officer salaries and the benefits included in the submitted budget did not adequately address the Town's expenses associated with the officers' benefit package.

In addition, there was disagreement among Town officials as to how some of the grant funds should be used. As a result, a delay in filling some positions and purchasing equipment occurred. Town officials decided to adjust the officers' base salaries and re-allocate funds from other line-items to pay the additional benefits expenses. Because of the on-going disagreements concerning how to utilize the grant funds, the Project Director was not able to obtain needed authorization to complete the required budget adjustment requests and the monthly cost reports.

On March 16, 2010, Commission officials conducted a follow-up visit to the Town to address continuing problems with the grant's administration. At that meeting, Commission officials noted that "the persons originally present during the first site visit no longer are employed with the Town of East Spencer." The change in personnel occurred for various reasons such as election results, health issues, and resignations. However, the Commission was never notified of any changes in personnel as required by the grant requirements. The Commission also cited an improper separation of duties between the Financial Officer and Authorizing Official, a concern that the program was not functioning as intended, and the Town's inability "to produce receipts and or copies of documents relating to the grant." On March 30, 2010, Commission officials notified the town by letter that "[a]s a result of these findings, the East Spencer Gang Prevention Project funding [should] be suspended indefinitely."

FINDINGS AND RECOMMENDATIONS (CONTINUED)

The need to adjust the budget resulted in discussions among Town officials as to how to best utilize the grant's funding. Town officials could never reach a consensus as to the changes and they never seemed to gain an understanding of the need to get authorization prior to implementing changes. As a result, the program activities outlined in the grant proposal never fully materialized.

Many of the problems related to meeting the grant's requirements were the result of poor communication, inadequate managerial oversight, and a misunderstanding of the grant's purpose. In addition, after initial meetings by the Commission with Town officials to discuss and correct problems, the Town experienced a staff turnover that led to further delays in filing the required reports.

RECOMMENDATION

Town management should ensure that they have a full understanding of any administrative and operational issues associated with the receipt of grant funds. The Town should also ensure that the individual charged with grant oversight has the appropriate level of expertise to properly interpret and explain grant requirements to Town officials. The Town should also ensure that it complies with the grant's requirement to submit monthly cost reports timely.

Town officials should also evaluate the line of authority and communication that exists between Town Council members and those charged with the Town's day-to-day operations. The Town should consider the need to evaluate the overall management structure and consider implementing internal controls that clearly define areas of authority and accountability.

4. TOWN OFFICIALS MADE PERSONNEL CHANGES THAT CREATED AN INADEQUATE SEGREGATION OF DUTIES.

During the grant period, the Town changed positions of authority related to the grant without notifying Commission officials as described in finding 3 above. These personnel changes created an internal control weakness because the duties of "Grant Authorizing Official" and "Grant Financial Officer" were performed by the same individual.

According to Commission officials, the roles of Grant Authorizing Official and Grant Financial Officer must be separate and distinct and may not be held by the same person. This requirement is typically in place to prevent inappropriate behavior by one individual and should be a standard internal control measure in any organization.

The approved grant application stated that the Town employed separate persons in the Town Administrator and Town Clerk roles. The Town's Administrator was identified as the Grant Authorizing Official who was responsible for the review and approval of official grant-related documents such as the "acceptance of award" documents. The Town's Clerk was identified as the Grant Financial Officer and was responsible for the completion and

FINDINGS AND RECOMMENDATIONS (CONCLUDED)

submission of the cost reports. However, after the grant was awarded, the Town made changes to the grant officials listed on the grant documents without first contacting the Commission and submitting a “Grant Adjustment Request” form to the Commission for review and approval as described in finding 3 above.

The changes were made because the Town Administrator left employment with the Town in November 2009 due to health issues and the Town Clerk resigned in June 2009. The Town hired a replacement clerk who left in January 2010 and then a third (and current) clerk was hired. The Town decided to have the Town Clerk perform some of the Town Administrator duties until a permanent Town Administrator could be hired.

In addition, a number of official grant documents were signed by individuals not authorized to sign those documents. The Town’s Mayor signed the first cost report (for the month of July 2009) instead of the Grant Financial Officer despite the original Grant Financial Officer’s name being printed under the cost report signature line. The Mayor continued to sign the cost reports instead of the designated Grant Financial Officer from July 2009 until November 2009. The Grant Financial Officer then signed the December 2009 cost report.

According to “Standard Grant Conditions” published by the Commission, limited adjustments to awards may be allowed and any requests for adjustments must be submitted on a “Grant Adjustment Request” form to the Commission for review and approval. Adjustments may be made to certain budget areas and to change key personnel identified on the grant documents.

The Town Clerk currently performs the duties of the Town Administrator and is referred to as the “Town Clerk/Administrator.” According to statements made by the Town Mayor and according to the job description posted by the Town, the Town Administrator will handle the duties of a Financial Officer instead of the duties traditionally performed by a Town Administrator.

Our investigation revealed that the Town violated conditions of the grant by changing designated grant officials without notifying Commission officials of the changes. In addition, the Town violated a grant requirement by combining the roles of Clerk (listed on the grant documentation as the “Grant Financial Officer”) and the Town Administrator (listed on the grant documentation as the “Grant Authorizing Official”).

RECOMMENDATION

Commission officials should evaluate whether the Town’s current organizational structure creates an internal control weakness that could prevent future grand awards. In addition, Town officials should comply with all grant requirements as specified in each individual grant.

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RESPONSE FROM THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY



North Carolina Department of Crime Control and Public Safety

Beverly Eaves Perdue, Governor

Reuben F. Young, Secretary

June 20, 2011

The Honorable Beth A. Wood
State Auditor
Office of the State Auditor
20601 Mail Service Center
Raleigh, North Carolina 27699-0601

Dear State Auditor Wood:

The purpose of this correspondence is to respond to your letter dated May 31, 2011, in which you pointed out audit findings and recommendations for the Department of Crime Control and Public Safety. We, as a department, are committed to implementing ongoing improvements to enhance our overall federal grants accounting and grants management procedures, and we appreciate your guidance and assistance.

Attached is a listing of your audit findings and the department's response.

Sincerely,


Reuben F. Young
Secretary

Attachment

cc: Gerald A. Rudisill, Jr., Chief Deputy Secretary
Rhonda G. Raney, Deputy Secretary
Bennie Aiken, Assistant Secretary
Marvin Mervin, Controller

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RESPONSE FROM THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY (CONCLUDED)

Department of Crime Control and Public Safety Response to State Audit Findings

1. **The Commission Approved a Grant Application That Included Items That Were Unallowable According to Grant Regulations**

Management Response

All phases of the grant review process (pre-application review, commission review and post-application review), are designed to ensure that grant applications meet programmatic requirements and that expenses contained within proposed budgets meet state and federal guidelines. However, due to the aggressive award timelines imposed for Recovery Act grants, an oversight occurred resulting in the approval of unallowable cost for the grant to the Town of East Spencer. A subsequent staff review revealed this error which was communicated to the Town of East Spencer prior to any expenditure and any detrimental reliance by the town. This subsequent review normally takes place earlier in the grant review process but, again, was delayed due to the increased volume of grants and expedited Recovery Act award process.

2. **The Grant-Funded Police Officers Performed Limited Gang Prevention Activities**

Management Response

The Town of East Spencer initially represented that the officers hired with grant funds would function as “gang officers” and would work in conjunction with an established “Multi-Response Team.” They were informed that the officers could not be used as regular patrol officers. The Governor’s Crime Commission will investigate whether law enforcement expenditures were inappropriately charged by the Town of East Spencer to the grant and will seek reimbursement for any unallowable costs.

3. **The Town Did Not Comply With Grant Requirements Related to Cost Reporting, Budget Changes, and Personnel Changes**

Management Response

This finding deals strictly with the Town’s operation and management of the grant.

4. **Town Officials Made Personnel Changes That Created an Inadequate Segregation of Duties**

Management Response

The Governor’s Crime Commission has always required that the three key positions (authorizing official, finance officer, and project director) associated with all grant applications be three separate individuals. This grant was no exception. Failure to adhere to the requirement of separation of duties renders a subgrantee ineligible for a grant award through the Governor’s Crime Commission.

RESPONSE FROM THE TOWN OF EAST SPENCER



TOWN OF EAST SPENCER

"Home of Heritage & Promise"

June 15, 2011

Ms. Beth A. Wood, CPA
NC Department of State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0601

Dear Ms. Wood,

The town board has reviewed the Investigative Report from the Office of the State Auditor with the interim Town Administrator and the Town Attorney, and responds accordingly to the recommendations for corrective action.

On page 5 of the Investigative Report, the Auditor aptly noted that from the beginning, the NC Governor's Crime Commission had approved the Grant with unallowable costs given in what was purported to have been an "extensive review process." Thus, the Town proceeded in good faith with the approved Grant, which we now learn may have been approved in haste to spend all the Federal economic stimulus monies that could be obtained during a short window of opportunity.

The Town cannot deny that there was confusion among the elected board, as well as the former police chief with regards to the funding that the Project Director could authorize to be allocated to the equipment and personnel requested by the Chief. But on Page 5 of the Investigative Report, it is noted that in the initial application dated 1-31-2009, we indicated that our gang prevention efforts would be furthered by the presence of "increased police patrols" and that improved fire protection from arsons would be realized by the addition of extra firefighters. Said application was approved on 3-31-2009, with conditions that appeared only to prevent us from purchasing vehicles using Grant funding. Again, the Town reasonably relied on the professionals at the Commission, and proceeded according to what they had approved.

We first were made aware, on November 5, 2009, that the approved firefighter positions must be removed. This was at odds with the Grant that the Commission had already approved, so yes, there was substantial disagreement between the Commission and the Town on that point. The Town was also informed at that time that ordinarily provided items in the Town's General Fund budget could not be spent from Grant funding, either. Certainly, the two additional officers did not teach gang prevention classes on a full-time basis. As we had stated in our initial grant application, the Town had concerns about the proliferation of gangs, and a string of arsons, and those two extra police officers' presence was intended to stem the proliferation of gang-

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RESPONSE FROM THE TOWN OF EAST SPENCER (CONTINUED)

initiated crime in the Town. The extra firefighter positions were intended to allow quicker response time to fires, as the Town had experienced numerous arsons to buildings which may also have been gang-related. As noted on page 7 of the Investigative Report, "the Town relied on the approved Grant and began to plan for expenditures and add positions outlined in the approved Grant." Again, the Town believes that we reasonably relied upon the professionals whose job it was to approve the Grant, and we expended funds in accordance with that approval.

We submit that it would not be appropriate to require the Town to reimburse the Commission for the Grant funding that was spent as the Commission had approved it. We support the conclusion that any future Grant administrator be screened for appropriate expertise and training in Grant administration before we apply for further Grants through the Commission.

With respect to the cost reporting, budget changes and personnel changes, the Town submits that no funding was misappropriated for uses outside of those approved in the Grant by the Commission, but that after the November 2009 election, when a substantial change of administration, staff and the elected board occurred, the new management 'team' did not know to give notice of the personnel changes to the Commission, and indeed did not do so. With respect to the 'improper separation of duties between the Financial Officer and Authorizing Official,' additional safeguards have been put in place in cooperation with the Town's contracted CPA, coordinated with the Local Government Commission. And procedures have been put in place to ensure that proper accounting procedures are restricted to certain Town officials designated in writing by the Mayor.

With respect to the recommendation on page 10 of evaluating the line of authority and communication as it relates to the town's overall management structure, our Town Attorney held a workshop as part of our February, 2011 meeting about our government structure. As most of NC's towns have moved or are in the process of moving towards a Town Manager system of government, the Town of East Spencer is working on clarifying lines of authority within our current Administrator/Board type of government structure, as we explore the possibility of moving toward an eventual Town Manager system of government. Even though there was no inappropriate behavior by a single individual performing multiple roles, any future grants will clearly define and segregate the duties of the Grant Authorizing Official and Grant Financial Officer, as recommended. Again, the Town Administrator has worked on improved internal accounting procedures with our CPA and the Local Government Commission. Due to personnel changes that the Town had not anticipated in the wake of the November 2009 elections, some duties formerly done by the Town Administrator had been combined, but the Town has policies, procedures and practices in place to prevent future problems, as apparently occurred from July 2009 to November 2009 under the previous mayoral administration.

The Town should have notified the Commission of changes in designated grant officials. But fortunately for both entities, the failure to have done so did not create the problems observed in the Investigative Report. The primary problem from the Town's perspective is that the Commission approved the Grant for two new gang prevention officers whose primary purpose would be a patrol presence to deter gang crime, and the Town reasonably relied on that approval as we proceeded with our original, stated plans in the approved Grant.

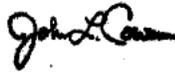
Finally, the Town understands that it is unlikely the Commission will consider future grant awards unless and until the Town adopts a Town Manager system, whereby paid professional management has daily control over all Town staff and department heads. That decision is ultimately a decision that the elected board would have to make. But until such time, the Local Government Commission has worked with the Town to ensure proper accounting procedures. It has been a learning experience, but the current Board and Staff are acutely

RESPONSE FROM THE TOWN OF EAST SPENCER (CONCLUDED)

aware of compliance with all grant requirements specified in any grant. We intend that future Grant applications shall be reviewed by the Town's Attorney prior to submission, and that the Project Administrator and Financial Officer consult with the Town Attorney regarding requirements for periodic reporting obligations and strict compliance.

The Town of East Spencer appreciates the Grant that helped curb gang activity in our Town. We also appreciate the opportunity to weigh in on our challenges, our successes, and our future. Please be assured that no intentional misrepresentations were made by the Town. And please be aware that we always stand amenable to making necessary improvements. The State Auditor's Investigative Report is one of several tools the Town of East Spencer will use to achieve the mutual goals between the Town, the Commission and the other government and nongovernmental organizations with which we conduct transactions.

Sincerely,



John L. Cowan
Mayor

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