

SCHEDULE OF AUDIT FINDINGS AND RESPONSES

2017-001 The County did not have an adequate application and approval process over the homeless housing and assistance program to ensure compliance with the County's homeless plan and state law.

Background

As required by state law, the County collects funds for local homeless housing and assistance from surcharges on documents recorded with the County Auditor, which are deposited into the Homelessness Fund. In 2017, the County deposited \$217,000 into the fund. The County has adopted a homeless housing plan defining eligible activities and goals for its homeless housing program that is consistent with statewide guidelines.

The County spent about \$196,000 from the Homelessness Fund in 2017. Local non-profit service providers apply annually for funding-level approval from the Board of Commissioners, provide services to the homeless and submit invoices during the year for reimbursement. Services include providing homeless housing, housing assistance and a warming shelter.

In addition, the County occasionally provides assistance directly to the homeless based on either referrals from the non-profit providers or citizen requests at Commissioner meetings.

Description of Condition

Our audit of the County's homeless housing and assistance program identified the following concerns related to direct homeless housing assistance. The County:

- Had not adopted a formal application and approval process for homeless housing and assistance requests.
- Had not established written guidelines detailing how it will ensure funding requests are in alignment with the homeless housing plan and provided to eligible citizens.
- Did not regularly send homeless housing requests to its legal counsel for review.

Between 2015 and 2018, the Commissioners approved and the County paid over \$121,000 in homeless housing and assistance funds for requests not in alignment with the housing plan. Specifically the County:

Relocated a house foundation due to erosion - \$30,326

After riverbank erosion from a 2018 flood put their house in danger of collapsing down the riverbank, a family asked the Commissioners to cover the cost to move their house to a new foundation farther from the riverbank. Because the homeless housing plan only allows for minor repairs and alterations for single-family, owner-occupied housing, the owner's request did not fall within the plan's allowed activities and therefore constitutes an unallowable gift of public funds.

Constructed a new residence - \$90,893

According to the County, the Commissioners received requests from two nonprofit organizations to help construct a transitional home for multi-family living of people with spinal cord injuries and their families. The current spokesman for one of the non-profit organizations is allowed to reside in the home to help mentor and teach others with spinal injuries. While governments can pay non-profits organizations for services rendered, the Washington State Constitution prohibits governments from gifting funds unless it is to the "poor and infirm". However, non-profits do not meet the definition of "poor and infirm" under Article VIII Section 7 and therefore is an unallowable use of these restricted funds

Cause of Condition

The Board of Commissioners believed that the direct assistance provided was consistent with statewide guidelines and its homeless housing plan. As such, the Board did not seek legal counsel before approving payments.

Effect of Condition

Expenditures were made for activities not specified in the County's homeless housing plan and are therefore considered an unallowable use of the restricted funds. As a result, these expenditures were a gift of public funds.

Recommendations

We recommend the County:

- Establish a process and criteria for application and approval of direct homelessness funding
- Consult with legal counsel before approving extraordinary or unusual expenditures of homelessness funds
- Ensure all homelessness expenditures are specifically allowed by its homeless housing plan or revise the plan's eligible activities

County's Response

We dispute the facts related to Stevens County does not have an adequate application and approval process over the Homeless Housing and Assistance program to ensure compliance with the County's Homeless plan and state law.

We do not agree with the Auditor's interpretation of the Washington State Constitution, Article VIII, Section 7, Credit Not To Be Loaned which states:

“No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stocks in or bonds of any association, company or corporation.”

In both instances cited by the Auditor, the intended use of funds was “for the necessary support of the poor and infirm.”

Counties are instructed to adopt a Homeless Prevention Plan per RCW 43.185C. We believe this mandate by the State legislature to adopt a local plan consistent with the state plan dictates that expending funds to prevent and end homelessness is a fundamental purpose of government. Further the legislative intent speaks to engaging the support and commitment of all sectors of the statewide community. It was the intent of the County Commissioners to fulfill this duty and authorize expenditures of funds in both of the cases cited to end and prevent homelessness.

Stevens County currently operates its homelessness program under Resolution 34-2012 adopting the Stevens County 10 year plan to end homelessness, June 2012 consistent with RCW 43.185C. Since November of 2017, Stevens County has been working on updating its homelessness plan consistent with legislative changes to RCW 43.185C and consistent with the State of Washington Homeless Housing Strategic Plan adopted January 2018. This work has been done with service providers, partners and public participation from throughout the County. Under current law, RCW 43.185C.040(3), a new 5-year Homelessness Plan is due by December 1, 2019 consistent with guidelines issued by the Department of Commerce by December 1, 2018.

Condition #1: The County had not adopted a formal application and approval process for Homeless Housing and Assistance requests.

Response #1: There is no requirement in law or rule for the County to adopt a formal application process. Although the County can adopt an application process, there are inherent roadblocks to doing so that can severely and negatively impact the effectiveness of our program which is currently rated by the Department of

Commerce as effective in reducing homelessness (see <https://public.tableau.com/profile/comhau#/vizhome/CountyReportCardWinter2018/ReportCard>). Per RCW 43.185C.180(2) “personally identifying information about homeless individuals...may only be collected after having obtained informed, reasonably time limited written consent from the homeless individual to whom the information relates.” This severely limits the ability of the County to collect and share information on any formal or written application for funding. Stevens County could adopt a formal application process, but it would have to do so consistent with the aforementioned RCW and the Open Public Meeting Act and Public Disclosure laws which may require sensitive information from being released to public disclosure. Stevens County is willing to move forward with reviewing that option consistent with all state laws in connection with the next required homeless plan update due on December 1, 2019.

There is no requirement for the County to adopt a formal approval process. Although the County may not have a formal written approval process, all approvals for homelessness funding are conducted in an open public meeting with multiple questions asked to ascertain that any all proposals meet the requirements of the law and are consistent with the state and County plans. Most requests are received during the budget process although there are some request that occur throughout the year and are listed on the agendas. A formal approval process could be considered so that a clear understanding of the process can be presented in writing if requested.

Condition #2: The County had not established written guidelines detailing how it will ensure funding requests are in alignment with the Homelessness Housing Plan and provide to eligible citizens.

Response #2: There is no legal or accounting principle that mandates establishment of written guidelines. It is the job of the legislative authority to acquire adequate information in an open public meeting to approve such an expense. Every request is reviewed to ensure it meets the definition of homeless or the prevention of persons from becoming homeless. The Board of County Commissioners asks for information to make sure the request is for the homeless or for the prevention of homelessness. They also ask questions to ascertain that the situation will fit the meaning of the homeless plan. Other cost associated with the project requests, matching funds and how those funds are derived and used are ascertained. It is also standard practice to ask the requestor for the number of people served, adults, children, veterans status, and what other services and service organizations are involved in a continuum of care. County Commissioners are elected by the people to be good decision makers, especially concerning county

finances. It may be more clearly documented with the adoption of an approval form, but public disclosure is a concern.

Condition #3: The County did not regularly send homeless housing requests to its legal counsel for review.

Response #3: While many things can and should be sent to legal counsel for review, it is unusual and inappropriate to send spending requests to the prosecutor for determination. The plan was sent to legal counsel to review prior to approval and is standard practice. There may be no documentation for this as County legal counsel commonly does not respond in writing. It is the intent of the Board of Commissioners to send the updated Homeless Housing Plan through legal review for consistency with the law. It is the duty and purview of the legislative authority or Board of Commissioners to make spending decisions based upon the plan. The legislative authority has discretionary authority to review the expenditure request for consistency with the plan and the plans intent. Further, the legislative authority should be granted deference in interpretation of the County's plan.

In regards to relocation of a house to a new foundation due to erosion, per RCW 43.185C.050(2)(i), local Homeless Housing Plans may include "other activities to reduce and prevent homelessness as identified for funding in local plans" (emphasis added). Stevens County's current plan does provide such provisions. The Department of Commerce is charged with providing technical assistance to any participating local government. Ref. RCW 43.185C.100.

During the 2017 legislative session, we had conversations with staff of the Department of Commerce that indicated that homelessness funds could be used as a cost share on wildfire prevention measures and other prevention or response measures relating to a disaster if a disaster was declared by the county or Governor and these measures were included in the County's plan. Although specific provisions regarding emergency declarations is not in the current plan, the intent of supplying help is contained in the law. Further, RCW 43.185C.010(12) defines "Homeless person' means an individual living outside or in a building not meant for human habitation time limits exist. This definition includes substance abusers, people with mental illness, and sex offenders who are homeless."

The family in question became homeless due to erosion in some of the worst flooding Stevens County has seen in decades on the Kettle River. The erosion was slated to continue per conversations with the USGS Geologist who visited the site with our Emergency Manager. The porch had fallen off the residence and further damage to the home was imminent. Outreach to the family was encouraged by the community to approach the Commissioners to ask for assistance. The water well

was exposed and the County was forced to tag the home as uninhabitable. The family was elderly, living in their shop/garage, a structure not meant for human habitation.

This clearly met the definition of homeless. The overall project to return this family to a stable living position entailed digging a new foundation a suitable distance from the bank and approved by the building official and County code, pouring a new foundation, moving and securing the home from its current foundation to its new foundation, repairing the home from moving damage, dig a new septic line and possibly relocate the septic system, reconnecting the water line and a good chance that a new well would need to be drilled at this time or some short time in the future as per the building official. This in addition to the fact that the home, if not relocated, would need to be torn down and/or cleaned up if the bank went into the river. The bank still shows stress cracks past the foundation. The moving of this house was a small fraction of the overall costs and an ecological benefit.

The entire cost of the project was estimated to be in the \$100,000 range. The family did not have any insurance coverage for this event or flooding, nor were they in a flood plain. Considering the overall price of the project, the fact the family was homeless, and the potential for further expense due to inaction and the time sensitive nature to move the home before further damage or ecological cleanup was required, the Board does feel the price to move the home was minor in scope. Further the plan authorizes minor repairs and alterations. This could be interpreted to mean minor repairs and minor alterations, or minor repair and alterations (of any size). The intent of the plan was to allow people to repair their homes and return to the homes, thus leaving and/or avoiding homelessness.

In regards to constructing a new residence, per RCW 43.185C.050(2)(i), local homeless housing plans may include “other activities to reduce and prevent homelessness as identified for funding in local plans” (emphasis added). Stevens County’s current plan does provide such provisions. The residence in question was a joint project by Habitat for Humanity and the ‘Pay it Forward’ Foundation. Currently the home and land are owned by the “Pay it Forward’ Foundation (Foundation). The Foundation has a board of directors that determine who may occupy the house. The House was built for multi-family living of people with spinal cord injuries and their families as a transitional home. People who suffer spinal injuries generally cannot return to their homes as they are wheel chair bound and most homes do not accommodate this type of living situation. The current spokesman for the Foundation is not a member of the Board of Directors and is allowed to be one of the residents of the home to help mentor and teach others with spinal injuries how to cope and have a place to stay until suitable housing is built or altered to allow for return. The current spokesman when injured had no place

to live for many months. The community altered his parent's garage to allow him a place to stay. This garage is a substandard living situation. Since completion of the home nearly a year ago, there has been at least two individuals and their families residing in the home. Foundations often start around one individual and a cause. This case is no different.

In this case the State Auditor's states that the non-profits do not meet the definition of "poor and infirm" and state that this is an unallowable use. Our current program for homelessness is run by Rural Resources, a non-profit. In oral communications the State Auditor has determined that this is an acceptable and allowable practice in the fact that they are rendering services. In this case the non-profits are also rendering services to prevent and end homelessness of infirm individuals. The relationship between the county and these non-profits only differs in types of services rendered, not whether service and support of the poor and infirm is being constructively administered. These non-profits are reporting their services rendered to Rural Resources for the purpose of State reporting requirements on the number of individuals helped.

The Department of Commerce states that while a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the Homeless Housing program within its borders. As such, Rural Resources, the County's main entity in running the Homeless program, has been supportive and encouraged other applications for assistance.

On October 8, 2018 after being made aware that there may be an issue with the use of our homeless funds we self-reported to the State Auditor seeking advice and guidance on this matter. As such, even if we disagree with the facts and conditions, it is the intent of the Board of County Commissioners and Stevens County to take actions to institute the State Auditor recommendations at the earliest possible time. The County is committed to serving our citizens and homeless population to the best of our ability and resources in a responsible and appropriate manner. The County is committed to updating and enhancing our plan prior to the December 1, 2019 deadline, refining our processes, enhancing communication both internally and externally, instituting an application process, and adopting criteria for approval of funds. Further, we are committed to conferring with legal counsel when warranted and appropriate.

Auditor's Remarks

We wish to thank the County's staff and management for their cooperation and assistance during the audit. We reviewed the County's response to the finding and met with the County to discuss their questions and concerns. We reaffirm our finding and will review the status of this issue during our next audit.

Applicable Laws and Regulations

Government Auditing Standards, December 2011 Revision, paragraph 4.23 establishes reporting requirements related to significant deficiencies or material weaknesses in internal control, instances of fraud or abuse, and noncompliance with provisions of law, regulations, contracts, or grant agreements.

RCW 36.22.179, Surcharge for local homeless housing and assistance; and RCW 36.22.1791, Additional surcharge for local homeless housing and assistance; establish requirements for use of local homeless housing and assistance funds, including the requirement that funds be used to directly accomplish the goals of the county's homeless housing plan.

RCW 43.185C.050, Local housing plans, establishes requirements for local homeless housing plans, including eligible activities.

Washington State Constitution, Article VIII, Section 7, Credit Not To Be Loaned states:

No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation.