FACT SHEET

In October, 2015 EDCUtah CEO Jeff Edwards became aware of the suspension of the organization’s 501(c)(6) non-profit tax exempt status. It was soon discovered that as the result of a series of errors going back to 2010, EDCUtah had failed to file the proper paperwork with the IRS required to keep the non-profit designation current. A brief explanation of what happened, and when it happened, is as follows:

EDCUtah Fiscal Year 2010-11: EDCUtah management received a copy of its financial audit report, but failed to complete and submit the required Form 990 with the IRS. A Form 990 is the non-profit equivalent of a tax return, informing the IRS of the organization’s management, governance and financial position. The return had been completed but was not filed due to a communication error with the audit firm. Failing to complete the Form 990 for FY 2010-11 initiated the 501(c)(6) suspension process with the IRS.

EDCUtah Fiscal Year 2011-12: At the recommendation of a consultant retained to assist in a review of the organization’s financial policies and processes, EDCUtah switched auditing firms and retained a new auditor to complete the FY 2011-12 financial audit. Through a lengthy series of miscommunications, EDCUtah failed to provide the auditor with all of the required documentation to complete the audit. With no completed financial audit, EDCUtah could not file the FY 2011-12 Form 990 and the IRS suspension process continued for a second year.

EDCUtah Fiscal Year 2012-13: EDCUtah retained the FY 2011-12 auditor for a second year and worked with the firm to complete the FY 2012-13 audit and the FY 2011-12 audit concurrently. Again, EDCUtah failed to complete the audits and file the Form 990, extending the IRS suspension process into its third and final year.

EDCUtah Fiscal Year 2013-14: EDCUtah failed to complete a FY 2013-14 financial audit and Form 990 submission by the end of their fiscal year and the IRS suspended the organization’s 501(c)(6) tax exempt status.

November 15, 2013: The IRS officially suspended EDCUtah’s 501(c)(6) status.

March 10, 2014: The IRS publicly posted notice of EDCUtah’s 501(c)(6) suspension on its website. The IRS sent a letter to EDCUtah’s former address, which was unfortunately never received by EDCUtah staff.

EDCUtah Fiscal Year 2014-15: Due to the issues with the previous year’s audits, EDCUtah did not initiate a financial audit or complete a Form 990. As the 501(c)(6) designation had already been suspended, the IRS sent no additional notice.
October 2015: EDCUtah CEO Jeff Edwards received a phone call from a concerned constituent informing him that he discovered EDCUtah’s 501(c)(6) suspension on the IRS website. EDCUtah began to investigate the situation and discovered the notice of suspension and the incomplete audits dating back to FY 2010-11.

November 2015: The Utah Office of the Legislator Auditor General informed EDCUtah that it intended to audit the organization’s governance, finances and overall operation. As EDCUtah receives the majority of its funding from public sources, the Legislative Auditor General is legally entitled to review the organization.

EDCUTAH’S RESPONSE

February 2016: EDCUtah filed all outstanding Form 990’s and requests reinstatement of its 501(c)(6) non-profit status with the IRS.

December 2015-June 2016: In a series of steps to improve EDCUtah’s governance, and to support the organization’s 501(c)(6) reinstatement application with the IRS, EDCUtah completed the following:

- Formed a Finance Committee of the Board of Trustees to oversee all financial governance of the organization. The committee is comprised of experienced professionals from both the public and private sector including Goldman Sachs, Wells Fargo, Workers Compensation Fund, Westminster College, Utah County and Zions Bank.
- Conducted a third-party, independent audit of our financial statements from FY 2013-14 and FY 2014-15. EDCUtah received an ‘Unqualified Opinion’ that the organization’s financial statements are now sound and free from material misstatements.
- Implemented additional recommendations provided by the Auditor including strengthening the management of internal policies and controls for handling funds, timely financial recording and reporting, conducting an annual audit, and implementing stronger personnel policies.
- Retained the services of an experienced CFO to assist in improving EDCUtah’s internal controls, and to ensure all appropriate financial processes are followed on an ongoing basis.

May 2016: The IRS reinstated EDCUtah’s 501(c)(6) non-profit status without penalty and retroactive to its suspension in November 2013.

August 2016: The Office of the Legislative Auditor General completed its review of EDCUtah.

Completed FY 2015-16 Annual Audit, again with “unqualified opinion,” this time with no material weaknesses.

October 3, 2016: The Office of the Legislative Auditor General completed their report on the Performance Audit of EDCUtah.
October 18, 2016: The Utah Legislature conducts the Audit Hearing on the Performance Audit of EDCUtah.

Between FY 2010-11 and FY 2014-15, EDCUtah leadership failed to fulfill their obligations in the management of the organization. For 23 years prior to this failing, EDCUtah had completed an annual internal financial audit, and filed the appropriate tax forms without fail. Beginning in 2011, annual financial audits were not completed on time, required tax documents were not filed with the IRS, and knowledge of the organization’s tax-exempt status was lacking. The organization was successful in completing monthly financial statements, and in maintaining a significant financial reserve during this time period, however there is no excuse for the position in which the organization found itself in October 2015. In a review of the specific circumstances that contributed to this situation, management discovered several items that ultimately contributed to the overall failure:

- Management failed to adequately, and in a timely manner, respond to our internal auditor’s request for information. This failure resulted in the auditor’s inability to complete our annual financial audits and tax filings.
- Internal EDCUtah staff did not have the necessary skills to stay on top of all financial management processes, and did not receive the support they needed to ensure appropriate policies were followed.
- EDCUtah lacked a defined year-end process, with key dates identified and required documentation outlined.
- Internal staff transitions, without adequate communication, lead to confusion regarding who in the organization was responsible for certain aspects of financial management.
- Whistle-blower processes that would allow employees concerned with various aspects of the organization’s internal management and controls did not exist.

Numerous internal changes have been made to correct the problems that led to this situation, including the hiring of staff with greater experience in non-profit financial management, the creation of stronger financial governance by the Board of Trustees, and the adoption of policies and procedures to prevent any reoccurrence and allow for greater control.