

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-002 The Office of Superintendent of Public Instruction did not have internal controls over and did not comply with suspension and debarment requirements for the Child Nutrition Cluster program.

CFDA Number and Title:	10.553 School Breakfast Program 10.553 COVID-19 School Breakfast Program 10.555 National School Lunch Program 10.555 COVID-19 National School Lunch Program 10.556 Special Milk Program for Children 10.556 COVID-19 Special Milk Program for Children 10.559 Summer Food Service Program for Children 10.559 COVID-19 Summer Food Service Program for Children 10.579 Child Nutrition Discretionary Grants
Federal Grantor Name:	U.S. Department of Agriculture
Federal Award Number:	207WAWA3N1099, 217WAWA3N1099 217WAWA3N1199, 187WAWA7N8103 197WAWA7N8103, 207WAWA7N8103
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Suspension and Debarment
Known Questioned Cost Amount:	None

Background

The Child Nutrition Cluster programs help states administer food services that provide healthy and nutritious meals to eligible children in public and nonprofit private schools, residential child care institutions, and summer recreation programs, as well as encourage the domestic consumption of nutritious agricultural commodities.

The Office of Superintendent of Public Instruction (Office) administers the state's Child Nutrition Cluster programs. The Office spent about \$374 million in federal funds, including non-cash assistance, on eligible child nutrition meals during fiscal year 2021. The Office passed through most of the assistance to school food authorities (SFA) and other sponsors as subawards.

Federal regulations prohibit grantees from making subawards under covered transactions to parties that are suspended or debarred from doing business with the federal government. The regulations require grantees to use one of three approved methods to verify that all subrecipients of federal funds are not suspended or debarred. The Office's verification procedure is to add a clause or condition to each subaward or contract in which the signer attests it is not suspended or debarred.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Office did not have adequate internal controls over and did not comply with suspension and debarment requirements for Child Nutrition Cluster program subrecipients. The prior finding numbers were 2020-003 and 2019-004.

Description of Condition

The Office did not have adequate internal controls over and did not comply with suspension and debarment requirements for the Child Nutrition Cluster program.

The corrective action plan the Office developed in response to the prior audit findings included developing a new Child Nutrition Program Permanent Agreement template to include information and attestation to suspension and debarment requirements and updating the internal process for reviewing and approving program applications.

The Office implemented the new Permanent Agreement in December 2019. However, the Office stopped using it because of USDA's concern about the Civil Rights Assurance statement in the Permanent Agreement. Once USDA's concerns were resolved, the Office continued implementing the new agreement. Because of the delay, not all sponsors have signed new Permanent Agreements.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

The Office was still in the process of updating subrecipient agreements and implementing the new Permanent Agreement during the audit period.

Effect of Condition

We used a statistical sampling method to randomly select and examine 55 of a total population of 400 subrecipients. For the selected subrecipients, we examined the subaward records and program applications to confirm that the Office included a suspension and debarment clause in the

agreement or application. We determined the Office did not require three subrecipients (5 percent) to certify that they were not suspended or debarred before receiving federal funds.

We confirmed that the subrecipients we examined were not suspended or debarred. Therefore, we are not questioning costs related to these payments.

By not verifying that entities are not suspended or debarred, the Office risks making subawards or entering into contracts with suspended or debarred entities. If the Office made payments to entities that were suspended or debarred, the payment would be unallowable and the Office could have to repay the grantor.

Recommendation

We recommend the Office implement established internal controls and comply with federal suspension and debarment requirements.

Office's Response

The Office concurs with the finding.

Child Nutrition Services has received the clarification requested from the U.S. Department of Agriculture (USDA) regarding the Civil Rights Assurance statement in our permanent agreement. Clarification was received from USDA on June 7, 2021. Child Nutrition Services resumed collection of permanent agreements soon afterwards and continues to send, receive, and process permanent agreements. Collection of permanent agreements is expected to conclude end of calendar year 2022.

Auditor's Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective actions during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal

award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:

- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 180, states in part:

Subpart B – Covered Transactions, Section 180.200 What is a covered transaction?

A covered transaction is a nonprocurement or procurement transaction that is subject to the prohibitions of this part. It may be a transaction at

- (a) The primary tier, between a Federal agency and a person (see appendix to this part); or
- (b) A lower tier, between a participant in a covered transaction and another person.

Subpart C – Responsibilities of Participants Regarding Transactions Doing Business With Other Persons, Section 180.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) Checking SAM Exclusions; or
- (b) Collecting a certification from that person; or
- (c) Adding a clause or condition to the covered transaction with that person

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-003 The Office of Superintendent of Public instruction did not have adequate internal controls over accountability for USDA-donated foods.

CFDA Number and Title: 10.553 School Breakfast Program
10.553 COVID-19 School Breakfast Program
10.555 National School Lunch Program
10.555 COVID-19 National School Lunch Program
10.556 Special Milk Program for Children
10.556 COVID-19 Special Milk Program for Children
10.559 Summer Food Service Program for Children
10.559 COVID-19 Summer Food Service Program for Children
10.579 Child Nutrition Discretionary Grants

Federal Grantor Name: U.S. Department of Agriculture

Federal Award Number: 207WAWA3N1099, 217WAWA3N1099
217WAWA3N1199, 187WAWA7N8103
197WAWA7N8103, 207WAWA7N8103

Pass-through Entity: None

Pass-through Award/Contract Number: None

Applicable Compliance Component: Special Tests and Provisions – Accountability of USDA-Donated Foods

Known Questioned Cost Amount: None

Background

The Child Nutrition Cluster programs help states administer food services that provide healthy and nutritious meals to eligible children in public and nonprofit private schools, residential care institutions, and summer programs, as well as encourage the domestic consumption of nutritious agricultural commodities.

The Office of Superintendent of Public Instruction (Office) administers the state’s Child Nutrition Cluster programs. The Office spent about \$374 million, including non-cash assistance, in federal funds on eligible child nutrition meals during fiscal year 2021. The Office passed through most of the assistance to school food authorities (SFA) and other sponsors as subawards.

The United State Department of Agriculture (USDA) makes donated agricultural commodities available for use in operating all child nutrition programs, except the Special Milk Program for Children. The Office contracts with four warehouses to perform its storage and distribution duties. Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Department did not have adequate internal controls over and did not comply with requirements to properly account for USDA-donated foods. The prior finding numbers were 2020-004 and 2019-005.

Description of Condition

The Office did not have adequate internal controls over accountability for USDA-donated foods.

We conducted an inventory reconciliation using the Office's state fiscal year 2020 physical inventory records, USDA food order records, distribution records, and the Office's state fiscal year 2021 ending physical inventory records. We determined the Office performed an annual physical inventory for all four of its warehouses. However, we found the Office:

- Did not perform proper reconciliations between the federal government distribution report, the Office's internal inventory tracking spreadsheet and the warehouse documentation
- Did not perform a proper reconciliation between physical inventory and the Office's inventory records
- Did not keep supporting records for inventory losses or damaged inventory item adjustments

We identified 114 food items with negative adjustments. We reviewed 18 adjustments and found 14 were not supported and four were only partially supported. We also found that eight out of 307 USDA food items we examined contained discrepancies. We noted a total variance of 554 (quantity in cases) out of 70,368 cases. The Office undercounted by 118 cases and overcounted by 436 cases.

We consider these internal control deficiencies to be a material weakness.

Cause of Condition

In response to the prior audit finding, the Office developed a corrective action plan that included implementing policies and procedures regarding the reconciliation process for donated foods and procuring a new or updated electronic food distribution system. However, at the time of the audit, the Office was still in the process of documenting system requirements for a new or updated

electronic food distribution system that includes tracking and reporting capabilities to assist with the reconciliation process.

Effect of Condition

Without proper reconciliation between physical inventories and inventory records, the Office cannot ensure it identifies inventory discrepancies and properly accounts for the loss of donated foods. Additionally, failure to maintain records required by federal law may require the Office to pay USDA the value of the food or replace it in kind.

Recommendations

We recommend the Office:

- Implement established internal policies and procedures for the USDA-donated foods reconciliation process to ensure adjustments for loss are supported
- Implement internal controls to ensure physical inventory is reconciled with inventory records
- Follow up on the inventory discrepancies identified

Office's Response

The Office has implemented corrective action to strengthen internal controls over accounting of USDA-donated Foods.

The Office completed the documentation of system requirements for a new/updated electronic food distribution system that includes tracking and reporting capabilities to assist with the reconciliation process. This was completed September 2021.

The Office will post a Request for Proposal for the procurement of the new/updated electronic food distribution system May 2022.

Auditor's Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit findings, states in part:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Title 7 U.S. Code of Federal Regulation, part 250, states in part:

Section 250.12 Storage and inventory management at the distributing agency level

- (a) *Safe storage and control.* The distributing agency or subdistributing agency (which may include commercial storage facilities under contract with either the distributing agency or subdistributing agency, as applicable), must provide facilities for the storage and control of donated foods that protect against theft, spoilage, damage, or other loss. Accordingly, such storage facilities must maintain donated foods in sanitary conditions, at the proper temperature and humidity, and with adequate air circulation. The distributing agency must ensure the storage facilities comply with Federal, State, or local requirements relative to food safety and health and procedures for responding to a food recall, as applicable, and obtain all required health inspections.
- (b) *Inventory management.* The distributing agency must ensure that donated foods at all storage facilities used by the distributing agency (or by a subdistributing agency) are stored in a manner that permits them to be distinguished from other foods, and must ensure that a separate inventory record of donated foods is maintained. The distributing agency's system of inventory management must ensure that donated foods are distributed in a timely manner and in optimal condition. On an annual basis, the distributing agency must conduct a physical review of donated food inventories at all storage facilities used by the distributing agency (or subdistributing agency), and must reconcile physical and book inventories of donated foods. The distributing agency must report donated food losses to FNS, and ensure that restitution is made for such losses.

(c) *Inventory limitations.* The distributing agency is subject to the following limitations in the amount of donated foods on-hand, unless FNS approval is obtained to maintain larger inventories:

(1) For TEFAP, NSLP and other child nutrition programs, inventories of each category of donated foods may not exceed an amount needed for a six-month period, based on an average amount of donated foods utilized in that period; and

(2) For CSFP and FDPIR, inventories of each category of donated food in the food package may not exceed an amount needed for a three-month period, based on an average of donated food that the distributing agency can reasonably utilize in that period to meet CSFP caseload or FDPIR average participation.

(d) *Inventory protection.* The distributing agency must obtain insurance to protect the values of donated foods at its storage facilities. The amount of such insurance must be at least equal to the average monthly values of donated food inventories at such facilities in the previous fiscal year. The distributing agency must also ensure the following entities obtain insurance to protect the values of their donated food inventories, in the same amount required by the distributing agency in this paragraph (d):

(1) Subdistributing agencies;

(2) Recipient agencies in household programs that have an agreement with the distributing agency or subdistributing agency to store and distribute foods (except those recipient agencies which maintain inventories with a value of donated foods that do not exceed a defined threshold, as determined in FNS policy); and

(3) Commercial storage facilities under contract with the distributing agency or with an agency identified in paragraph (d)(1) or (2) of this section.

(e) *Transfer of donated foods.* The distributing agency may transfer donated foods from its inventories to another distributing agency, or to another program, in order to ensure that such foods may be utilized in a timely manner and in optimal condition, in accordance with this part. However, the distributing agency must request FNS approval. FNS may also require a distributing agency to transfer donated foods at the distributing agency's storage facility or at a processor's facility, if inventories of donated foods are excessive or may not be efficiently utilized. If there is a question of food safety, or if directed by FNS, the distributing agency must obtain an inspection of donated foods by State or local health authorities, as necessary, to ensure that the donated foods are still safe and not out-

of-condition before transferring them. The distributing agency is responsible for meeting any transportation or inspection costs incurred, unless it is determined by FNS that the transfer is not the result of negligence or improper action on the part of the distributing agency. The distributing agency must maintain a record of all transfers from its inventories, and of any inspections related to such transfers.

(f) *Commercial storage of facilities or carriers.* The distributing agency may obtain the services of a commercial storage facility to store and distribute donated foods, or a carrier to transport donated foods, but must do so in compliance with procurement requirements in 2 CFR part 200, subpart D, and USDA implementing regulations at 2 CFR parts 400 and 416. The distributing agency must enter into a written contract with a commercial storage facility or carrier, which may not exceed five years in duration, including any extensions or renewals. The contract must include applicable provisions required by Federal statutes and executive orders listed in 2 CFR part 200, appendix II, Contract Provisions for Non-Federal Contracts Under Federal Awards, and USDA implementing regulations at 2 CFR parts 400 and 416. The contract must also include, as applicable to a storage facility or carrier, provisions that:

- (1) Assure storage, management, and transportation of donated foods in a manner that properly safeguards them against theft, spoilage, damage, or other loss, in accordance with the requirements in this part;
- (2) Assure compliance with all Federal, State, or local requirements relative to food safety and health, including required health inspections, and procedures for responding to a food recall;
- (3) Assure storage of donated foods in a manner that distinguishes them from other foods, and assure separate inventory recordkeeping of donated foods;
- (4) Assure distribution of donated foods to eligible recipient agencies in a timely manner, in optimal condition, and in amounts for which such recipient agencies are eligible;
- (5) Include the amount of insurance coverage obtained to protect the value of donated foods;
- (6) Permit the performance of on-site reviews of the storage facility by the distributing agency, the Comptroller General, the Department of Agriculture, or any of its duly authorized representatives, in order to determine compliance with requirements in this part;
- (7) Establish the duration of the contract, and provide the extension or renewal of the contract only upon fulfillment of all contract provisions;
- (8) Provide for expeditious termination of the contract by the distributing agency for noncompliance with its provisions; and

- (9) Provide for termination of the contract by either party for other cause, after written notification of such intent at least 60 days prior to the effective date of such action.

Section 250.16 Claims and restitution for donated food losses.

- (a) *Distributing agency responsibilities.* The distributing agency must ensure that restitution is made for the loss of donated foods, or for the loss or improper use of funds provided for, or obtained as an incident of, the distribution of donated foods. The distributing agency must identify, and seek resolution from, parties responsible for the loss, and implement corrective actions to prevent future losses.
- (b) *FNS claim actions.* FNS may initiate and pursue claims against the distributing agency or other entities for the loss of donated foods, or for the loss or improper use of funds provided for, or obtained as an incident of, the distribution of donated foods. FNS may also initiate and pursue claims against the distributing agency for failure to take required claim actions against other parties. FNS may, on behalf of the Department, compromise, forgive, suspend, or waive a claim. FNS may, at its option, require assignment to it of any claim arising from the distribution of donated foods.

Section 250.19 Recordkeeping requirements.

- (a) *Required records.* Distributing agencies, recipient agencies, processors and other entities must maintain records of agreements and contracts, reports, audits, and claim actions, funds obtained as an incident of donated food distribution, and other records specifically required in this part or in other Departmental regulations, as applicable. In addition, distributing agencies must keep a record of the value of donated foods each of its school food authorities receives, in accordance with §250.58(e), and records to demonstrate compliance with the professional standards for distributing agency directors established in §235.11(g) of this chapter. Processors must also maintain records documenting the sale of end products to recipient agencies, including the sale of such end products by distributors, and must submit monthly performance reports, in accordance with subpart C of this part and with any other recordkeeping requirements included in their agreements. Specific recordkeeping requirements relating to the use of donated foods in contracts with food service management companies are included in §250.54. Failure of the distributing agency, recipient agency, processor, or other entity to comply with recordkeeping requirements must be considered prima facie evidence of improper distribution or loss of donated foods and may result in a claim against such party for the loss or misuse of donated foods, in accordance with §250.16, or in other sanctions or corrective actions.

- (b) *Retention of records.* Records relating to requirements for donated foods must be retained for a period of three years from the close of the fiscal or school year to which they pertain. However, records pertaining to claims or audits that remain unresolved in this period of time must be retained until such actions have been resolved.

Section 250.21 Distributing agency reviews.

- (a) *Scope of review requirements.* The distributing agency must ensure that subdistributing agencies, recipient agencies, and other entities comply with applicable requirements in this part, and in other Federal regulations, through the on-site reviews required in paragraph (b) of this section, and the review of required reports or audits. However, the distributing agency is not responsible for the review of school food authorities and other recipient agencies in child nutrition programs. The State administering agency is responsible for the review of such recipient agencies, in accordance with review requirements of part 210 of this chapter.
- (b) *On-site reviews.* The distributing agency must conduct an on-site review of:
- (1) Charitable institutions, whenever the distributing agency identifies actual or probable deficiencies in the use of donated foods by such institutions, through audits, investigations, complaints, or any other information;
 - (2) Storage facilities at the distributing agency level (including commercial storage facilities under contract with the distributing or subdistributing agency), on an annual basis; and
 - (3) Subdistributing and recipient agencies in CSFP, TEFAP, and FDPIR, in accordance with 7 CFR parts 247, 251, 253, respectively.
- (c) *Identification and correction of deficiencies.* The distributing agency must inform each subdistributing agency, recipient agency, or other entity of any deficiencies identified in its reviews, and recommend specific actions to correct such deficiencies. The distributing agency must ensure that such agencies or entities implement corrective actions to correct deficiencies in a timely manner.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-004 The Department of Health did not have adequate internal controls over and did not comply with requirements to ensure provider payments were allowable and met cost principles for the Special Supplemental Nutrition Program for Women, Infants and Children.

CFDA Number and Title: 10.557 Special Supplemental Nutrition Program for Women, Infants and Children
10.557 COVID-19 Special Supplemental Nutrition Program for Women, Infants and Children

Federal Grantor Name: U.S. Department of Agriculture

Federal Award/Contract Number: 207WAWA7W1003; 207WAWA7W1006;
21WAWA7W6003; 21WAWA7W6006;
21WAWA7W7003; 21WAWA7W1003;
21WAWA7W1006

Pass-through Entity Name: None

Pass-through Award/Contract Number: None

Applicable Compliance Component: Activities Allowed or Unallowed
Allowable Costs / Cost Principles

Known Questioned Cost Amount: \$6,711,342

Background

The Department of Health (Department) operates the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). WIC is funded exclusively with federal grants from the U.S. Department of Agriculture. WIC serves pregnant women, new and breastfeeding moms, and children younger than 5 years old who are at or below 185 percent of the federal poverty level. WIC provides:

- Nutrition ideas and tips on how to eat well and be more active
- Breastfeeding support, such as access to a peer counselor and breast pumps (varies by clinic)
- Health screenings and referrals
- Monthly benefits for healthy food, such as milk, cereal, fruits and vegetables

To help carry out the objectives of the WIC program, the Department issues subawards to Local Health Jurisdictions, nonprofit organizations and tribal governments. Subrecipients are awarded federal funds on a reimbursement basis only. The Department assigns each subrecipient a risk level based on standardized criteria. The Department maintains a documentation matrix that specifies the documentation that subrecipients are required to submit with each reimbursement for each risk level. There are varying requirements among low, moderate, and high-risk subrecipients for each of the following expense categories:

- Salaries and wages
- Fringe benefits
- Equipment
- Materials and supplies
- Travel costs (in-state and out-of-state)
- Subcontracts
- Administrative/indirect costs
- Other miscellaneous expenses (as specified under the subaward)

The Department spent over \$83.5 million in federal grant funds during fiscal year 2021. Of this amount, it paid about \$28.8 million to providers for direct client services.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure provider payments were allowable and met cost principles for the WIC program.

During the audit period, Department program managers used the documentation matrix when reviewing subrecipient payment requests to ensure payments were for allowable activities, met cost principles and included required supporting documentation. We used a statistical sampling method to randomly select 57 out of 700 payments to review. Additionally, we judgmentally reviewed two individually significant payments that exceeded \$1.5 million each. In total, we examined more than \$12.4 million in provider payments as part of the audit.

Of the 59 payments examined, we identified 22 payments that did not have the required supporting documentation for the assigned risk level. This included the two individually significant payments.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department has established policies and procedures for evaluating payment requests, but management did not ensure staff followed them. Although the payment requests contained program manager signatures to indicate they performed a review, the required supporting documentation was not submitted or reviewed in accordance with Department policy.

Effect of Condition and Questioned Costs

Without establishing adequate internal controls, the Department cannot reasonably ensure it using federal funds for allowable purposes. Additionally, by not ensuring subrecipients submitted proper supporting documentation so staff could verify their reimbursement claims, the Department cannot ensure its subrecipients have complied with the terms and conditions of the subaward.

We used a statistical sampling method to randomly select the reimbursements we examined in the audit. The 22 payments for which the Department did not have adequate documentation from subrecipients to support their reimbursement requests totaled \$6,711,342 in known questioned costs. Based on these results, we estimate that the total amount of likely improper payments using federal funds to be \$12,329,235.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified the population by dollar amount.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Improve internal controls, including its internal monitoring processes, to ensure that it obtains adequate supporting documentation from subrecipients before reimbursing them
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

We appreciate the State Auditor's Office (SAO) audit of the Women, Infant and Children grant. The Department is committed to ensuring our programs comply with federal regulations and understand that it is SAO's point of view that we did not have adequate controls over provider payments to ensure allowability in meeting cost principles.

The Department partially agrees with SAO's findings. The Department does agree and has already taken steps to improve internal controls over ensuring payments to providers contain support per our internal policies and procedures. However, we would respectfully disagree with the number of exceptions and questioned costs identified. While the level of support did not meet our internal policies, which are held to a higher standard than federal requirements, the totality of our subrecipient monitoring processes and level of documentation received from the subrecipient accounting system gave us assurance that many of the transactions/costs questioned met federal cost principles for allowability. Per our review of the 22 exceptions identified by the auditor's office, we identified only five payments that did not contain any support from the subrecipient for a revised total of known questioned costs of \$273,614. This, along with the following additional overall internal subrecipient monitoring and policy processes support our overall assurance of the allowability of payments:

- Each of the subrecipients of WIC funds receives a monitoring visit from our Fiscal Monitoring Unit (FMU) once every two years. During the course of these visits monitoring staff perform walk-through's and assessments of the internal controls surrounding the A19 payments process and select the most recent three A19's submitted for WIC funding and agree all charges to the source documentation from the subrecipient for allowability using the costs principles and criteria as a basis. It is determined via a risk-based approach if these visits will be virtual or on-site visit;*
- WIC program monitoring staff also perform annual onsite visits at a minimum and perform critical reviews of program activities to ensure WIC processes and costs charged to the program are for allowable purposes and are in alignment with programmatic rules related to the Women, Infants and Children Program;*
- Detailed budgets for WIC are submitted by the subrecipient, by project, reviewed and approved by Program staff annually and as A19's are submitted program fiscal staff keep updated budget to actual spreadsheets, and while they review the support provided by the subrecipient, they ensure amounts submitted by project are reasonable and are in alignment with expectations for the budget period submitted;*
- The WIC program has an allowable cost policy chapter, purchase and procurement chapter, that is provided to the subrecipients.*
- FMU regularly provides technical assistance and training, not only to WIC fiscal program staff, but to the subrecipients while onsite and at the request of the entities receiving WIC funding; and*

- *Program staff regularly provide technical assistance, policies, and training to WIC subrecipients related to both allowability and compliance as it relates to WIC programmatic processes.*

Auditor's Remarks

The processes listed in the Department's response were not presented to us by management as internal controls over the compliance requirement of activities allowed during the audit and therefore were not examined and tested.

Not considering the expenditures disputed by the Department, the five exceptions would still represent a material weakness in internal controls as well as material noncompliance with the compliance requirement.

We reaffirm our finding and will follow up on the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance

with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in

accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-005 The Employment Security Department did not have adequate internal controls over and did not comply with federal requirements to conduct case reviews for the Benefit Accuracy Measurement program of the Unemployment Insurance program in a timely manner.

CFDA Number and Title: 17.225 Unemployment Insurance
17.225 COVID-19 Unemployment Insurance

Federal Grantor Name: U.S. Department of Labor

Federal Award/Contract Number: UI-35977-21-60-A-53; UI-34092-20-55-A-53;
UI-34198-20-55-A-53; UI-34528-20-60-A-53;
UI-34748-20-55-A-53; UI-34890-20-55-A-53;
UI-35682-21-55-A-53; UI-35737-21-55-A-53

Pass-through Entity Name: None

Pass-through Award/Contract Number: None

Applicable Compliance Component: Special Tests and Provisions: UI Benefit Payments

Known Questioned Cost Amount: None

Background

The Unemployment Insurance program was created by the Social Security Act (SSA), and provides benefits under the Unemployment Compensation program to unemployed workers for periods of involuntary unemployment. It provides a stabilizing effect on the economy by maintaining the spending power of eligible workers while they are between jobs.

The Improper Payment Elimination and Recovery Act (IPERA) of 2010 requires the State Workforce Agencies to maintain a quality control system. The Benefits Accuracy Measurement (BAM) program is the U.S. Department of Labor's quality control system designed to assess the accuracy of Unemployment Insurance benefit payments and denied claims. The program estimates error rates and dollar amounts of benefits improperly paid or denied by projecting the results from investigations in a state. For fiscal year 2021, the U.S. Department of Labor waived the requirement for states' review of denied claims, but not paid claims.

The Employment Security Department (Department) administers the state's Unemployment Insurance program. During fiscal year 2021, the Department paid more than \$12.1 billion dollars in unemployment insurance benefits to more than 877,000 people.

Under the BAM program, the Department is required to draw a weekly sample of payments and denied claims. The Department must complete this sampling promptly and conduct an in-depth investigation of the claims to determine the degree of accuracy in administering the state's Unemployment Compensation program and compliance with federal law (20 CFR 602.21(d)). The Department has established a dedicated BAM unit to meet these requirements.

The Unemployment Insurance Program Letter No. 12-19 indicates the timeframe and requirements for conducting BAM program case sampling. States must complete reviews of:

- 95 percent of the sampled cases within 90 days of the week ending date of the batch; and
- 98 percent of sampled cases within 120 days of the ending date of the annual report period.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported that the Department did not have adequate internal controls over and did not comply with federal requirements to conduct case reviews for the BAM program of the Unemployment Insurance program in a timely manner. The prior finding number was 2020-011.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to operate a BAM program and assess the accuracy of Unemployment Insurance benefit payments.

The Department did not effectively recruit, develop and retain staff to ensure it materially complied with the BAM program's case review requirements.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

The Department did not have adequate staffing resources to meet BAM program requirements. According to management, the program has struggled to maintain adequate staffing due to attrition and funding. Also, once staff are hired, it takes considerable time to train new employees to complete case sampling. Staff appointed to assist the Department's BAM unit in response to the prior audit finding left employment during the audit period, making it difficult for the Department to complete investigations in a timely manner. The Department was unable to fill these vacant positions during the audit period.

Effect of Condition

The Department did not comply with the federally required timelines for completing its case sampling. Specifically, we found the Department completed only 64 percent of its sampled cases within 90 days of the week ending date of the batch. This was materially noncompliant with the BAM program's timeliness requirements.

By not complying with the federally required timelines for completing case sampling, the Department cannot fully evaluate the accuracy of its claim decisions and is less likely to detect fraudulent payments.

Recommendation

We recommend the Department allocate the necessary staffing resources to ensure it complies with the U.S. Department of Labor's timelines for BAM case sampling.

Department's Response

The Department concurs with this finding and recommendation.

The BAM unit has, since 2019, continued to improve on the staffing model within the unit and ensure compliance is met through training, sufficient staffing, and contingency planning. The unit has recently hired three additional staff to fill prior vacancies that now put the unit at full staff capacity to ensure the USDOL Acceptable Levels of Performance (ALPs) are met.

ESD continues to partner and frequently communicate with USDOL Regional Offices to discuss staffing and training models. The Quality Assurance Manager and the Case Review Supervisor are committed to routinely monitor caseload, workload, and the overall assurance of meeting the BAM operations performance goals and measures as set forth by USDOL.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 20 *U.S. Code of Federal Regulations (CFR) Part 602, Quality Control in the Federal-State Unemployment Insurance System – Subpart B – Federal Requirements*, establishes the following applicable requirements:

Section 602.21 – Standard methods and procedures, states in part:

Each State shall:

- a. Perform the requirements of this section in accordance with instructions issued by the Department, pursuant to 602.30(a) of this part, to ensure standardization of methods and procedures in a manner consistent with this part;
- b. Select representative samples for QC study of at least a minimum size specified by the Department to ensure statistical validity,
- f. Furnish information and reports to the Department, including weekly transmissions of case data entered into the automated QC system and annual reports,

The U.S. Department of Labor, Employment and Training Administration *Benefit Accuracy Measurement State Operations Handbook – ET Handbook No. 395, 5th Edition*, Chapter VI Investigative Procedures, Section 13. Completion of Cases and Timely Data Entry, states in part:

The following time limits are established for completion of all cases for the year. (The “year” includes all batches of weeks ending in the calendar year.):

- a minimum of 70 percent of cases must be completed within 60 days of the week ending date of the batch, and 95 percent of cases must be completed within 90 days of the week ending date of the batch; and
- a minimum of 98 percent of cases for the year must be completed within 120 days of the ending date of the calendar year.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-006 The Employment Security Department did not have adequate internal controls over fiscal monitoring requirements to ensure subrecipients of the Workforce Innovation and Opportunity Act program only used funds for allowable purposes.

CFDA Number and Title: 17.258 Workforce Innovation and Opportunity Adult Program
17.259 Workforce Innovation and Opportunity Youth Activities
17.278 Workforce Innovation and Opportunity Dislocated Worker Formula Grants

Federal Grantor Name: U.S. Department of Labor

Federal Award/Contract Number: AA-32219-18-55-A53, AA-33263-19-55-A-53, AA-34801-20-55-A-53, AA-32219-18-55-A-53 , AA-33263-19-55-A-53, AA-34801-20-55-A-53, AA-32219-18-55-A-53 , AA-33263-19-55-A-53, AA-34801-20-55-A-53

Pass-through Entity Name: None

Pass-through Award/Contract Number: None

Applicable Compliance Component: Activities Allowed or Unallowed, Subrecipient Monitoring

Known Questioned Cost Amount: None

Background

The Employment Security Department (Department) receives federal funding for the Workforce Innovation and Opportunity Act (WIOA) grant from the U.S. Department of Labor (DOL). WIOA authorizes formula grant programs to states to help job seekers access employment, education, training and support services to succeed in the labor market. WIOA provides employment and training programs for adults, dislocated workers, youth and Wagner-Peyser Act employment services administered by DOL.

The state subawards a large portion of the federal funds it receives to 12 Local Workforce Development Boards (LWDBs) that provide employment assistance to people. The Department spent about \$66.9 million in federal funds for the WIOA cluster in state fiscal year 2021. Of this

amount, the Department paid about \$63.7 million to the LWDBs. Additionally, the Department asserts over 50 percent of these funds are passed on from the LWDB's to their local partners.

When LWDBs request WIOA funds from the Department, they submit high-level supporting documentation like expenditure summary reports from an accounting system. To ensure federal funds are used only for allowable purposes and meet cost principles, the Department performs onsite monitoring of each LWDB every year. The onsite monitoring includes a review of a selection of reimbursement requests the LWDB has submitted since the last onsite monitoring visit. During the time between monitoring visits, each LWDB is authorized to spend federal funds from multiple subawards that the Department has issued.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over fiscal monitoring requirements to ensure subrecipients of the WIOA program only used funds for allowable purposes. The prior finding numbers were 2020-013 and 2019-012.

Description of Condition

The Department did not have adequate internal controls over fiscal monitoring requirements to ensure subrecipients of the WIOA program only used funds for allowable purposes.

When determining which expenditures to review during an onsite monitoring visit, Department staff responsible for conducting the visit judgmentally select a sample of reimbursements made to the LWDB since the last onsite visit. The Department has procedures that describe its subrecipient monitoring process, but they do not provide staff guidance on how to:

- Determine how many expenditures they need review to give the Department reasonable assurance the LWDB spent WIOA funds in accordance with federal law
- Determine what criteria should be considered when selecting reimbursements for review
- Document the judgment they used when selecting reimbursements for review

We consider this internal control deficiency to be a material weakness.

Cause of Condition

Management said they believed the Department's design of its monitoring practices, contract closeout process and subrecipient audits were sufficient for detecting unallowable or unsupported costs that the LWDBs claimed for reimbursement. However, the Department's subrecipient monitoring process was not designed to compensate for the fact that LWDBs do not provide detailed supporting documentation when they request reimbursement.

Effect of Condition

By not performing adequate fiscal monitoring over subrecipients, the Department is at a higher risk of not detecting or preventing unallowable activities and costs from being charged to the federal grant.

Allowing staff to select samples judgmentally without adequate guidance from management does not provide the Department with reasonable assurance that LWDBs spent program funds in accordance with grant requirements and federal regulations. This may also lead to inconsistent and potentially inequitable fiscal oversight of the LWDBs. Additionally, because the reviewers do not document how they selected expenditures for review or how they achieved adequate coverage for the required level of assurance, management cannot perform sufficient oversight to ensure the Department has met federal requirements.

These weaknesses have a greater effect on the Department's ability to ensure LWDBs spent WIOA funds in accordance with federal law because it has chosen not to receive or review any detailed support for reimbursements at the time when LWDBs submit them to the Department. Therefore, the Department relies almost solely on its fiscal monitoring process to gain this assurance.

Recommendations

We recommend the Department:

- Strengthen its monitoring of LWDBs to ensure they are only using federal funds for allowable purposes
- Develop written policies and procedures that provide guidance to staff on how to perform fiscal monitoring reviews

Department's Response

The Department respectfully disagrees with the finding. We appreciate the State Auditor's Office's (SAO) work. We believe the Department has complied fully with federal requirements regarding the oversight of funds provided to Workforce Development Councils (WDC's) as part of the Workforce Innovation and Opportunity Act (WIOA) implementation in Washington State (2 CFR § 200.331).

The Employment Security Department (ESD) is committed to ensuring our programs comply with federal regulations and understand that it is SAO's assertion that we did not have adequate internal controls over fiscal monitoring of our subrecipients.

We disagree with SAO's conclusions regarding the description of our condition. ESD provides staff guidance on what are allowable activities for the WIOA program, on how many expenditures

to review, and what criteria to use when selecting reimbursements for review in the form of daily and weekly meetings as well as utilization of our risk assessments.

It is always our goal to follow all federal criteria when performing monitoring of subrecipients and oversight of the grant. SAO was unable to provide us with specific criteria regarding reasonable assurance that would allow us to improve our internal controls to fit their expectations and address the issues they raised in this finding. We referenced the Uniform Guidance regarding required and considered actions for a subrecipient monitoring program:

Based on Uniform Guidance (UG) we must:

- *Perform a Subrecipient vs Contractor Determination.*
- *Enter UG information into the subaward.*
- *Accept Federally negotiated rate where applicable.*
- *Perform a risk assessment.*
- *Review the Reporting sent by the subrecipient.*
- *Issue Management Letters to ensure the Subrecipient acts against deficiencies.*
- *Verify the Subrecipient had / needs a Single Audit.*

Per the UG, monitoring agencies should consider:

- *If more monitoring is required.*
- *Providing additional monitoring thru technical assistance and training.*
- *Perform on-site Reviews or agreed upon procedures.*
- *Develop a policy and process for subrecipient monitoring that is centered around the risk assessment analysis.*

ESD performs all required functions and has also implemented all the actions monitoring agencies should consider. During USDOL's annual reviews, they have consistently cited how thorough ESD's monitoring processes are. This is further evidenced by the following promising practices they identified during some of their recent visits:

- *On February 4, 2022, USDOL reported ESD's risk assessments take into consideration factors including staff turnover, existence of unresolved monitoring findings, expenditure rates, and current investigations of the recipient. Additionally, other important factors that may indicate a higher risk for compliance or other grant management issues are taken into consideration. The assessments enable ESD to provide targeted technical assistance to its subrecipients to help prevent potential issues.*
- *On January 29, 2021, USDOL reported our monitoring process and tool is a cooperative, collaborative approach that helps to build capacity and compliance.*

- *In 2017, USDOL reported ESD developed monitoring processes that not only fulfill the State’s monitoring requirements but add a strong focus on providing technical assistance and on-the-spot corrections. In addition, ESD has developed a set of monitoring tools that have been adopted by many of the LDWB’s and could be shared nationwide.*

ESD has been and remains committed to ongoing reviews of our processes with a continual aim to enhance our internal controls if needed.

Auditor’s Remarks

The Department did not provide our Office with any documentation that outlines the requirements for selecting samples of reimbursements to review for WIOA subrecipient monitoring visits. The Department’s Workforce Innovation and Opportunity Act Policy 5414 (WIOA Title I Monitoring), Section 3(b)(1) *Scope of Monitoring Reviews – Administrative and Financial Management*, states:

“This review area includes, but is not limited to, an evaluation of the LWDB and sub-committees, the WorkSource system, administrative and financial policies and practices, and sub-recipient monitoring and oversight according to applicable federal and state legislation, regulations, policies and guidance, and OMB Circulars and Uniform Guidance. ESD Workforce Monitoring Unit will conduct this evaluation via document review and sample selection.”

There is no written guidance concerning the amount or number of transactions that should be reviewed during the evaluation, nor does the policy identify the criteria to be applied in selecting transactions for review. This is further supported by the Department’s assertion in its response above that guidance was issued to staff informally through meetings and discussions, which we could not verify occurred during the audit period. It is our opinion that without formally communicating sampling requirements to the WIOA Monitoring Unit staff, the Department has not established adequate internal controls over the Federal award that provide management with reasonable assurance that subrecipient activities are compliant with federal program requirements, and performance goals have been achieved.

In addition, the evaluations we examined as part of this audit did not contain any documentation of the evaluator’s judgment or criteria used to select individual transactions from each LWDB to review. Without this information, management cannot ensure that the results of each LWDB review provide reasonable assurance of compliance with WIOA program requirements.

While the Department asserts it is meeting federal requirements for monitoring subrecipients, this finding also addresses the Department’s lack of internal controls over the Activities Allowed compliance requirement. The Department’s decision not to review supporting documentation at the time payment are made to subrecipients means that the monitoring of subrecipients is also

being relied on to ensure all payments are only for allowable activities. In our judgment, the processes in place are not sufficient to give the Department that level of assurance.

We reaffirm the audit finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.302 Financial management, states in part:

- (a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.
- (b) The financial management system of each non-Federal entity must provide for the following (see also §§ 200.334, 200.335, 200.336, and 200.337):
 - (3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated

Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.329 Monitoring and reporting program performance, states in part:

- (a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective

is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-007 The Employment Security Department did not have adequate internal controls over and did not comply with requirements to ensure it submitted complete and accurate quarterly performance reports for the Workforce Innovation and Opportunity grant.

CFDA Number and Title:	17.258 Workforce Innovation and Opportunity Adult Program 17.259 Workforce Innovation and Opportunity Youth Activities 17.278 Workforce Innovation and Opportunity Dislocated Worker Formula Grants
Federal Grantor Name:	U.S. Department of Labor
Federal Award/Contract Number:	AA-32219-18-55-A53, AA-33263-19-55-A-53, AA-34801-20-55-A-53, AA-32219-18-55-A-53 , AA-33263-19-55-A-53, AA-34801-20-55-A-53, AA-32219-18-55-A-53 , AA-33263-19-55-A-53, AA-34801-20-55-A-53
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The Employment Security Department (Department) receives federal funding for the Workforce Innovation and Opportunity Act (WIOA) grant from the U.S. Department of Labor (DOL). WIOA authorizes formula grant programs to states to help job seekers access employment, education, training and support services to succeed in the labor market. WIOA provides employment and training programs for adults, dislocated workers, youth and Wagner-Peyser Act employment services administered by DOL.

DOL requires that the Department complete performance reports using a standardized Participant Individual Record Layout (PIRL). The Department must file the PIRL every quarter using the DOL's Workforce Integrated Performance System. DOL also requires that states develop data validation procedures related to the PIRL that include:

- Written description of the process for identifying and correcting errors or missing data, which may include electronic data checks;
- Regular data validation training for appropriate program staff;
- Monitoring protocols, consistent with 2 CFR 200.328;
- A regular review of program data for errors, missing data, out-of-range values and anomalies;
- Documentation that missing and erroneous data identified during the review process have been corrected; and
- Regular assessment of the effectiveness of the data validation process and revisions to the process as needed.

The Department uses the Efforts to Outcome (ETO) system to determine if participants are eligible for programs under the WIOA grant. Local Workforce Development Boards (LWDB) enter participant information into ETO, and DOL requires the Department to perform validation procedures to ensure participant data is accurate and complete. Additionally, ETO tracks participants' progress while in the program and upon completion. The Department uses data captured in ETO to compile the data elements reported on the PIRL.

In state fiscal year 2021, the Department spent about \$66.9 million in federal WIOA grant funds.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure it submitted complete and accurate quarterly performance reports for the WIOA grant. The prior finding number was 2020-012.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure it submitted complete and accurate quarterly performance reports for the WIOA grant.

The Department did not establish an effective review process to ensure data elements of the PIRL quarterly reports were accurate and complete before submitting them to DOL. The Department also did not have adequate written data validation procedures for the PIRL report, as DOL requires.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

A contracted vendor extracts participant data from a large database and then uses customized code to transform it to produce the data the Department uses to create the PIRL reports. After the prior audit, the Department found an error in the PIRL data script, which the Department plans to correct by February 2022.

Because of insufficient staffing resources, the Department did not review this process to ensure the code the vendor produced correctly pulled the data.

Effect of Condition

We verified the Department submitted all four quarterly PIRL reports to the DOL, as required during fiscal year 2021. We obtained and examined all four reports to determine if the Department accurately prepared them. To identify a population of WIOA participants, data elements 903, 904, and 905 are critical because they represent whether a client participated in the program. Each data element must be completed with one of the following allowable coding options:

- 0 — Participant did not receive services
- 1 — Yes, Local Formula
- 2 — Yes, Statewide
- 3 — Yes, Both Local Formula and State
- 4 — Reportable Individual

We found participants listed in the reports were missing one or more data elements for 903, 904 and 905. The following tables show the proportion of the fields that were blank compared to the total number of fields.

Data Element 903

Quarter	Blanks	Total	Percent
1	172,656	385,306	44.81%
2	170,139	368,745	46.14%
3	166,908	355,777	46.91%
4	161,432	341,679	47.25%

Data Element 904

Quarter	Blanks	Total	Percent
1	173,074	385,306	44.92%
2	170,473	368,745	46.23%
3	167,183	355,777	46.99%
4	161,653	341,679	47.31%

Data Element 905

Quarter	Blanks	Total	Percent
1	173,072	385,306	44.92%
2	170,469	368,745	46.23%
3	167,181	355,777	46.99%
4	161,653	341,679	47.31%

We could not determine the total population of WIOA participants for testing because these data elements were incomplete and inaccurate. Without complete data, the Department could not demonstrate compliance with reporting requirements nor accurately inform its federal grantor of its current level of program participation.

Recommendation

We recommend the Department:

- Update written validation procedures for the PIRL report to meet DOL requirements
- Train LWDB on PIRL data element reporting requirements to ensure they enter all required information into ETO
- Establish a review process to ensure it submits complete and accurate quarterly PIRL reports
- Ensure all required elements are completed for participants listed in the PIRL reports before submitting them to DOL

Department's Response

The Department concurs with the finding.

We would like to thank the Office of the State Auditor (SAO) for their work on this area to ensure job seekers in Washington state can access employment, education, training, and support services to succeed in the labor market.

We have outlined our response below with respect to the recommendations made by SAO.

SAO recommendation: *Ensure all required elements are completed for participants listed in the PIRL reports before submitting them to DOL.*

ESD has updated our scripts and they are now reflecting zero blank elements submitted and showing only allowable values. In addition to SAO's recommendation, ESD is implementing, as a long-term solution, a new case management system.

SAO recommendation: *Update written validation procedures for the PIRL report to meet DOL requirements.*

The Data Integrity, Policy and Monitoring teams have completed their Data Element Validation (DEV) policy update, submitted it to DOL and are actively executing DEV per DOL expectations.

DOL has not provided guidance or definitions through a Training Employment Guidance Letter or Training Employment Notice related to the designation of a reportable individual. Once issued, we can more effectively train stakeholders, update policy, and hold local areas accountable to what a reportable individual count would be.

We will also work with our vendors who provide the data extract from Efforts to Outcome to ensure scripting produces the required outcome.

SAO recommendation: *Train LWDB on PIRL data element reporting requirements to ensure they enter all required information into ETO.*

ESD's Data Integrity, Policy and Monitoring teams have established a technical assistance PIRL reporting process focused on continuous improvement practices including root cause analysis to guide existing and new trainings. This process has been in place since Q2 2021.

We also offer and execute 1:1 specialized technical assistance and training as requested by local areas and one-stop centers.

SAO recommendation: *Establish a review process to ensure it submits complete and accurate quarterly PIRL reports.*

The Data Integrity team is heavily involved in the automation and standardization of the Quarterly Report Analysis (QRA) process. Thus far, we have concentrated on setting up a sustainable process and we are working on evaluating all defined areas in the most recent QRAs provided to date.

The QRA is in its pilot phase with DOL, and Washington State has proactively established a system and reporting structure prior to it being formally required by DOL. We are seeking and receiving technical assistance with DOL as it relates to the PIRL to further establish internal controls and effectively manage data validation, quality, and integrity.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.329 Monitoring and reporting program performance, states in part:

- (a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.332.
- (b) Reporting program performance. The Federal awarding agency must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information. As appropriate and in accordance with above mentioned information collections, the Federal awarding agency must require the recipient to relate financial data and accomplishments to performance goals and objectives of the Federal award. Also, in accordance with above mentioned common information collections, and when required by the terms and conditions of the Federal award, recipients must provide cost information to demonstrate cost effective practices (e.g., through unit cost data). In some instances (e.g., discretionary research awards), this will be limited to the requirement to submit technical performance reports (to be evaluated in accordance with Federal awarding agency policy). Reporting requirements must be clearly articulated such

that, where appropriate, performance during the execution of the Federal award has a standard against which non-Federal entity performance can be measured.

- (c) Non-construction performance reports. The Federal awarding agency must use standard, government wide OMB-approved data elements for collection of performance information including performance progress reports, Research Performance Progress Reports.

- (1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Reports submitted annually by the non-Federal entity and/or pass-through entity must be due no later than 90 calendar days after the reporting period. Reports submitted quarterly or semiannually must be due no later than 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report submitted by the non-Federal entity and/or pass-through entity must be due no later than 120 calendar days after the period of performance end date. A subrecipient must submit to the pass-through entity, no later than 90 calendar days after the period of performance end date, all final performance reports as required by the terms and conditions of the Federal award. See also §200.344. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is

material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, and paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either

individually or when aggregated with other noncompliance, to the affected government program.

Training and Employment Guidance Letter (TEGL) WIOA No. 07-18, dated December 19, 2018 - Operating Guidance for the Workforce Innovation and Opportunity Act, states in part:

Guidance for Validating Jointly Required Performance Data Submitted under the Workforce Innovation and Opportunity Act (WIOA)

4. Joint Data Validation Framework. Data validation is a series of internal controls or quality assurance techniques established to verify the accuracy, validity, and reliability of data. Establishing a joint data validation framework based on a consistent approach shared by the Departments will ensure that all program data are consistent and accurately reflect the performance of each core program in each State. To that end, the purposes of validation procedures for jointly required performance data are to:

- Verify that the performance data reported by States to the Departments are valid, accurate, reliable, and comparable across programs;
- Identify anomalies in the data and resolve issues that may cause inaccurate reporting;
- Outline source documentation required for common data elements; and
- Improve program performance accountability through the results of data validation efforts.

While States must utilize a data validation strategy, the specific design, implementation, and periodic evaluation of that strategy is left to the discretion of the State so long as those strategies or procedures are consistent with these guidelines.

Data validation helps ensure the accuracy of the annual statewide performance reports, safeguards data integrity, and promotes the timely resolution of data anomalies and inaccuracies. As such, it is recommended that States incorporate their data validation procedures into their internal controls procedures, which are required by 2 Code of Federal Regulations (CFR) §200.303. State VR agencies should also consider related guidance issued in Rehabilitative Services Administration (RSA) Policy Directive 16-04.

Each State must develop data validation procedures that include:

- Written procedures for data validation that contain a description of the process for identifying and correcting errors or missing data, which may include electronic data checks;
- Regular data validation training for appropriate program staff (e.g., at least annually);

- Monitoring protocols, consistent with 2 CFR §200.328, to ensure that program staff are following the written data validation procedures and take appropriate corrective action if those procedures are not being followed;
- A regular review of program data (e.g., quarterly) for errors, missing data, out-of-range values, and anomalies;
- Documentation that missing and erroneous data identified during the review process have been corrected; and
- Regular assessment of the effectiveness of the data validation process (e.g., at least annually) and revisions to that process as needed.

Performance Accountability, Information, and Reporting System - OMB Control No. 1205-0521:

The report can be found by following this link:

https://www.dol.gov/sites/dolgov/files/ETA/Performance/pdfs/ETA_9170_WIOA_PIRL_Final.pdf

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-008 The Washington State Department of Transportation did not have adequate internal controls over and did not comply with requirements to conduct program monitoring of subrecipients of the Highway Planning and Construction Cluster.

CFDA Number and Title:	20.205 Highway Planning and Construction 20.205 COVID-19 Highway Planning and Construction 20.219 Recreational Trails Program 20.224 Federal Lands Access Program
Federal Grantor Name:	U.S. Department of Transportation
Federal Award/Contract Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Washington State Department of Transportation's (Department) Local Programs Office administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for highway construction projects. The Department spent about \$510 million on highway projects during fiscal year 2021. Of that amount, it passed through about \$221 million to local agencies as subawards.

Federal regulations require the Department to monitor the activities of its subrecipients to ensure they use subawards for authorized purposes and that activities comply with terms and conditions of the subaward and achieve performance goals. Specifically, monitoring efforts must include reviewing financial and programmatic reports required by the pass-through entity.

The Department also maintains its own requirements for subawards of federal funds, published in the Local Agency Guidelines (LAG) Manual. This manual outlines additional requirements the Department imposes on all subrecipients, including the requirement to undergo project audits,

documentation reviews during the project period of performance, and project management reviews (PMR) prior to closure of each federally funded construction project.

The Department revised the LAG Manual in June 2021 to provide for the selection of PMRs using a risk-based approach. The Department selects PMRs from ongoing projects it believes are at the highest risk of noncompliance. However, the U.S. Department of Transportation, Federal Highway Administration (FHWA), has stipulated in its Stewardship and Oversight Agreement (Agreement) with the Department that a PMR is conducted at least once every three years for each subrecipient.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with federal requirements to conduct program and fiscal monitoring of subrecipients for the Highway Planning and Construction Cluster. The previous finding numbers were 2020-016 and 2019-015.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to conduct program monitoring of subrecipients for the Highway Planning and Construction Cluster.

The Department did not ensure it completed PMRs of every subrecipient every three years, as required by the Agreement. We randomly selected and reviewed five of the nine PMRs scheduled during the audit period. We found the Department did not perform any of the five PMRs within three years of the previous completed review, as required.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

Despite this condition being reported in two prior audits, Department officials said they still believed that conducting on-site reviews during the closeout phase of a subrecipient's project was sufficient to provide reasonable assurance of the subrecipient's use of the federal subaward. During the audit period, the Department did not successfully renegotiate terms and conditions of the Agreement with FHWA to allow for a different methodology of selecting PMRs to conduct.

Effect of Condition

Without establishing adequate internal controls, the Department cannot reasonably ensure its subrecipients are using federal funds for allowable purposes. Additionally, without monitoring each subrecipient's use of federal funds, the Department does not have reasonable assurance that the subrecipient has complied with the terms and conditions of the subaward.

Failure to monitor each subrecipient's use of federal grant funds also violates the terms and conditions of the Agreement, which could result in the termination or suspension of the federal grant award.

Recommendations

We recommend the Department:

- Update its policies and procedures for subrecipient monitoring to comply with all FHWA regulations
- Improve internal controls to ensure it completes project management reviews for every active subrecipient at least once every three years, as required under the Agreement

Department's Response

The Washington State Department of Transportation (WSDOT) appreciates the State Auditor's Office audit of the Federal Highway Program. WSDOT is committed to ensuring our programs comply with federal regulations.

The Department appreciates the Auditor's perspective on the Description of Condition and Effects of the Condition. The timing of the Auditor's finding comes as the Department is coordinating with FHWA to update its PMR process to a leading practice. This new process includes focusing on a more "risk-based approach" which will provide a higher level of oversight to the subrecipients. Technically, the finding is correct based on the language in the Stewardship Agreement with FHWA. FHWA is reluctant to formally open the Stewardship and Oversight agreement for revisions, as a new nationwide "template" is under development. Our risk-based program approach began in calendar year 2021 via a memo agreement with FHWA, and will be more formally adopted in calendar year 2022 via a memo acknowledgement and extension pending with FHWA.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:
 - (1) Reviewing financial and performance reports required by the pass-through entity.
 - (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.
- (g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 23 U.S. Code of Federal Regulations, Chapter 1 – Federal-Aid Highways, Section 106:

Project approval and oversight, states in part:

(g) Oversight Program.—

4) Responsibility of the states.—

(A) In general.—The States shall be responsible for determining that subrecipients of Federal funds under this title have—

(i) adequate project delivery systems for projects approved under this section;
and

(ii) sufficient accounting controls to properly manage such Federal funds.

Title 23 U.S. Code of Federal Regulations, Part 635 – Construction and Maintenance – Contract Procedures states in part:

§ 635.102 Definitions.

As used in this subpart:

Local public agency means any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the State transportation department in highway matters.

State department of transportation (State DOT) means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term “State” should be considered equivalent to State DOT if the context so implies. In addition, State Highway Agency (SHA), State Transportation Agency (STA), State Transportation Department, or other similar terms should be considered equivalent to State DOT if the context so implies.

§ 635.105 Supervising agency.

- (a) The State DOT has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by a local public agency or other Federal agency. The State DOT shall be responsible for insuring that such projects receive adequate supervision and inspection to insure that projects are completed in conformance with approved plans and specifications.

The U.S. Department of Transportation Stewardship and Oversight Agreement On Project Assumption and Program Oversight By and Between the Federal Highway Administration (Washington Division) and the Washington State Department of Transportation, states in part:

Section XI. State and Local Public Agency Oversight Requirements and Reporting Requirements

B. State DOT Oversight of Locally Administered Projects

WSDOT provides oversight through their Local Programs Division. This dedicated staff manages the program by providing guidance, training, and technical assistance to the Local Agencies.

The Local Agency Guidelines (LAG) manual describes the processes, documents, and approvals necessary to administer federal-aid projects by local transportation agencies. The manual also outlines WSDOT’s oversight and review activities. The Division reviews and approves twice a year the LAG Manual to ensure it complies with FHWA Order 5020.2 (Stewardship and Oversight of Federal-Aid Projects Administered by Local Public Agencies, August 14, 2014).

By agreeing to accept federal aid funds, the local agency understands its roles and responsibilities with respect to carrying out the federal aid program. WSDOT is permitted to delegate certain activities, under its supervision, to local agencies (cities, counties, private organizations, or other state agencies) under federal regulation 23 CFR 1.11 and 635.105; however, WSDOT accepts responsibility for delegated activities.

WSDOT has a certification process that allows local agencies to administer a federal aid project based on past performance, current staffing, overall capability, and knowledge of FHWA and state requirements. The certification acceptance process is outlined in Chapter 13 of the Local Agency Guidelines Manual (LAG).

WSDOT is also required to conduct verification activities to assure that local agency federal aid projects are implemented in conformance with federal aid requirements.

WSDOT conducts Project Management Reviews (PMR) to assess whether the certified agency administered the project in accordance with federal aid requirements. A PMR reviews all phases of a project from environmental, consultant services, design, to construction. WSDOT and the Division jointly develop the checklists for the PMRs. The Division includes items identified as part of our risk assessment process and items listed as stewardship indicators. The PMR review is conducted at a minimum every three years on the local agency's project with the most risk associated with it and the local agency's certification acceptance is reevaluated.

WSDOT has retained some project level approval actions and conducts various reviews such as, construction inspections, billing reviews, and work-zone traffic control reviews. In addition WSDOT conducts documentation and a final inspection on every local agency federal aid project.

WSDOT submits annually a Stewardship Report that summaries their verification activities, PMRs, other reviews, and stewardship indicators. The annual Stewardship Report addresses any findings or issues, as well corrective action plans if needed.

The Washington State Department of Transportation Local Agency Guidelines Manual (M 36-63.40 – June 2021), Chapter 53 – Project Closure, states in part:

53.3 Project Reviews

In order to ensure that local agencies are administering FHWA funded projects in reasonable compliance with FHWA requirements and regulations and the Local Agency Guidelines manual, WSDOT will perform procedural reviews on federal funded local agency ad-and-award projects. Projects will be selected from the available projects awarded to the local agency based upon the assigned risk level documented in the risk assessments performed at the end of each project by the Region LPE.

These reviews will be:

- Project Management Reviews (PMR) performed by HQ Local Programs
 - CA Agencies must have a PMR performed every three years. (Meaning the HQ Local Program will select a qualifying project from the list of awarded

federal projects. The project selection will occur near the beginning of third federal fiscal year cycle and with the actual review occurring near completion of construction.)

- PMRs will be performed in one of two ways, in person file reviews or electronic file reviews.
- Documentation Reviews are performed by the Region Local Programs Engineer with the frequencies of the reviews being based upon the risk assessment performed on each phase of the projects.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-009 **The Washington State Department of Transportation did not have adequate internal controls over and did not comply with requirements to perform risk assessments for subrecipients of the Highway Planning and Construction Cluster.**

CFDA Number and Title:	20.205 Highway Planning and Construction 20.205 COVID-19 Highway Planning and Construction 20.219 Recreational Trails Program 20.224 Federal Lands Access Program
Federal Grantor Name:	U.S. Department of Transportation
Federal Award/Contract Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Washington State Department of Transportation's (Department) Local Programs Office administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for highway construction projects. The Department spent about \$510 million on highway projects during fiscal year 2021. Of that amount, it passed through about \$221 million to local agencies through subawards.

Pass-through entities are required to monitor the activities of subrecipients in order to ensure they are properly using federal funds. To determine the appropriate level of monitoring, federal regulations require the Department to evaluate each subrecipient's risk of noncompliance with federal statutes and regulations and the terms and conditions of the subaward.

During fiscal year 2021, the Department awarded about \$219 million in new subawards to 179 local agencies for 751 construction projects across the state. Department management delegated the responsibility to complete risk assessments for individual projects to the Local Programs Engineers assigned to the regional office that oversees the project. When the Department prepares

to monitor or review a subrecipient, it selects an open and active project and evaluates the subrecipient based on its performance under that project.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with requirements to perform risk assessments for subrecipients of the Highway Planning and Construction Cluster. The prior finding numbers were 2020-014, 2019-016, and 2018-012.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to perform risk assessments for subrecipients of the Highway Planning and Construction Cluster. We randomly selected and examined 28 of 344 projects awarded funding during the audit period to determine if the Department performed a risk assessment of each project to determine the appropriate level of monitoring required for the subrecipient. We found the Department did not perform a risk assessment for four of the projects (14 percent). Additionally, four of the risk assessments the Department did perform did not have documented approval from the regional Local Programs Engineer as required.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

Management did not ensure the Department met the federal requirement to perform risk assessments for subrecipients. It did not effectively monitor regional Local Programs Engineers to ensure they completed risk assessments for each subrecipient project awarded program funds.

Effect of Condition

Not performing risk assessments makes the Department less likely to detect subrecipients' noncompliance with federal regulations and the grant's terms and conditions. Without verifying the Local Programs Engineers completed risk assessments for each awarded project, the Department cannot ensure it is performing risk assessments consistently and using the proper criteria to determine the appropriate amount of monitoring required for each subrecipient project.

Recommendations

We recommend the Department:

- Ensure it properly performs and documents the required risk assessments, which would allow management to evaluate the results and demonstrate compliance with federal requirements
- Improve its monitoring of regional Local Programs Engineers to ensure they complete risk assessments for each awarded project receiving federal financial assistance

Department's Response

We appreciate the State Auditor's Office (SAO) audit of the Federal Highway Program. WSDOT is committed to ensuring our programs comply with federal regulations and understand it is SAO's point of view that documentation must be maintained in order to verify WSDOT's compliance with the requirement to assess risk to inform our monitoring of local agencies.

Prior to the pandemic, headquarters Local Programs management visited region Local Program offices once every six months, dependent on the number of active projects, to meet on emergent topics that included risk assessments. When the Governor issued the Stay Home, Stay Healthy order, regional staff's focus was redirected to project shut down, safety, and reopening, which slowed completion of some risk assessments.

Local Programs meets with regional staff remotely and will work with them on how to improve monitoring of timely risk assessments and improve on the current completion rate of 86% noted above. While every attempt is made to complete a risk assessment on each phase of a project this can be a challenging exercise due to the volume of local agency projects. It is important to note that "effect of condition" should reflect that the risk assessment is one component of informing oversight activities. The regional staff have direct knowledge of the "subrecipients" strengths, aptitudes and past performance delivering federal aid projects. The relationships developed individually with each agency and their project personnel is also a meaningful barometer of risk. To further emphasize the importance of risk assessments, Local Programs is working with regional management to modify position descriptions of regional local programs staff to include the timely completion of risk assessments, and this will be incorporated into future performance evaluations.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
 - (1) The subrecipient's prior experience with the same or similar subawards;
 - (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
 - (4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:
- (1) Reviewing financial and performance reports required by the pass-through entity.
 - (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.
 - (3) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by § 200.521.
 - (4) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving crosscutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section § 200.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.
- (e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
- (1) Providing subrecipients with training and technical assistance on program-related matters; and
 - (2) Performing on-site reviews of the subrecipient's program operations;

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a

reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-010 The Washington State Department of Transportation did not have adequate internal controls over and did not comply with requirements to issue management decisions for audit findings to subrecipients of the Highway Planning and Construction Cluster.

CFDA Number and Title:	20.205 Highway Planning and Construction 20.205 COVID-19 Highway Planning and Construction 20.219 Recreational Trails Program 20.224 Federal Lands Access Program
Federal Grantor Name:	U.S. Department of Transportation
Federal Award/Contract Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Washington State Department of Transportation (Department), Local Programs Office, administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for highway construction projects. The Department spent about \$510 million on highway projects during fiscal year 2021. Of that amount, it passed through about \$221 million to local agencies through subawards.

Federal regulations require the Department to monitor the activities of its subrecipients. This includes verifying that subrecipients that spend \$750,000 or more in federal awards during a fiscal year obtain a Single Audit. The audit must be completed and submitted to the Federal Audit Clearinghouse within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the subrecipient's audit period.

Additionally, for the awards it passes on to subrecipients, the Department must follow up and ensure its subrecipients take timely and appropriate corrective action on all deficiencies detected

through audits, onsite reviews and other means. Within six months of the Federal Audit Clearinghouse accepting the audit report, the Department must also issue a management decision for audit findings related to the federal award it provided to the subrecipient. These requirements help ensure the Department and its subrecipients use federal award funds for authorized purposes and within the provisions of contracts or grant agreements.

The Local Programs Office communicates annually with all active subrecipients, informing them of the requirement to receive a Single Audit or program-specific audit in accordance with 2 CFR § 200.501, and to ensure that they promptly transmit a copy of the audit report to the Department. The Local Programs Office also uses a tracking system to identify amounts passed through to subrecipients; to document audit activity for the subrecipients, including the date(s) on which audit reports were due and ultimately received by the Department; and to monitor if subrecipients received Single Audit findings.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure subrecipients received required Single Audits, findings related to federal program awards were followed up on, and management decisions were issued. The prior finding numbers were 2020-015 and 2019-017.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to issue management decisions for Single Audit findings to subrecipients that received Highway Planning and Construction Cluster funding.

The Department had seven subrecipients that received Single Audits, which resulted in findings that the Department was required to issue management decisions for during the audit period. We examined the Department's audit notes and records to determine if it had issued a management decision for these Single Audit findings. We found the Department did not issue management decisions for two of the subrecipients (28 percent) that received findings.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

Management did not ensure the Department met the federal requirement to issue management decisions for Single Audit findings to subrecipients. While the Department did review Single Audit reports filed for its subrecipients, the Local Programs Office did not correctly identify all findings related to its programs that required management decisions.

Effect of Condition

Not issuing a management decision when required means the Department did not determine the effect of noncompliance on the federal program and did not require subrecipients to correct the identified deficiencies. By failing to ensure subrecipients establish corrective actions and monitor those corrections for effectiveness, the Department cannot determine whether subrecipients have materially complied with all federal requirements that pertain to the subaward.

Recommendations

We recommend the Department:

- Review all subrecipient audit reports to determine if there are findings related to federal programs
- Follow up on and issue management decisions for all subrecipient audit findings related to the Highway Planning and Construction Cluster
- Ensure subrecipients develop and perform acceptable corrective actions to adequately address all audit recommendations

Department's Response

We appreciate the State Auditor's Office (SAO) audit of the Federal Highway Program. The Department is committed to ensuring our programs comply with federal regulations related subrecipient monitoring.

Our Local Programs Division had a different understanding of the requirement to issue Management Decision Letters (Decision Letters). We typically issue the Decision Letters to subrecipients that receive single audit findings related to WSDOT federal grant awards. For the subrecipients in question, we assessed risk of noncompliance and elected to forgo a formal Decision Letters when the subrecipient's response in the audit report reflected corrective action was complete. We understand SAO's recommendation to issue Decision Letters for all subrecipient single audit findings related to federal grant awards by the Department.

Our Local Programs Division will review local agency single audit findings for FY20 that were received during FY 2022, and ensure that they issued all required Decision Letters.

We will continue to review all single audits issued for our subrecipient agencies and send Decision Letters based on SAO's recommendation.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.331 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:
 - (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site

reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.

- (3) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by § 200.521.
- (4) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving crosscutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section § 200.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.

Section 200.339 Remedies for noncompliance, states:

If a non-Federal entity fails to comply with the U.S. Constitution, Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in § 200.208. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:
 - (3) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by § 200.521.

Section 200.501 Audit requirements, states in part:

- (a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.
- (b) Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with § 200.514 except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

Section 200.521 Management decision, states in part:

- (a) General. The management decision must clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee. While not required, the Federal agency or pass-through entity may also issue a management decision on findings relating to the financial statements which are required to be reported in accordance with GAGAS.
- (c) Pass-through entity. As provided in § 200.332(d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.
- (d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC. The auditee must initiate and proceed

with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.

- (e) Reference numbers. Management decisions must include the reference numbers the auditor assigned to each audit finding in accordance with § 200.516(c).

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-011 **The Washington State Department of Transportation did not have adequate internal controls over and did not comply with quality assurance program requirements to ensure materials conformed to approved plans and specifications, and that only qualified personnel performed testing for projects funded by the Highway Planning and Construction Cluster.**

CFDA Number and Title:	20.205 Highway Planning and Construction 20.205 COVID-19 Highway Planning and Construction 20.219 Recreational Trails Program 20.224 Federal Lands Access Program
Federal Grantor Name:	U.S. Department of Transportation
Federal Award/Contract Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Quality Assurance Program
Known Questioned Cost Amount:	None

Background

The Washington State Department of Transportation administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for their highway construction projects. The Department spent about \$510 million on highway projects during fiscal year 2021.

Federal regulations require that the Department have a quality assurance (QA) program, approved by the Federal Highway Administration (FHWA), for construction projects on the National Highway System to ensure that materials and workmanship conform to approved plans and specifications. Verification sampling must be performed by qualified testing personnel employed by the Department or by its designated agent, excluding the contractor.

The Department's QA program requirements are outlined in the Construction Manual, which is approved by the FHWA. This manual documents how materials are tested for acceptance before being incorporated into construction projects. Materials can be accepted in various ways, such as sample testing, a visual inspection documented by the Field Note Record or Inspector's Daily Report, or a certification of compliance from the manufacturer. If a materials test is required, the Department must ensure that only qualified people perform the testing, including independent testers, consultants or certified Department employees.

To ensure that materials incorporated into a project meet approved plans and specifications, the Department prepares a list of prescribed materials to be used on the project based on the approved plans and specifications. The Department uploads this list to a program called the Record of Materials (ROM). The ROM sets forth the materials and quantities that are expected to be used. The ROM also documents the proper acceptance criteria, including any test(s) personnel are required to perform on a material. Once created, Project Engineers responsible for managing the construction project update the ROM to indicate the type and quantity of materials incorporated into the project so management can ensure the materials test(s) that are required for acceptance have occurred.

To ensure that only qualified people perform the testing, testers must pass a certification exam, which consists of a written and performance exam. After passing both, the testers are entered into the Qualified Tester Database and are certified for five years, after which they must recertify by passing both exams again. There are two different types of tester qualifications: module and method. Module testers are proficient in multiple method tests that can encompass all method tests for a particular material, whereas method testers may only be proficient in particular tests for any given material.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with QA program requirements to ensure materials conformed to approved plans and specifications, and that only qualified personnel performed materials testing for projects funded by the Highway Planning and Construction Cluster. The prior finding numbers were 2020-017 and 2019-019.

Description of Condition

The Department did not have adequate internal controls over and did not comply with QA program requirements to ensure materials conformed to approved plans and specifications, and that only qualified personnel performed testing for projects funded by the Highway Planning and Construction Cluster.

Project Engineers did not maintain the ROM for all materials used in projects

We used a statistically valid sampling method to randomly select 59 out of 130 federally funded projects that had construction expenditures during the audit period. The Department was unable to provide a comprehensive list of materials used on all projects subject to material acceptance during the audit period, so we randomly selected materials that had been placed and paid for from each project for testing purposes. This produced a sample of 59 materials.

For each material, we reviewed the ROM to verify Project Engineers had updated it in accordance with the Construction Manual. Out of the selected materials, we found that Project Engineers did not maintain 14 materials (24 percent) in the ROM in accordance with the Construction Manual.

Materials acceptance testing did not conform to standard specifications and the Construction Manual

For the 59 randomly selected materials, we requested the supporting documentation for acceptance and/or testing of the material. We found two materials (3 percent) where testing or acceptance did not conform to standard specifications and the Construction Manual. Specifically:

- One material was not tested in accordance with the sampling frequency, and it did not have any material acceptance tests.
- One material acceptance was not properly documented in the Field Note Record or Inspector's Daily Report.

Testing personnel were not properly certified before testing materials

We requested and reviewed certification documents for the personnel who performed the testing associated with the 59 randomly selected materials in our audit sample. We found that personnel who were not properly certified tested eight materials (14 percent). Additionally, the Department did not have an effective process for ensuring that testers who did not meet certification requirements were not entered into the database.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

Project Engineers did not maintain the ROM for all materials used in projects

Management did not ensure Project Engineers were adequately trained in maintaining the ROM.

Materials acceptance testing did not conform to standard specifications and the Construction Manual

Management did not adequately monitor to ensure required materials testing and acceptance occurred in accordance with the Construction Manual.

Testing personnel were not properly certified before testing materials

Project Engineers did not ensure tester qualifications were current and management did not ensure tester qualifications were properly entered into the Tester Database.

Effect of Condition

By not adequately monitoring project materials to ensure they conform to approved plans and specifications, the Department does not have reasonable assurance that materials incorporated into projects conform to standard specifications and the Construction Manual.

By not properly verifying and documenting the testers' qualifications, the Department risks improper materials testing. This could result in the Department using materials that may not conform to approved plans and specifications.

Recommendations

We recommend the Department:

- Improve internal controls to ensure materials incorporated into federal aid projects conform to standard specifications and the requirements outlined in the Construction Manual
- Strengthen its monitoring to ensure Project Engineers accurately and completely maintain the ROM for each project
- Strengthen internal controls to ensure testers have completed all required exams—and that they have proper documentation of passing these exams—before entering them into the Qualified Tester Database
- Continue to review all testers in the Qualified Tester Database to ensure they meet the minimum requirements

Department's Response

The Washington State Department of Transportation (WSDOT) appreciates the State Auditor's Office (SAO) audit of the Federal Highway Program and the federally required Quality Assurance (QA) program. The Department is committed to ensuring our programs continue to comply with federal regulations and recognizes that there are always opportunities for improvement to its QA program.

The Department has worked closely with the Federal Highway Administration (FHWA) on our QA program and received feedback from them on the strength of our program. The Department will continue to put improvements in place for the QA program based on the SAO audit

recommendations for documenting materials testing and tester certifications. We will also deliver training to Project Engineering Offices to emphasize QA program requirements.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 23 *U.S. Code of Federal Regulations Part 637, Construction Inspection and Approval* establishes the following applicable requirements:

Section 637.201 Purpose

To prescribe policies, procedures, and guidelines to assure the quality of materials and construction in all Federal-aid highway projects on the National Highway System.

Section 637.205 Policy

(a) Quality assurance program. Each STD shall develop a quality assurance program which will assure that the materials and workmanship incorporated into each Federal-aid highway construction project on the NHS are in conformity with the requirements of the approved plans and specifications, including approved changes. The program must meet the criteria in (Section 637.207) and be approved by the FHWA.

(b) STD capabilities. The STD shall maintain an adequate, qualified staff to administer the quality assurance program. The State shall also maintain a central laboratory. The State's central laboratory shall meet requirements in (Section 637.209 (a)(2)).

(c) Verification sampling and testing. The verification sampling and testing are to be performed by qualified testing personnel employed by the STD or its designated agent, excluding the contractor and vendor.

(d) Random samples. All samples used for quality control and verification sampling and testing shall be random samples.

Section 637.207 Quality assurance program

(a) Each STD's quality assurance program shall provide for an acceptance program and an independent assurance (IA) program consisting of the following:

(1) Acceptance program.

(i) Each STD's acceptance program shall consist of the following:

(A) Frequency guide schedules for verification sampling and testing which will give general guidance to personnel responsible for the program and allow adaptation to specific project conditions and needs.

(B) Identification of the specific location in the construction or production operation at which verification sampling and testing is to be accomplished.

(C) Identification of the specific attributes to be inspected which reflect the quality of the finished product.

(ii) Quality control sampling and testing results may be used as part of the acceptance decision provided that:

(A) The sampling and testing has been performed by qualified laboratories and qualified sampling and testing personnel.

(B) The quality of the material has been validated by the verification sampling and testing. The verification testing shall be performed on samples that are taken independently of the quality control samples.

The *Department of Transportation Construction Manual* (M41-01), Chapter 9: *Materials*, states in part:

9-1 General

The quality of materials used on the project will be evaluated and accepted in various ways, whether by testing of samples, visual inspection, or certification of compliance. This chapter details the manner in which these materials can be accepted Requirements for materials are described in Standard Specifications for Road, Bridge, and Municipal Construction M 41-10 Section 1-06 and Division 9.

It is the Project Engineer's responsibility to accept materials in accordance with this chapter. For materials tests that do not meet specification requirements, the Project Engineer shall contact the State Construction Office which will coordinate with the State Materials Laboratory to determine the appropriate action.

9-1.2C Record of Materials

The Project Office utilizes the ROM program to track all permanently incorporated materials that are placed in on the Contract. Temporary materials are also tracked in the ROM when the contract documents contain temporary material requirements. The Project Engineer is responsible for the accuracy of the ROM, other documentation methods used, and Certification of Materials. Acceptance requirements shown in the ROM can be

modified by referencing the properly submitted QPL page or the approved Request for Approval of Materials. Reviewing the contract plans and provisions may identify additional materials documentation requirements as well as construction items that shall be added to the ROM and tracked for completion throughout the course of the project work.

In order to ensure clarity upon completion of the work and to allow for easy certification of the project by both the Project Engineer and the Region, the ROM needs to be maintained throughout the course of the project. “Maintained” and “maintain” means the ROM is updated to reflect materials placed within 30 calendar days of the material payment. This includes material type, make/model, approval, acceptance, field verification documentation, Certificate of Materials Origin and other materials documentation. For materials used in the Contract, the Project Office is required to maintain the Status Work Completed (WC)/Documentation Complete (DC) / Not Used (NU) fields in the ROM.

The Project Office is required to maintain quantities paid, quantities placed, quantities field verified for materials that have sampling frequencies, WSDOT Fabrications Inspection items, where the Acceptance Criteria requires quantities such as Manufacturer Certificate of Compliance, or when quantities are noted in the initial materials and acceptance criteria.

9-5.3 WAQTC Testing Technician Qualification Program

The Region Independent Assurance Inspectors are responsible for maintaining the Tester Qualification database information for their Region WAQTC Testers as well as maintaining the WAQTC internal certifications and records (physical and digital).

9-5.4 Method Qualified Tester Program

The Region Independent Assurance Inspectors are responsible for maintaining the Tester Qualification database information for their Region Method Testers as well as maintaining the Method internal certifications and records (physical and digital).

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-012 The Department of Social and Health Services did not have adequate internal controls to ensure payments were allowable and properly supported, and did not comply with federal requirements to conduct fiscal monitoring of subrecipients for the Coronavirus Relief Fund.

CFDA Number and Title:	21.019 COVID-19 Coronavirus Relief Fund
Federal Grantor Name:	U.S. Department of the Treasury
Federal Award/Contract Number:	None
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act authorized the spending of \$2.2 trillion in federal funds to respond to the COVID-19 pandemic.

The CARES Act established the Coronavirus Relief Fund (CRF), which authorized \$150 billion in federal financial assistance for state, local and tribal governments. Through the CARES Act, Washington was awarded about \$2.95 billion of CRF money to help fund the state's response to the COVID-19 pandemic. Of this amount, the Office of Financial Management allocated about \$2.2 billion to state agencies. In fiscal year 2021, state agencies spent approximately \$1.7 billion in CRF funds.

The CARES Act requires recipients to only use CRF payments to cover:

- Necessary expenditures incurred due to COVID-19;
- Costs that were not accounted for in governments' most recently approved budget as of March 27, 2020; and
- Costs that were incurred during the period that began on March 1, 2020, and ended on December 31, 2021.

The Department of Social and Health Services (Department) is Washington's lead agency for providing state-funded social services. In fiscal year 2021, the Department spent approximately \$224.6 million in CRF funds. The Department's Economic Services Administration spent more than \$126 million (56 percent) of this CRF money to implement and administer the Washington Immigrant Relief Fund, which provided financial assistance to people excluded from federal stimulus payments and unemployment benefits due to their immigration status.

During the audit period, the Department allocated CRF money to four subrecipients for the Washington Immigrant Relief Fund. Two of these subrecipients received about \$124.3 million (98 percent) to provide a one-time \$1,000 payment to about 120,853 clients.

Federal regulations require the Department to monitor the activities of its subrecipients to ensure they use subawards for authorized purposes and that activities achieve performance goals and comply with terms and conditions of the subaward.

Federal regulations also require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding program requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls to ensure payments were allowable and properly supported, and did not comply with federal requirements to conduct fiscal monitoring of subrecipients for the CRF.

When the Department approved subrecipient payments, it required high-level supporting documentation to ensure the expenditures met the CRF's allowability requirements. The Department also performed fiscal monitoring to ensure subrecipients only used federal funds for allowable purposes and that expenditures met cost principles. The Department had a fiscal monitoring plan for its two subrecipients that administered the client payments, which included reviewing client eligibility. We found that for one subrecipient (50 percent), the Department did not have documentation to support that it had performed fiscal monitoring to ensure the subrecipient only made payments to eligible clients.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Management did not ensure adequate internal controls were in place to monitor the subrecipient's eligibility determinations for clients receiving CRF money. While the Department requested the

subrecipient provide the required information so it could review client eligibility, the subrecipient did not respond and management did not ensure that it had received and reviewed this list.

Effect of Condition

By not monitoring one of the subrecipients, the Department did not have assurance that approximately 61,750 clients were eligible to receive the one-time payments.

Without establishing adequate internal controls, the Department cannot reasonably ensure subrecipients are only distributing federal funds to eligible clients. Without monitoring each subrecipient's use of federal funds, the Department does not have reasonable assurance that its subrecipients have complied with the terms and conditions of the subaward.

Recommendations

We recommend the Department:

- Implement additional monitoring procedures to ensure adequate review of subrecipients' use of federal subawards
- Improve internal controls to ensure subrecipients provide adequate supporting documentation when requesting reimbursement

Department's Response

The Department partially concurs with the auditor's finding.

The Department does not concur that we required "high-level" supporting documentation to ensure the expenditures met the CRF's allowability requirements. As part of the eligibility process, the subrecipient performed the eligibility determination which included verification of immigration status and self-attestations that the client had not received a federal stimulus payment or unemployment benefits. The subrecipient then provided the Department with a list of eligible clients and supporting documentation. To protect client confidentiality, the Department assigned each client a unique client identifier and redacted their personally identifying information.

When the Department approved subrecipient payments, we required supporting documentation that included the unique client identifier, some demographic information, and the check number. The unique client identifier cross-matched to the list of eligible clients allowing the Department to ensure the expenditures met the CRF's allowability requirements.

The Department concurs that for one of the subrecipients, we did not have documentation to support we had performed fiscal monitoring. The Department requested the subrecipient provide the required information to review client eligibility, but found the subrecipient to be noncompliant with providing the data.

To ensure adequate review of subrecipients' use of federal subawards, the Department will update monitoring procedures to:

- *Ensure contracts and monitoring plans clearly identify the required supporting documentation;*
- *Establish procedures for corrective action in situations of noncompliance with contract requirements and monitoring plan expectations; and*
- *Include language in the contract covering expectations for the subrecipient to provide adequate information prior to reimbursement.*

Auditor's Remarks

As acknowledged in its formal response, the Department did not perform fiscal monitoring for one subrecipient and did not obtain required documentation to support one-time payments for 61,750 clients.

We reaffirm our finding and review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:
 - (1) Reviewing financial and performance reports required by the pass-through entity.
 - (2) Following-up and ensuring that the subrecipient takes timely and appropriate action of all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.
- (g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-013 The Department of Commerce did not have adequate internal controls over and did not comply with federal requirements to conduct fiscal monitoring of subrecipients and ensure payments were allowable and properly supported for the Coronavirus Relief Fund.

CFDA Number and Title:	21.019 COVID-19 Coronavirus Relief Fund
Federal Grantor Name:	U.S. Department of the Treasury
Federal Award/Contract Number:	None
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles Period of Performance Subrecipient Monitoring
Known Questioned Cost Amount:	\$4,124,518

Background

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act authorized the spending of \$2.2 trillion in federal funds to respond to the COVID-19 pandemic.

The CARES Act established the Coronavirus Relief Fund (CRF), which authorized \$150 billion in federal financial assistance for state, local and tribal governments. Through the CARES Act, Washington was awarded about \$2.95 billion of CRF money to help fund the state's response to the COVID-19 pandemic. Of this amount, the Office of Financial Management allocated about \$2.2 billion to state agencies. In fiscal year 2021, state agencies spent approximately \$1.7 billion in CRF funds.

The CARES Act requires recipients to only use CRF payments to cover:

- Necessary expenditures incurred due to the COVID-19 pandemic;
- Costs that were not accounted for in governments' most recently approved budget as of March 27, 2020; and

- Costs that were incurred during the period that began on March 1, 2020, and ended on December 31, 2021.

The Department of Commerce (Department) administers the Small Business Assistance, Rental Assistance and Local Government Assistance programs. These programs subawarded federal funds to subrecipients to provide COVID-19 pandemic assistance in Washington. In fiscal year 2021, the Department spent approximately \$983.1 million in CRF money. The Small Business Assistance program spent more than \$366 million, the Rental Assistance program spent more than \$101 million, and the Local Government Assistance program spent more than \$404 million.

During the audit period, the Small Business Assistance, Rental Assistance and Local Government Assistance programs allocated CRF money to 376 total subrecipients. The Small Business Assistance program had 40 subrecipients, the Rental Assistance Program had 48 subrecipients, and the Local Government Assistance program had 288 subrecipients.

Federal regulations require the Department to monitor the activities of its subrecipients to ensure they use subawards for authorized purposes and that activities achieve performance goals and comply with the terms and conditions of the subaward.

Federal regulations also require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding program requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to conduct fiscal monitoring of subrecipients and ensure payments were allowable and properly supported for the CRF.

When the Department approved subrecipient payments, it required high-level supporting documentation and a certification attesting that the expenditures met the CRF's allowability requirements and occurred within the award's period of performance.

To determine if the expenditures were for allowable activities, we examined subrecipient payments for the three assistance programs. For the Rental Assistance program, we used a statistical sampling method to randomly select and examine 55 out of a total population of 473 payments, in addition to two individually significant payments. We found six payments (11 percent) did not have adequate documentation to support the request. Additionally, the Department did not provide any documentation for two of the payments.

For the Local Government Assistance program, we used a statistical sampling method to randomly select and examine 57 out of a total population of 764 payments. We found one payment (2 percent) did not have adequate documentation to support the total payment amount.

Fiscal Monitoring of Subrecipients

To determine if the Department performed adequate fiscal monitoring for its subrecipients, we examined monitoring activity for the three assistance programs. For the Small Business Assistance program, we randomly selected 12 out of a total population of 40 subrecipients. We determined the Department did not perform fiscal monitoring for any of the 12 subrecipients (100 percent) during the audit period.

For the Rental Assistance program, we randomly selected 11 out of a total population of 48 subrecipients. We determined the Department did not perform fiscal monitoring for any of the 11 subrecipients (100 percent) during the audit period.

For the Local Government program, we randomly selected 25 out of 288 subrecipients. We determined the Department did not perform fiscal monitoring for 11 subrecipients (44 percent) during the audit period.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Management did not ensure that proper internal controls were in place to oversee the CRF-funded programs. Additionally, Department staff approved payments to subrecipients even when the underlying support did not match the amount requested. Management also said that they did not have the resources to perform adequate fiscal monitoring.

Effect of Condition and Questioned Costs

We determined the Department did receive adequate supporting documentation before paying subrecipients, and it did not establish adequate fiscal monitoring to ensure that expenditures were for allowable activities. As a result, we identified the following questioned costs:

Program	Known Questioned Costs	Know and Likely Questioned Costs
Rental Assistance	\$3,524,518	\$3,844,929
Local Government Assistance	\$600,000	\$2,563,636

In total, we identified \$4,124,518 in known federal questioned costs and \$6,408,565 in likely federal questioned costs.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3). To ensure a representative sample, we stratified both populations by dollar amount.

Without establishing adequate internal controls, the Department cannot reasonably ensure it is using federal funds for allowable purposes and spending occurs within the allowed period of performance. Without monitoring each subrecipient’s use of federal funds, the Department does not have reasonable assurance that the subrecipient has complied with the terms and conditions of the subaward.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Implement additional monitoring procedures to ensure adequate review of each subrecipient’s use of the federal subaward
- Improve internal controls to ensure subrecipients provide adequate supporting documentation when requesting reimbursement
- Consult with the grantor to determine whether the questioned costs identified in the audit should be repaid

Department’s Response

Local Government Program

For the Coronavirus Relief Fund program, the Local Government Program maintained a process in place to reimburse subrecipients after costs were incurred and supporting documentation was reviewed and approved. During the audit, it was determined that an error was made in processing one reimbursement request in the amount of \$600,000. Our internal policies were not followed and a payment was made on a commitment of funds to the local Chamber of Commerce. Payments should not have been made on a commitment of funds, but only for actual incurred costs. We have followed up with Franklin County on this error and have confirmed that the funds were fully expended during the period of performance toward eligible uses of the funds. We reviewed an

expenditure detail report which showed all costs charged to this payment and determined all costs charged were for allowable expenses.

Considering the circumstances under which these funds were administered, Commerce feels strongly that its internal controls were sufficient and effective given the rapid timeline, the volume of subrecipients and funding, and staffing capacity, all of which needed to be managed during the peak of the pandemic. Over the course of a seven month sprint (June 2020 through December 2020), approximately \$406 million was expended by 292 counties, cities, and towns. This was all accomplished through a small team of five staff, mostly new to state employment, who successfully learned, managed and supported these subrecipients and funds under the most challenging of circumstances. Considering the amount of funds disbursed, the small team effectively and efficiently managed the program and expenditures. This program had a large impact on supporting citizens and we are proud of the support we provided to subrecipients who disbursed funds to citizens.

Rental Assistance Program

The Coronavirus pandemic resulted in an unprecedented crises of imminent evictions for an estimated 200,000 households who would face homelessness during the pandemic. Prompt implementation was critical to reducing evictions and homelessness was shown to increase the spread of COVID-19 leading to death. Every week of delay would increase the number of people at risk of dying. At the time the Department received the CARES Act funds for rental assistance, we were in current contracts with grantees for the same activity for whom we had completed risk assessments and monitoring plans 12 months prior. We relied on those risk assessments to comply with CARES Act requirement so staff could focus on ensuring that racial equity measures were met and that people disproportionately impacted during the pandemic had priority access to assistance. This included reviewing voucher detail reports for grantees with subcontractors and reviewing demographic data each month. In addition, when we first received the CARES Act funds (August 2020) the program was ending in December 2020 when the CARES Act funds were set to expire. It was not until late December 2020 that Congress extended the end date and we were informed we could continue to fund the program into 2021. Our priorities for those initial five months were to maximize administrative efficiencies by relying on current risk assessments so staff could support counties in expanding programs to assist as many households as possible before evictions were issued.

We thank the Washington State Auditor's Office for their cooperation with the Department and the CRF programs during this audit.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
 - (2) Following-up and ensuring that the subrecipient takes timely and appropriate action of all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.
- (g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in

accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-014 The Office of Financial Management did not have adequate internal controls over and did not comply with reporting requirements for the Coronavirus Relief Fund.

CFDA Number and Title:	21.019 COVID-19 Coronavirus Relief Fund
Federal Grantor Name:	U.S. Department of the Treasury
Federal Award/Contract Number:	None
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act authorized the spending of \$2.2 trillion in federal funds to respond to the COVID-19 pandemic.

The CARES Act established the Coronavirus Relief Fund (CRF), which authorized \$150 billion in federal financial assistance for state, local and tribal governments. Through the CARES Act, Washington was awarded about \$2.95 billion of CRF money to help fund the state's response to the COVID-19 pandemic. The Office of Financial Management (Office) is the prime recipient and allocated \$2.2 billion to state agencies. In fiscal year 2021, state agencies spent about \$1.7 billion in CRF funds.

The Office was required to submit quarterly Financial Progress Reports (FPR) that contained COVID-19-related costs incurred during the covered period of March 1, 2020, to December 31, 2021. The FPRs were due no later than 10 days after each calendar quarter, except for the first quarter deadline of September 21, 2020, and the second quarter deadline of October 12, 2020. The FPR submissions should be supported by the data in the state's accounting system.

The federal grantor specified there were four key line items on FPRs that contained critical information.

- 1) The total amount of CRF payments received from the U.S. Department of the Treasury.
- 2) The amount of funds received that were expended or obligated for each project or activity.

- 3) A detailed list of all projects or activities for which funds were expended or obligated.
- 4) Detailed information on any loans issued, contracts and grants awarded, transfers made to other government entities, and direct payments made by the prime recipient that are greater than \$50,000. For amounts less than \$50,000, the prime recipient must report in the aggregate for these expenditure categories. For direct payments to people, the prime recipient must report in the aggregate regardless of the amount.

The Office was responsible for compiling this information from state agencies that spent CRF funds during the reporting period.

In state fiscal year 2021, state agencies spent over \$1.7 billion of CRF funds, with the Department of Social and Health Services (DSHS) and the Department of Commerce (Commerce) accounting for over \$1.2 billion (70 percent) of these expenditures.

Federal regulations require the Office to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding reporting requirements, retaining source data, and monitoring the effectiveness of established controls.

Description of Condition

The Office did not have adequate internal controls over and did not comply with reporting requirements for the CRF.

During the audit period, the Office submitted four FPRs. It also submitted a fifth FPR, which reported on activity during the audit period, shortly after the end of the audit period. At the end of each quarter, Office staff sent an Excel template that mirrored the key line items to state agencies with CRF expenditures in the reporting period. The agencies completed and sent the template back to the Office along with detailed expenditure reports from their accounting systems to support the information they provided in the template. Office staff reviewed this information and consolidated it into one state-level template to complete the FPR submission.

We examined all five FPRs the Office submitted. Our examination focused on DSHS and Commerce's expenditures because they accounted for 70 percent of CRF expenditures. To examine the accuracy of the FPRs, we reviewed the agency and state-level templates and accounting records. The Office was not able to provide any of the five state-level templates and expenditure reports, but was able to provide some of the templates and expenditure reports that DSHS and Commerce submitted. We found that the templates and accounting records did not support the information the Office reported on the FPRs.

We also found the Office's process for preparing the report was inadequate for allowing staff to compile all the necessary information and submit the FPRs by 10 days after each quarter had ended.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Office staff responsible for gathering and preparing the FPRs left the Office in late fall of 2021, and management did not ensure staff retained the supporting documentation. Because the Office could not provide the templates or expenditure reports, we could not fully identify the source of the errors.

Effect of Condition

Because the Office did not establish adequate internal controls to ensure staff retained the proper supporting documentation after submitting the reports, we cannot conclude whether the FPRs were accurate and complete.

Since the Office did not have these records, we contacted DSHS and Commerce directly to obtain copies in order to perform compliance testing. DSHS and Commerce were able to provide us with some of the templates.

Key Line Items 2 & 3

We relied on the agency templates to determine if these key line items were accurate and complete. Below is a summary of the templates we received.

	Templates Received	
	DSHS	Commerce
Cycle 1	N/A (no expenditures)	No
Cycle 2	No	No
Cycle 3	Yes	Yes
Cycle 4	Yes	No
Cycle 5	Yes	No

Since we did not receive all agency templates, we could not determine whether four of the five (80 percent) FPRs accurately reported key line items 2 and 3.

Key Line Item 4

Based on available accounting records, we determined the following discrepancies in transfers to other government entities recorded under key line item 4:

	DSHS Reported Amount	DSHS Accounting Record Amount	DSHS Discrepancy	Details
Cycle 4	\$33,989,544	\$35,070,297	\$(1,080,753)	Underreported
Cycle 5	\$(448,491)	\$(201,703,775)	\$201,255,284	Overreported

	Commerce Reported Amount	Commerce Accounting Record Amount	Commerce Discrepancy	Details
Cycle 2	\$48,597,567	\$0	\$48,597,567	No expenditure report provided
Cycle 4	\$86,342,417	\$87,540,211	\$(1,197,794)	Underreported
Cycle 5	\$9,915,883	\$11,790,642	\$(1,874,759)	Underreported

Furthermore, for all five FPRs, we could not determine if amounts less than \$50,000 were accurate since they were an aggregate total of all state agencies and we did not receive the state-level templates that the Office used to compile this information.

Lastly, we determined the Office submitted two FPRs after the grantor’s due date:

	Number of Days Past Due
Cycle 3	9
Cycle 5	3

Recommendations

We recommend the Office:

- Improve its internal controls to ensure accounting records properly support the FPRs
- Ensure staff retain adequate documentation after FPRs have been submitted
- File future FPRs in compliance with timelines the grantor has established
- Consult with the federal grantor to determine if a revision and resubmission of the FPRs is necessary

Office’s Response

The Office concurs with the finding.

It should be noted that when the Coronavirus Relief Fund (CRF) was provided to the state with limited guidance, the Office exercised due diligence and prudence in administering and allocating

the federal funds needed to respond to the pandemic. Additionally, for the time period in question, the employee responsible for gathering and compiling the reporting data left the Office. Numerous unsuccessful attempts were made to locate the documentation from the employee's electronic work files to support the data uploaded into the federal system.

The Office is in the process of strengthening internal controls to ensure compliance with the CRF reporting requirements. The Office's Statewide Accounting Division took over the primary responsibility for CRF reporting. A full time staff was hired who now oversees the reconciliation, compilation and reporting of CRF. The Office is also closely monitoring all state agencies that received CRF to ensure the amounts reported are accurate and properly supported.

Auditor's Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Tread way Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:

- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Office of Management and Budget, 2 CFR Part 200, Appendix XI, *2021 Compliance Supplement*, for Assistance Listing 21.019 Coronavirus Relief Fund, states in part:

L. Reporting

3. Special Reporting

- a. Each prime recipient of the Fund shall provide a quarterly Financial Progress Report that contains COVID-19 related costs incurred during the covered period (the period beginning on March 1, 2020; and ending on December 31, 2021) to Treasury OIG. Each prime recipient shall report this quarterly information mentioned above into the GrantSolutions portal. The prime recipient's quarterly Financial Progress Report submissions should be supported by the data in the prime recipient's accounting system.

Key Line Items – The following line items from the reporting contain critical information:

- (1) The total amount of payments from the Fund received from Treasury.
- (2) The amount of funds received that were expended or obligated for each project or activity.
- (3) A detailed list of all projects or activities for which funds were expended or obligated, including:
 - a. The name of the project or activity
 - b. A description of the project or activity

- (4) Detailed information on any loans issued; contracts and grants awarded; transfers made to other government entities; and direct payments made by the prime recipient that are greater than \$50,000. For amounts less than \$50,000, the prime recipient must report in the aggregate for these expenditure categories. For direct payments to individuals, aggregate reporting is required to be reported regardless of amount.
- b. Beginning September 21, 2020, prime recipients were required to submit via the GrantSolutions portal the first detailed quarterly Financial Progress Report, which cover the period March 1 through June 30, 2020 (with exception to the September 21 first quarter deadline and the October 13 second quarter reporting deadlines for those prime recipients using GrantSolutions' upload feature, which was available December 1, 2020). Thereafter, quarterly reporting will be due no later than ten days after each calendar quarter. If the 10th calendar day falls on a weekend or a federal holiday, the due date will be the next working day. Reporting shall end with either the calendar quarter after the COVID-19 related costs and expenditures have been liquidated and paid or the calendar quarter ending September 30, 2022, whichever comes first. The prime recipient's quarterly Financial Progress Report submission should be supported by the data in the prime recipient's accounting system.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, and paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a

reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-015 **The Department of Social and Health Services did not have adequate internal controls over and did not comply with federal requirements to ensure subawards contained all required information and subrecipients received risk assessments for the Coronavirus Relief Fund.**

CFDA Number and Title:	21.019 COVID-19 Coronavirus Relief Fund
Federal Grantor Name:	U.S. Department of the Treasury
Federal Award/Contract Number:	None
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act authorized the spending of \$2.2 trillion in federal funds to respond to the COVID-19 pandemic.

The CARES Act established the Coronavirus Relief Fund (CRF), which authorized \$150 billion in federal financial assistance for state, local and tribal governments. Through the CARES Act, Washington was awarded about \$2.95 billion of CRF money to help fund the state's response to the COVID-19 pandemic. Of this amount, the Office of Financial Management allocated about \$2.1 billion to state agencies. In fiscal year 2021, state agencies spent approximately \$1.7 billion in CRF funds.

The Department of Social and Health Services (Department) is Washington's lead agency for providing state-funded social services. In fiscal year 2021, the Department spent approximately \$225 million in CRF funds. The Department's Economic Services Administration spent more than \$126 million (56 percent) of this CRF money to create and administer the Washington COVID-19 Immigrant Relief Fund, which provided financial assistance to people excluded from federal stimulus payments and unemployment benefits due to their immigration status.

Federal law (2 CFR 200.332) requires pass-through entities to include certain information in all of their subawards. This includes information about the federal award the pass-through entity

received, details about the subaward being awarded, and clearly identifying the recipient as a subrecipient. Pass-through entities must also monitor the activities of subrecipients to ensure they are properly using federal funds. To determine the appropriate level of monitoring, federal regulations require the Department to evaluate each subrecipient's risk of noncompliance with federal statutes and regulations and the terms and conditions of the subaward.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding program requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to ensure subawards contained all required information and subrecipients received risk assessments for the CRF.

During the audit period, the Department executed six CRF contracts related to the Washington COVID-19 Immigrant Relief Fund. We found all six contracts (100 percent) were missing the following required information:

- Subrecipient's unique entity identifier
- Federal Award Identification Number (FAIN)
- Subaward budget period start and end date
- Assistance Listing Number and title; the pass-through entity must identify the dollar amount made available under each federal award and the Assistance Listing Number at time of disbursement
- Indirect cost rate for the federal award

Additionally, five of the six subawards (83 percent) did not identify the recipient as a subrecipient as required by federal regulations.

We also found the Department did not perform a risk assessment for any of the six subrecipients (100 percent).

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department has policies in place to ensure it includes all required subaward language in subrecipient contracts and completes risk assessments. However, the speed of the contracting

process and lack of experience with this type of contracting and subrecipient monitoring requirements created confusion and missed practices within the Department. As a result, the Department did not follow its established policies to ensure it included all required elements in the subrecipient contracts and completed risk assessments.

Management also did not provide sufficient oversight to ensure the Department complied with federal regulations.

Effect of Condition

By not following established policies, the Department cannot ensure it is compliant with subrecipient monitoring requirements. By not clearly identifying subaward recipients as subrecipients, the Department cannot ensure the subrecipients are adequately informed of the program requirements. Additionally, without evaluating risk, the Department cannot ensure each subrecipient receives the appropriate level of monitoring, which makes it less likely the Department would be able to detect subrecipients' noncompliance with federal regulations and the subaward's terms and conditions

Recommendations

We recommend the Department:

- Follow its established policies and procedures to ensure it includes all required information in subawards
- Follow established policies and procedures to ensure it performs required risk assessments
- Ensure staff responsible for executing contracts understand subrecipient classifications

Department's Response

The Department concurs with the finding.

The Washington COVID-19 Immigrant Relief Fund was a new program administered at the request of the Governor's Office with a budget of \$40 million and an expedited timeline for implementation due to the pandemic. In response to the Governor's request, the Department's Office of Refugee and Immigrant Assistance (ORIA), under the Community Services Division (CSD), partnered directly with the Department's Central Contracts and Legal Services (CCLS) to ensure the contract was legally and technically appropriate.

The ORIA program did not have a lot of experience with this kind of contracting or the required subrecipient monitoring knowledge. ORIA did not utilize CSD's internal contracts unit for how to monitor the contract and as a result, the program did not clearly identify the Washington COVID-19 Immigrant Relief Fund subawards as subrecipients, did not include all of the required

subrecipient special terms and conditions in the subawards, and did not complete risk assessments on the subrecipients.

To ensure future compliance with subrecipient monitoring requirements, the program will:

- *Work directly with the CSD Contracts Unit through the entire contracting process from pre-contract to post contract execution.*
- *Review department policies and procedures covering subrecipient roles and responsibilities.*
- *Complete the appropriate refresher training.*

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

1) Federal award identification.

- i. Subrecipient name (which must match the name associated with its unique entity identifier);
- ii. Subrecipient's unique entity identifier;
- iii. Federal Award Identification Number (FAIN);
- iv. Federal Award Date (see the definition of Federal award date in §200.1 of this part) of award to the recipient by the Federal agency;
- v. Subaward Period of Performance Start and End Date;
- vi. Subaward Budget Period Start and End Date;
- vii. Amount of Federal Funds Obligated to the subrecipient by the pass-through entity to the subrecipient;
- viii. Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation;
- ix. Total Amount of the Federal Award committed to the subrecipient by the pass through entity;
- x. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
- xi. Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;
- xii. Assistance Listing number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listing number at time of disbursement;
- xiii. Identification of whether the award is R&D; and
- xiv. Indirect cost rate for the Federal award (including if the de minimis rate is charged) per §200.414.

2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;

- 3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
 - 4)
 - i. An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government. If no approved rate exists, the pass-through entity must determine the appropriate rate in collaboration with the subrecipient, which is either:
 - A. The negotiated indirect cost rate between the pas-through entity and the subrecipient; which can be based on a prior negotiated rate between a different PTE and the same subrecipient. If basing the rate on a previously negotiated rate, the pass-through entity is not required to collect information justifying this rate, but may elect to do so;
 - B. The de minimis indirect cost rate.
 - ii. The pass-through entity must not require use of a de minimis indirect cost rate if the subrecipient has a Federally approved rate. Subrecipients can elect to use the cost allocation method to account for indirect costs in accordance with §200.405(d).
 - 5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipients records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and
 - 6) Appropriate terms and conditions concerning closeout of the subaward.
- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
- 1) The subrecipient's prior experience with the same or similar subawards;
 - 2) The result of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the

extent to which the same or similar subaward has been audited as a major program;

- 3) Whether the subrecipient has new personnel or new or substantially changed systems; and
- 4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also received Federal awards directly from a Federal awarding agency).

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:

- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation

exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Federal Register / Vol. 86, No. 10, *Department of the Treasury, Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments*, states in part:

Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. 7501– 7507) and the related provisions of the Uniform Guidance, 2 CFR 200.303 regarding internal controls, §§200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Department of Social and Health Services Administrative Policy No. 13.10, Central Contracts and Legal Services (CCLS), states in part:

1. CCLS is responsible for:
 - a. Establishing and ensuring compliance with statewide agency contracting law, policies and procedures concerning contracts subject to this policy.
 - b. Administering the agency contracts database (ACD).

- c. Providing guidance, consultation, and technical assistance to administrations related to contract management practices in order to ensure compliance with applicable contracting law, regulations, policies, and procedures.
 - d. Coordinating the development of and controlling general terms and conditions for all DSHS contracts and approving any modifications to the general terms and conditions.
 - e. Creating and approving contract formats for use by authorized DSHS staff in developing contracts subject to this policy.
5. DSHS key contract coordinators are responsible for providing guidance and support to staff in their Administrations and:
- a. Ensuring the general terms and conditions developed by CCLS are incorporated into all DSHS contracts.
 - b. Ensuring administration contracts subject to this policy are developed in accordance with this policy.
 - c. Drafting, in collaboration with CCLS, preapproved and semi-custom contracts for final approval by CCLS.

Department of Social and Health Services Administrative Policy No. 13.11, Monitoring Contractor Performance, states in part:

A. Monitoring client service contracts, professional (personal) service contracts, operational (purchased) service contracts, data sharing agreements, and interlocal agreements.

Administrations must:

- 1. Require staff who monitor contractor performance to complete all relevant CCLS contract academy and DES Procurement training courses.
- 2. Conduct a risk assessment for each individual contract. Risk Assessments must include, at a minimum, the following contractor and contract core risk factors:
 - a. Contactor experience: The measurement of risk associated with the experience of the contractor in providing the services for which the contract is written.
 - b. Performance history: The measurement of risk associated with compliance issues that resulted in known audit findings, litigations, revoked licenses, terminations for default, or corrective actions against the contractor.

- c. Multiple contracts and funding: The measurement of risk associated with the number of different funding sources, including other contracts with other programs within the department or other state agencies.
- d. Subcontracting of services: The measurement of risk associated with a contractor subcontracting our key activities and their ability to monitor the subcontractor's performance.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-016 The Department of Commerce did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Coronavirus Relief Fund received risk assessments.

CFDA Number and Title:	21.019 COVID-19 Coronavirus Relief Fund
Federal Grantor Name:	U.S. Department of the Treasury
Federal Award/Contract Number:	None
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act authorized the spending of \$2.2 trillion in federal funds to respond to the COVID-19 pandemic.

The CARES Act established the Coronavirus Relief Fund (CRF), which authorized \$150 billion in federal financial assistance for state, local and tribal governments. Through the CARES Act, Washington was awarded about \$2.95 billion of CRF money to help fund the state's response to the COVID-19 pandemic. Of this amount, the Office of Financial Management allocated about \$2.1 billion to state agencies. In fiscal year 2021, state agencies spent approximately \$1.7 billion in CRF funds.

The Department of Commerce (Department) used CRF funds to administer the Small Business Assistance, Rental Assistance and Local Government Assistance programs. These programs passed through federal funds to subrecipients that provided COVID-19 pandemic assistance in Washington. In fiscal year 2021, the Department spent approximately \$983.1 million in CRF funds. The Small Business Assistance program spent over \$366 million, the Rental Assistance program spent over \$101 million, and the Local Government Assistance program spent over \$404 million in fiscal year 2021.

Pass-through entities are required to monitor the activities of subrecipients to ensure they use federal funds properly. To determine the appropriate level of monitoring, federal regulations

require the Department to evaluate each subrecipient's risk of noncompliance with federal statutes, regulations and the terms and conditions of the subaward.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding program requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to ensure CRF subrecipients received risk assessments.

During the audit period, the Small Business Assistance, Rental Assistance, and Local Government Assistance programs allocated CRF money to 376 total subrecipients. The Small Business Assistance program had 40 subrecipients, the Rental Assistance Program had 48 subrecipients, and the Local Government Assistance program had 288 subrecipients.

Our audit found the Department did not ensure all subrecipients received required risk assessments applicable to the CRF. The Local Government Assistance program completed risk assessments for the new CRF money going to its subrecipients. However, the Small Business Assistance and Rental Assistance programs did not complete new risk assessments for their existing subrecipients that received CRF money.

Instead, the Small Business Assistance program relied on risk assessments completed in 2017 for 37 of their existing subrecipients. The remaining three subrecipients were new, and the program did not complete risk assessments for them. The Rental Assistance program relied on risk assessments completed in 2019 for its existing subrecipients. In both cases, the risk assessments occurred before the Department received CRF money and, therefore, did not consider any of the risk factors related to the program.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

For the Small Business Assistance and Rental Assistance programs, Department management said they believed relying on prior subrecipient risk assessments was sufficient to comply with the federal requirement.

Effect of Condition

We determined the Department did not perform risk assessments in accordance with federal requirements for all 88 CRF subrecipients for the Small Business Assistance and Rental Assistance programs. These subrecipients accounted for 23 percent (88 out of 376) of all subrecipients for the CRF program.

Without performing new risk assessments of subrecipients that received CRF funding, which the federal government has classified as a program of higher risk, the Department cannot determine the appropriate amount of monitoring required for each subrecipient. Not performing new risk assessments also makes the Department less likely to detect subrecipients' noncompliance with federal regulations and the subaward's terms and conditions.

Recommendations

We recommend the Department:

- Establish procedures to ensure it performs risk assessments for all subawards it issues
- Monitor to ensure staff perform required risk assessments

Department's Response

Small Business Assistance Program

As the pandemic spread, the Office of Economic Development & Competitiveness (OEDC) pivoted its operations to meet the needs of small businesses affected by phased orders and public health concerns. This new body of work included new tools and programs to help existing small businesses survive and rebuild in the economic recovery phase as well as start anew, either as a current business owner or as an entrepreneur. This included expanding our traditional book of business, from providing technical assistance and services to businesses, to providing State and Federal funded Working Washington grants, which provided stop-gap assistance to thousands of businesses across the state. Overall the OEDC Pandemic response work included:

- *Round One: \$10 million, supported 1,508 businesses. (State Funding)*
- *Round Two: \$10 million, supporting 1,574 businesses. (Federal CRF)*
- *Round Three: \$100 million, supporting 7,931 businesses. (Federal CRF)*
- *Round Four: \$240 million, supporting 11,727 businesses. (Federal CRF)*
- *Resiliency Round: \$18 million; supported 2,646 small businesses. (Federal CRF)*
- *Awarding \$300,000 in relief grants to 43 shellfish growers. (State Funding)*
- *Grants for craft beverage establishments, shellfish growers, farmers markets and agritourism: \$16 million, supported 839 small businesses.*

- *Creating the state's Economic Recovery Dashboard.*
- *Developing a new \$30 million Revolving Loan Fund for small businesses. (Federal CRF)*
- *Securing a \$15 million federal grant from the EDA for a package of Safe Start projects.*
- *Coordinating the production of PPE supplies when hundreds of manufacturers answered Governor Inslee's call to retool to make PPE. Commerce staff and loaned executives from Impact Washington helped these companies pivot to produce everything from hand sanitizer to face shields and masks.*
- *Expanding ScaleUp program to provide free training and support to 230 small businesses trying to navigate the pandemic.*
- *Creating a COVID Business Planner to help businesses scale or suspend operations in response to phased health orders as well as resiliency planning for eventual reopening.*
- *Revamping Commerce's small business website to focus on COVID-related content and expanded disaster planning and COVID specific content on Commerce's website.*
- *Pivoting more than 30 staff members in Commerce to manage and process Working Washington grants, including reviews of tens of thousands of applications and processing payments to recipients and answering several thousand calls and emails from small business owners and nonprofits.*
- *Creating and conducting dozens of virtual export webinars and B2B meetings to help businesses maintain growth through successful exporting strategies.*

The OEDC took on an immense amount of programs and work during Federal fiscal year 2021. The additional programs impacted our only 28 employees. We had an all hands on deck approach to get the more than \$439 Million in state and federal funding out for small business assistance to well over 23,000 businesses. All of this was performed while still maintaining our traditional services. In addition, time was of the essence as there were federal deadlines for getting funding out to communities. In some cases as with Working Washington 3 and the Resiliency Round of funding we had less than 45 days to develop program guidance, market, and award \$270 million dollars. This was an extreme challenge for our staff; however, we were able to meet it, to serve our small businesses in Washington State.

Due to staffing and timing constraints the OEDC relied on our prior risk assessments from the Associate Development Organizations (ADO), and working knowledge of our subrecipients National Development Council dba CDP Washington, and Submittable. However, the OEDC Director, Deputy Director, Contracts Manager and Small Business Grants Director maintained daily communication with all subrecipients through email and phone to ensure we were monitoring all activity occurring by and through the subrecipients. The OEDC Director, Deputy Director, Contracts Manager and Small Business Grants Director worked one-on-one with Subrecipient staff to ensure compliance with federal guidelines for the funding, and as the CFR funding program was new to all parties and did not come with much federal guidance if any, and we deemed it imperative we provided daily guidance to the subrecipients to meet all expectations as

set forth from general federal grant award guidance, their contract and the OEDC program policies established.

The quick implementation of these programs meant our traditional risk assessment vetting was not completed, and all on-site monitoring traditionally done for Federal funded awards was unable to occur. Due to the funds moving quickly, we relied on daily and weekly progress reports, application reviews, award reports, and other backup documentation for monitoring our subrecipients. If more time had been available we would have had the opportunity to perform in traditional ways, with risk assessments, prior to contracting our federal funding and on-site monitoring of our subrecipient files and fiscal documentation. The OEDC has set up a Corrective Action Plan for moving forward in traditional and non-traditional funding occurrences that may arise in the future.

Rental Assistance Program

The Coronavirus pandemic resulted in an unprecedented crises of imminent evictions for an estimated 200,000 households who would face homelessness during the pandemic. Prompt implementation was critical to reducing evictions and homelessness was shown to increase the spread of COVID-19 leading to death. Every week of delay would increase the number of people at risk of dying. At the time the Department received the CARES Act funds for rental assistance, we were in current contracts with grantees for the same activity for whom we had completed risk assessments and monitoring plans 12 months prior. We relied on those risk assessments to comply with CARES Act requirement so staff could focus on ensuring that racial equity measures were met and that people disproportionately impacted during the pandemic had priority access to assistance. This included reviewing demographic data each month and engaging outreach teams to reach underserved and marginalized populations. In addition, when we first received the CARES Act funds (August 2020) the program was ending in December 2020 when the CARES Act funds were set to expire. It was not until late December 2020 that congress extended the end date and we were informed we could continue to fund the program into 2021. Our priorities for those initial five months were to maximize administrative efficiencies by relying on current risk assessments so staff could support counties in expanding programs to assist as many households as possible before evictions were issued.

We thank the Washington State Auditor's Office for their cooperation with the Department and the CRF programs during this audit.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (b) Evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
 - (1) The subrecipient’s prior experience with the same or similar subawards;
 - (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
 - (4) The extent and results of Federal awarding agency monitoring (if the subrecipient also receives Federal awards directly from a Federal awarding agency).

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: *2 CFR 200 – Frequently Asked Questions*, states in part:

200.331-10 Requirements for Pass-Through Entities. Timing of Subrecipient Risk Assessments

Section 200.331(b) indicates that pass-through entities must “evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring...” Are pass-through entities required to assess the risk of non-compliance for each applicant prior to issuing a subaward?

No. While section 200.331(b) requires risk assessments of subrecipients, there is no requirement for pass-through entities to perform these assessments before making subawards. Under the Uniform Guidance, the purpose of these risk assessments is for pass-through entities to determine appropriate subrecipient monitoring. Pass-through entities may use judgment regarding the most appropriate timing for the assessments. Regardless of the timing chosen, the pass-through entity should document its procedures for assessing risk. Section 200.331(b)(1) – (4) includes factors that a pass-through entity may consider when assessing subrecipient risk.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-017 The Department of Corrections did not have adequate internal controls over and did not comply with requirements to ensure it used State and Local Fiscal Recovery Funds for allowable purposes and for costs incurred within the period of performance.

CFDA Number and Title:	21.027 COVID-19 Coronavirus State and Local Fiscal Recovery Funds
Federal Grantor Name:	U.S. Department of the Treasury
Federal Award/Contract Number:	SLFRP0002
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles Period of Performance
Known Questioned Cost Amount:	\$17,380,061

Background

The Coronavirus State and Local Fiscal Recovery Fund (SLFRF) provides direct payments to states to respond to the COVID-19 pandemic or its negative economic effects. This includes providing financial assistance to households and nonprofit organizations. Washington received approximately \$4.4 billion of SLFRF money from the U.S. Department of the Treasury; of this amount, the state Legislature distributed approximately \$28.3 million to the Washington Department of Corrections (Department) to respond to the COVID-19 pandemic and its effects on the state's correctional facilities. Recipients are expected to use SLFRF assistance to meet pandemic response needs and rebuild a strong, more equitable economy as the country recovers.

Federal requirements stipulate that states may use SLFRF funds to support public health expenditures, including COVID-19 prevention and mitigation efforts, medical and behavioral healthcare expenses, public health and safety, and premium pay for essential workers. States may only use funds to cover costs incurred during the period of performance, which began on March 3, 2021, and ends December 31, 2024.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not establish adequate internal controls over and did not comply with requirements to ensure it used SLFRF funds for allowable purposes and for costs incurred within the period of performance.

The Department processed an accounting adjustment to move COVID-19-related expenses from the state's general fund to the SLFRF. When preparing this adjustment, the Department did not effectively review to ensure only expenses incurred within the period of performance were applied to the federal award. This resulted in the Department charging \$17,376,541 to the grant for costs incurred before the period of performance. We are questioning these costs.

We used a statistical sampling method to randomly select and examine 58 out of 3,214 payroll transactions that occurred after March 3, 2021, to determine whether they were for allowable activities under the program and met the period of performance requirements. We found six transactions (10 percent) contained payroll expenses that were incurred before the period of performance, resulting in \$3,519 in unallowable payments. We are questioning these costs.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department received authority to spend the SLFRF funds through the Legislature's supplemental budget. The Office of Financial Management (OFM) included information about the funding for the supplemental budget, but did not provide guidance regarding special compliance requirements for the federal funds.

OFM directed the Department to track all COVID-19-related expenditures in the state's general fund with a unique project code. The amount of SLFRF funds the Department received was the same as the amount it had received for a particular general fund code that covered all of fiscal year 2021. Management did not know about the award's period of performance restrictions and believed all of the Department's expenditures should be reimbursed using its appropriated SLFRF budget of \$28.3 million.

Effect of Condition and Questioned Costs

By not establishing adequate internal controls over its accounting adjustments, the Department did not have reasonable assurance it only used SLFRF funds for allowable purposes and for costs incurred within the period of performance.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3).

We are questioning \$17,380,061 in expenditures that the Department had incurred before the period of performance, including the payroll expenditures we examined during the audit. We estimate the likely total questioned costs to be \$17,407,483.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Establish internal controls to specifically identify payments used as a basis for accounting adjustments and review the expenditures before charging them to federal awards to ensure they are eligible for reimbursement
- Ensure expenditures applied to federal awards occur within their period of performance
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department only partially concurs with this finding.

We appreciate the State Auditor's Office (SAO) audit of Coronavirus State Fiscal Recovery (CSFR) grant. The Department is committed to ensuring our programs/processes comply with federal regulations and understand that it is the SAO's point of view that the Department did not comply with requirements to ensure it used State Fiscal Recovery Funds for allowable purposes and for cost incurred within in the period of performance. The Department agrees that costs were charged to the grant before the effective date or period of performance of the grant. However, the Department asserts that it does have adequate internal controls over our accounting adjustments to ensure reasonable assurance that the funds were used for allowable purposes. The Department believes that salaries (questioned costs) charged to this grant are consistent with the purpose of the grant and would be allowable if not for occurring outside of the applicable timeframes.

The Department underscores that no system of internal control is designed, or expected, to discover material information regarding funding streams that is not provided by the funder. In this instance, the Department had asked for \$42 million in supplemental General Fund-State (GFS) dollars to support extraordinary costs related to Covid-19 impacts. Spending authority for the Coronavirus State Fiscal Recovery Funds was given to the Department in section 1221 of the budget bill FY2021 (July 1, 2020 - June 30, 2021) only. Below is a table detailing the expenditure authority schedule coding and how the money breaks out by program:

<u>Fund</u>	<u>Program Code</u>	<u>Appropriation Code</u>	<u>Budget</u>
Coronavirus State Fiscal Recovery Fund - 706	100	[716] Coronavirus State Fiscal Recovery P100	197,000
	200	[726] Coronavirus State Fiscal Recovery P200	31,700,000
	300	[736] Coronavirus State Fiscal Recovery P300	5,879,000
	400	746 Coronavirus State Fiscal Recovery P400	911,000
	500	756 Coronavirus State Fiscal Recovery P500	3,292,000
	700	776 Coronavirus State Fiscal Recovery P700	214,000
	Total for Coronavirus State Fiscal Recovery Fund		

Section 1221 of ESSB 5092 is the second supplemental appropriation for the Department of Corrections. This section did not provide any guidance regarding these funds falling under a new federal grant, nor proviso language about how the money in Fund 706 must be spent. The Department's GFS ask was essentially swapped in the budget process with Coronavirus State Fiscal Recovery (CSFR) funds, dollar for dollar. ESSB 5092 passed Legislature on 4/25/21 and was signed by Governor Inslee on 5/18/21. Absent material information regarding this fundings' applicability period, the Department applied expenditures to the funding consistent with our Expenditure Authority schedule for FY21, and our internal controls ensured that the charges applied to the federal funds were only within FY21 dates.

Unbeknownst to the Department, there was a period of performance that began March 3, 2021. In fact, several other state agencies had similar experiences. The Department finalized its accounting transaction on August 25, 2021, and ACFR Phase 2 closed on September 3, 2021.

Significantly after Phase 2 close, the Department learned of the March 3 date in the entrance conference discussions with SAO for this audit. Further, the Federal Treasury Final Rule was issued January 27, 2022.

The Department concurs that the result of not being provided adequate information by the funder regarding the period of performance is charges to the funding outside of the period of performance. However, due to the lateness of becoming aware of the period of performance, as well as Federal rules issued significantly after the funds were awarded, the Department was unable to make correcting entries as the FY21 ACFR had closed. The Department will consult with the federal granting agency to determine whether questioned cost will be repaid.

Finally, the Department recognizes that any system of internal control can be improved and will therefore conduct a review of processes that identify eligible costs for federal grants, the necessary documentation requirements for accounting transfers and records retention organization to make records more easily accessible for audit purposes. The Department appreciated the patience of the SAO in obtaining supporting documentation for the audit.

Auditor's Remarks

Washington State's systems of internal controls over federal awards is designed in a decentralized manner. Therefore, individual state agencies are expected to be knowledgeable of federal program requirements when receiving, accounting for and spending federal funds.

The U.S. Department of the Treasury's Interim Final Rule concerning the requirements for allowable uses of Coronavirus State and Local Fiscal Recovery Funds was issued, and took effect, on May 17, 2021. This was during this audit period and prior to the state fiscal year closing date.

We appreciate the Department's commitment to evaluating its system of internal control. We reaffirm our audit finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000

for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that

results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 31 *U.S. Code of Federal Regulations* (CFR) Part 35, *Pandemic Relief Programs* establishes the following applicable requirements:

Section 35.5 Use of funds, states in part:

- (a) ***In general.*** A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in §35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.
- (b) ***Costs incurred.*** A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to pay such cost by December 31, 2024.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-018 The Department of Agriculture did not have adequate internal controls over and did not comply with federal requirements for procurement or suspension and debarment.

CFDA Number and Title:	21.027 COVID-19 Coronavirus State and Local Fiscal Recovery Funds
Federal Grantor Name:	U.S. Department of the Treasury
Federal Award/Contract Number:	SLFRP0002
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Procurement, Suspension and Debarment
Known Questioned Cost Amount:	\$10,528,205

Background

The Coronavirus State and Local Fiscal Recovery Fund (SLFRF) provides direct payments to states to respond to the COVID-19 pandemic or its negative economic effects. This includes providing financial assistance to households and nonprofit organizations. Washington state received approximately \$4.4 billion of SLFRF money from the U.S. Department of the Treasury; of this amount, the state Legislature distributed \$20 million to the Washington Department of Agriculture (Department) for hunger relief efforts.

Through its Food Assistance and Food Security programs, the Department purchased fresh and shelf-stable foods and supplies. The Department also distributed pass-through funds to community organizations and food banks to assist with preparing, storing and distributing food to those most affected by COVID-19.

Federal regulations require states to follow the same policies and procedures for procuring property and services with federal grant funds as they do with non-federal funds. In Washington, state agencies must follow state law (RCW 39.26), as well as policies and procedures established by the Department of Enterprise Services (DES), when procuring goods and services. DES has established a \$25,000 “direct buy” threshold for agencies to make direct purchases from vendors without competitive solicitation or entering into a contract. DES also establishes master contracts for goods and services that state agencies and local governments can use to streamline the purchasing process.

On March 6, 2020, DES issued a purchasing exception related to special market conditions created by the COVID-19 pandemic, which exempted state agencies from competitive solicitation requirements for goods and services directly related to the state's COVID-19 response.

Federal regulations prohibit grantees from entering into contracts or making subawards under covered transactions to parties that are suspended or debarred from doing business with the federal government. Covered transactions are typically contracts over \$25,000 or subawards of any amount. The regulations require the Department to use one of three approved methods to verify that recipients of covered transactions are not suspended or debarred. These methods are:

- Checking for exclusion records relating to the recipient on the U.S. General Services Administration's System for Award Management (SAM.gov)
- Collecting a certification from the recipient attesting it is not suspended or debarred
- Adding a clause or condition to the covered transaction stating the recipient is not suspended or debarred

Before entering into a covered transaction, the Department must also require recipients to pass down the suspension debarment requirements to any lower-tier participants with whom they enter into a covered transaction.

In fiscal year 2021, the Department paid \$20 million for goods and services related to hunger relief efforts. Of this amount, the Department passed through approximately \$4.9 million to subrecipients.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements for procurement or suspension and debarment.

Goods and services purchased from vendors

During the audit period, the Department was required to award contracts totaling \$10,528,205 to 30 vendors whose costs exceeded \$25,000. However, we found the Department did not award any SLFRF contracts to these vendors. We also found the Department did not verify the 30 vendors were not suspended or debarred, as federal regulations require.

Additionally, the Department used DES master contracts in three instances to procure goods and services, but did not check the suspension and debarment status of the contractors.

Funds passed through to subrecipients

We selected 11 out of 21 subawards the Department issued during the audit period to determine if it had verified the subrecipients were not suspended or debarred. We randomly selected 10 subawards and specifically selected one subaward to review because it was individually significant (approximately \$2.7 million).

We found the Department did not use one of the three approved methods to verify the suspension and debarment status of the subrecipients for six subawards (55 percent), including the individually significant subaward. We also determined that the Department did not issue a subaward for two of the subawards that were required for covered transactions under federal regulations. As a result, the Department did not inform the subrecipients of their responsibility to pass down the suspension debarment requirements to any lower-tier participants.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

These issues were not reported as a finding in the prior audit.

Cause of Condition

Goods and services purchased from vendors

Management said it was not aware of the requirement to enter into contracts for covered transactions exceeding \$25,000, and it relied on DES's competitive solicitation exemption to rationalize not entering into contracts with its vendors. Additionally, management incorrectly reviewed the following information to verify the vendors' suspension and debarment status: DES's vendor debarment list, each vendor's prior exclusion history, and vendors' current or prior participation in other federal programs.

Funds passed through to subrecipients

The Department has an established process for verifying the suspension and debarment status of its Food Assistance subrecipients from its other federal programs. However, because the Department did not issue two required subawards, it did not complete the suspension and debarment checks through its normal process.

For Food Security subrecipients, management said it believed the Department could rely on preexisting subawards and amendments for other programs to satisfy the suspension and debarment requirements. As a result, the Department did not review the suspension and debarment status of each subrecipient to ensure it was documented for compliance purposes.

The Department also did not have adequate policies and procedures for procuring goods and services or for verifying the suspension and debarment status of contractors and subrecipients.

Effect of Condition and Questioned Costs

By not procuring contracts properly, the Department did not comply with state and federal requirements. Additionally, by not entering into contracts with its vendors, the Department did not establish contract requirements and expected deliverables. Therefore, we conclude the Department improperly charged \$10,528,205 to the SLFRF program to purchase goods and services.

By not complying with suspension and debarment requirements, the Department is at an increased risk of entering into covered transactions with excluded entities. Any payments made to excluded entities would be unallowable, and the grantor could potentially recover them.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Establish internal controls to ensure it procures goods and services in accordance with state policies and procedures
- Improve its internal controls to ensure compliance with federal suspension and debarment requirements
- Update its policies and procedures for procurement and suspension and debarment
- Consult with the grantor to determine if the identified questioned costs should be repaid

Department's Response

The Washington State Department of Agriculture is committed to addressing all noncompliance with the federal uniform and treasury guidance for the CSLFRF funding that was deployed to mitigate a hunger crisis in our state. We acknowledge and will remedy the administrative errors that resulted in these audit findings and we affirm that though there were errors, every dollar spent was fully accounted for, no fraud has been identified, and these funds were successfully deployed in our emergency food security response. The COVID-19 pandemic has been widely described as "unprecedented" and in light of a sharp increase in food insecurity, with as many as one in three Washingtonians experiencing or at risk of hunger, WSDA took unprecedented measures to ensure that emergency food assistance was available to any Washingtonian in need. In spite of noncompliance and the measures we will take to address it, WSDA took the steps necessary to feed Washingtonians in need, and in that mission, we were wholly successful.

WSDA is ensuring federal suspension and debarment language is added to each contract and referenced in each new amendment. In addition, program staff will check the System for Award Management (SAM) prior to the contract execution date. The contractor verification documentation will be maintained in each contract file. Staff will require each contractor to

include suspension and debarment language in all lower tier agreements. WSDA will begin updating policies and procedures as recommended by SAO. Agency staff who manage federal contracts will receive training and written instructions on federal suspension and debarment requirements by June 30, 2023.

The Department will update policies and procedures for federal procurement, suspension and debarment to include training for staff by June 30, 2023.

We appreciate the opportunity to work with the auditors to ensure the department meets all state and federal requirement.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.317 Procurements by states, states in part:

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The

State will comply with §200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327.

Section 200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in appendix II to this part.

Section 200.331 Subrecipient and contractor determinations. Contract provisions.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See definition for Subaward in § 200.1 of this part. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision-making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See the definition of contract in § 200.1 of this part. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;

- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart

D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, states in part:

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following as applicable.

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (H) Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

2 CFR Part 180, *OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)*, Subpart C – Responsibilities of Participants Regarding Transactions Doing Business With Other Persons, states in part:

Section 180.220 Are any procurement contracts included as covered transactions?

(a) Covered transactions under this part –

- (1) Do not include any procurement contracts awarded directly by a Federal agency; but
- (2) Do include some procurement contracts awarded by non-Federal participants in nonprocurement covered transactions.

(b) Specifically, a contract for goods or services is a covered transaction if any of the following applies:

- (1) The contract is awarded by a participant in a nonprocurement transaction that is covered under §180.210, and the amount of the contract is expected to equal or exceed \$25,000.

Section 180.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) Checking SAM Exclusions; or
- (b) Collecting a certification from that person; or
- (c) Adding a clause or condition to the covered transaction with that person.

Section 180.330 What requirements must I pass down to persons at lower tiers with whom I intend to do business?

Before entering into a covered transaction with a participant at the next lower tier, you must require that participant to -

(a) Comply with this subpart as a condition of participation in the transaction. You may do so using any method(s), unless the regulation of the Federal agency responsible for the transaction requires you to use specific methods.

(b) Pass the requirement to comply with this subpart to each person with whom the participant enters into a covered transaction at the next lower tier.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §200.300 Statutory and national policy requirements through 200.309 Period of performance.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will

not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-019 The Department of Agriculture did not have adequate internal controls over and did not comply with federal requirements to ensure it issued all required subawards, included all required information in the subawards issued, and performed risk assessments for subrecipients of the Coronavirus State and Local Fiscal Recovery Fund.

CFDA Number and Title:	21.027 COVID-19 Coronavirus State and Local Fiscal Recovery Funds
Federal Grantor Name:	U.S. Department of the Treasury
Federal Award/Contract Number:	SLFRP0002
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	\$3,371,121

Background

The Coronavirus State and Local Fiscal Recovery Fund (SLFRF) provides direct payments to states to respond to the COVID-19 pandemic or its negative economic effects. This includes providing financial assistance to households and nonprofit organizations. Washington state received approximately \$4.4 billion of SLFRF money from the U.S. Department of the Treasury; of this amount, the state Legislature distributed \$20 million to the Washington Department of Agriculture (Department) for hunger relief efforts.

Through its Food Assistance and Food Security programs, the Department purchased fresh and shelf-stable foods and supplies. The Department also distributed pass-through funds to community organizations and food banks to assist with preparing, storing and distributing food to those most affected by COVID-19.

Federal law (2 CFR 200.332) requires pass-through entities to include certain information in all of their subawards. This includes information about the federal award the pass-through entity received, details about the subaward being awarded, and clearly identifying the recipient as a subrecipient. Pass-through entities must also monitor the activities of subrecipients to ensure they are properly using federal funds. To determine the appropriate level of monitoring, federal

regulations require the Department to evaluate each subrecipient's risk of noncompliance with federal statutes and regulations and the terms and conditions of the subaward.

In fiscal year 2021, the Department paid \$20 million for goods and services related to hunger relief efforts. Of this amount, the Department passed through approximately \$4.9 million to subrecipients.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding program requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to ensure it issued all required subawards, included all required information in the subawards issued, and performed risk assessments for subrecipients of the SLFRF.

During the audit period, the Department awarded SLFRF funds to 18 subrecipients, requiring 21 subawards, related to the Food Assistance and Food Security programs. We used a non-statistical sampling method to randomly select and examine 10 subrecipients, in addition to one subrecipient we specifically selected to review because the amount it received was individually significant (approximately \$2.7 million). We found the Department failed to issue subawards to five subrecipients but paid them a total of \$3,371,121. For the six subawards we reviewed, we found all were missing the following required information:

- Subrecipient's unique entity identifier
- Federal Award Identification Number (FAIN)
- Federal award date
- Federal award project description (responsive to the reporting requirements under the Federal Funding Accountability and Transparency Act (FFATA))
- Indirect cost rate for the federal award

Additionally, the six subawards we reviewed did not identify the recipient as a subrecipient, as required by federal regulations.

We also found the Department did not perform a risk assessment for any of its subrecipients during the audit period.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

These issues were not reported as a finding in the prior audit.

Cause of Condition

Management and staff did not have an adequate understanding of the requirements for identifying subrecipients and executing subawards, as well as distinguishing them from the Department's state-funded contracts and from subawards for other federal awards.

The Department issued SLFRF subawards beginning in May 2021. The Department had preexisting agreements with subrecipients of other federal programs, so it relied on the results of risk assessments conducted prior to receiving its SLFRF funding instead of performing new subrecipient risk assessments before making subawards.

Effect of Condition and Questioned Costs

By not following established policies, the Department cannot ensure it is compliant with subrecipient monitoring requirements. By not clearly identifying subaward recipients as subrecipients, the Department cannot ensure the subrecipients are adequately informed of the program requirements. Additionally, without evaluating risk, the Department cannot ensure each subrecipient receives the appropriate level of monitoring, which makes it less likely the Department would be able to detect subrecipients' noncompliance with federal regulations and the subaward's terms and conditions.

Because the Department did not issue subawards to five of its subrecipients, we are questioning the \$3,371,121 paid to these subrecipients. We also estimate likely questioned costs totaling \$3,813,586. We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Implement internal controls to ensure it issues subawards for federal funds passed through to subrecipients, as required
- Establish policies and procedures to ensure it includes all required information in the subawards issued
- Ensure it performs risk assessments of subrecipients and evaluates the results to determine the required level of monitoring for each subrecipient in accordance with federal requirements
- Ensure staff responsible for issuing subawards understand subrecipient classifications

Department's Response

The Washington State Department of Agriculture is committed to addressing all noncompliance with the federal uniform and treasury guidance for the CSLFRF funding that was deployed to

mitigate a hunger crisis in our state. We acknowledge and will remedy the administrative errors that resulted in these audit findings and we affirm that though there were errors, every dollar spent was fully accounted for, no fraud has been identified, and these funds were successfully deployed in our emergency food security response. The COVID-19 pandemic has been widely described as “unprecedented” and in light of a sharp increase in food insecurity, with as many as one in three Washingtonians experiencing or at risk of hunger, WSDA took unprecedented measures to ensure that emergency food assistance was available to any Washingtonian in need. In spite of noncompliance and the measures we will take to address it, WSDA took the steps necessary to feed Washingtonians in need, and in that mission, we were wholly successful.

The department will update policies and procedures for federal subawards to include risk assessment in the application and/or prior to contracting and establish risk-based monitoring processes. The department will conduct training for staff by June 30, 2023.

Auditor’s Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department’s corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.1 Definitions, states in part:

Improper payment means:

- 1) Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other *legally applicable* requirements.
 - (i) Incorrect amounts are overpayments or underpayments that are made to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and duplicate payments). An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Note 1 to paragraph (1)(i) of this definition. Applicable discounts are only those discounts where it is both advantageous and within the agency's control to claim them.

- (ii) When an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment should also be considered an improper payment. When establishing documentation requirements for payments, agencies should ensure that all documentation requirements are necessary and should refrain from imposing additional burdensome documentation requirements.
- (iii) Interest or other fees that may result from an underpayment by an agency are not considered an improper payment if the interest was paid correctly. These payments are generally separate transactions and may be necessary under certain statutory, contractual, administrative, or other legally applicable requirements.
- (iv) A “questioned cost” (as defined in this section) should not be considered an improper payment until the transaction has been completely reviewed and is confirmed to be improper.
- (v) The term “payment” in this definition means any disbursement or transfer of Federal funds (including a commitment for future payment, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.
- (vi) The term “payment” includes disbursements made pursuant to prime contracts awarded under the Federal Acquisition Regulation and Federal awards subject to this part that are expended by recipients.

- (2) See definition of improper payment in OMB Circular A-123 appendix C, part I A (1) “What is an improper payment?” Questioned costs, including those identified in audits, are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A-123 appendix C.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance

with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (c) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

1) Federal award identification.

- i. Subrecipient name (which must match the name associated with its unique entity identifier);
- ii. Subrecipient’s unique entity identifier;
- iii. Federal Award Identification Number (FAIN);
- iv. Federal Award Date (see the definition of Federal award date in §200.1 of this part) of award to the recipient by the Federal agency;
- v. Subaward Period of Performance Start and End Date;
- vi. Subaward Budget Period Start and End Date;
- vii. Amount of Federal Funds Obligated to the subrecipient by the pass-through entity to the subrecipient;
- viii. Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation;
- ix. Total Amount of the Federal Award committed to the subrecipient by the pass through entity;
- x. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
- xi. Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;

- xii. Assistance Listing number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listing number at time of disbursement;
 - xiii. Identification of whether the award is R&D; and
 - xiv. Indirect cost rate for the Federal award (including if the de minimis rate is charged) per §200.414.
- 2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;
 - 3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
 - 4)
 - i. An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government. If no approved rate exists, the pass-through entity must determine the appropriate rate in collaboration with the subrecipient, which is either:
 - A. The negotiated indirect cost rate between the pas-through entity and the subrecipient; which can be based on a prior negotiated rate between a different PTE and the same subrecipient. If basing the rate on a previously negotiated rate, the pass-through entity is not required to collect information justifying this rate, but may elect to do so;
 - B. The de minimis indirect cost rate.
 - ii. The pass-through entity must not require use of a de minimis indirect cost rate if the subrecipient has a Federally approved rate. Subrecipients can elect to use the cost allocation method to account for indirect costs in accordance with §200.405(d).
 - 5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipients records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and
 - 6) Appropriate terms and conditions concerning closeout of the subaward.

- (d) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
- 1) The subrecipient's prior experience with the same or similar subawards;
 - 2) The result of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - 3) Whether the subrecipient has new personnel or new or substantially changed systems; and
 - 4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also received Federal awards directly from a Federal awarding agency).

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-020 Washington State University did not establish adequate internal controls over and did not comply with federal requirements to conduct risk assessments of student information security for the Student Financial Assistance programs.

CFDA Number and Title:	84.007, Federal Supplemental Educational Opportunity Grant 84.033, Federal Work-Study Program 84.038, Federal Perkins Loan Program 84.063, Federal Pell Grant Program 84.268, Federal Direct Student Loans 84.379, Teacher Education Assistance for College and Higher Education Grants
Federal Grantor Name:	U.S. Department of Education
Federal Award/Contract Number:	Various
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Gramm-Leach-Bliley Act – Student Information Security
Known Questioned Cost Amount:	None

Background

The Gramm-Leach-Bliley Act (Act) requires financial institutions to explain their information-sharing practices to their customers and to safeguard sensitive data. The Federal Trade Commission considers Title-IV eligible institutions that participate in the Title IV Educational Assistance Programs to be “financial institutions” and subject to the Act because of their participation in the wiring of federal aid funds to consumers.

Provisions of the Act include requirements for financial institutions to develop, implement and maintain an information security program over confidential and financial information. Under the Family Educational Rights and Privacy Act (FERPA), the U.S. Department of Education requires in its institutional Program Participation Agreement for institutions to adhere to the Act’s requirements and to protect student financial aid information from unauthorized disclosure, misuse, alteration, destruction or other compromising acts.

The U.S. Department of Education provides further guidance to participating institutions regarding methods for meeting cybersecurity requirements. Institutions of higher education are to designate individual(s) responsible for coordinating the institution's information security program and conducting risk assessments to identify foreseeable internal and external risks to information security, confidentiality and data integrity, and to document and evaluate the safeguards in place to mitigate the effects of, or eliminate, any identified risks.

Each institution's risk assessment must consider the following key elements:

- Employee training and management
- Information systems, including network and software design, as well as information processing, storage, transmission and disposal
- Detecting, preventing and responding to attacks, intrusions or other system failures

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported Washington State University (University) did not establish adequate internal controls over and did not comply with federal requirements to conduct risk assessments of student information security for the Student Financial Assistance programs. The prior finding number was 2020-021.

Description of Condition

The University did not establish adequate internal controls over and did not comply with federal requirements to conduct risk assessments of student information security for the Student Financial Assistance program.

The Chief Information Security Officer is responsible for coordinating the University's information security program. The University implemented written policies for conducting information security risk assessments and security assessment and authorization reviews during the audit period. The University also had documentation to show it implemented activities to monitor and assess threats to information security.

However, the University did not have adequate documentation to show that it performed a formal risk assessment specific to the requirements for information systems covered under the Act. Because of this, we also found the University did not have readily available documentation to support the specific safeguards implemented in response to the risks identified through the required risk assessment.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

University management was aware of the information system security requirements under the Act and established policies and procedures for performing the required information security risk assessment specific to the Act. During the audit period, management redesigned the risk assessment to better address the requirements under the Act, but did not monitor staff assigned with completing the risk assessment to ensure it was performed and adequately documented.

Effect of Condition

By not ensuring staff completed and adequately documented risk assessments of information system security specific to the Act, the University could not easily identify which systems security safeguards were implemented in response to identified risks of unauthorized disclosure, including theft, manipulation, destruction, or misuse of student information.

Recommendations

We recommend the University:

- Improve its internal controls to ensure information system security risk assessments are performed in accordance with federal regulations, program requirements and University policy
- Monitor the results of risk assessments to ensure appropriate safeguards are documented and implemented in response to identified risks

University's Response

Washington State University takes very seriously its responsibilities related to information system security and the protection of customer information from unauthorized disclosure, theft, manipulation, destruction, or misuse.

As noted within the Background of this report, the issue within this report is repeated from the prior year, Fiscal Year 2020. The report was issued in May 2021. The current audit scope was to review for controls and implementation of corrective action through the end of the fiscal year, effectively, through June 30, 2021 (two months after report issuance date). The University had provided a corrective action plan for communicated issues and noted implementation would be affected by March 31, 2022. This deadline has been met.

As of the end of March 2022, Fiscal Year 2022, the University has revised and improved the tools and processes for conducting information security risk assessments. The University used the refined tools to perform comprehensive assessments of risks against the control environment and has documentation to support both the results of the assessment and activities implemented, as a result of the assessment, to monitor and assess threats to information security.

Washington State University continues to maintain its diligence in actively assessing and managing risks in information security and specific to the requirements for information systems covered under the Gramm-Leach-Bliley Act.

Auditor's Remarks

We thank the University for its cooperation and assistance throughout the audit. We will review the status of the University's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 16 CFR Part 314, *Standards for Safeguarding Customer Information* establishes the following applicable requirements:

314.2 Definitions.

- (b) *Customer information* means any record containing nonpublic personal information as defined in 16 CFR 313.3(n), about a customer of a financial institution, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of you or your affiliates.
- (c) *Information security program* means the administrative, technical, or physical safeguards you use to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information.

314.3 Standards for safeguarding customer information.

- (a) Information security program. You shall develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to your size and complexity, the nature and scope of your activities, and the sensitivity of any customer information at issue. Such safeguards shall include the elements set forth in 314.4 and shall be reasonably designed to achieve the objectives of this part, as set forth in paragraph (b) of this section.
- (b) Objectives. The objectives of the Act, and of this part, are to:
 - (1) Insure the security and confidentiality of customer information;
 - (2) Protect against any anticipated threats or hazards to the security or integrity of such information; and
 - (3) Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

314.4 Elements, states in part:

In order to develop, implement and maintain your information security program, you shall:

- (b) Identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks. At a minimum, such a risk assessment should include consideration of risks in each relevant area of your operations, including:
 - (1) Employee training and management;
 - (2) Information systems, including network and software design, as well as information processing, storage, transmission and disposal; and
 - (3) Detecting, preventing and responding to attacks, intrusions, or other systems failures.
- (c) Design and implement information safeguards to control the risks you identify through risk assessment, and regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems and procedures.
- (d) Oversee service providers, by:
 - (1) Taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue; and
 - (2) Requiring your service providers by contract to implement and maintain such safeguards.
- (e) Evaluate and adjust your information security program in the light of the results of the testing and monitoring required by paragraph (c) of this section; any material changes to your operations or business arrangements; or any other circumstances that you know or have reason to know may have a material impact on your information security program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-021 **The Office of Superintendent of Public Instruction did not have adequate internal controls over and did not comply with federal requirements to ensure Local Education Agencies implemented testing security measures.**

CFDA Number and Title: 84.010 Title I Grants to Local Educational Agencies (Title I, Part A of the Every Student Succeeds Act)
Federal Grantor Name: U.S. Department of Education
Federal Award Number: S010A180047, S101A190047-19A, S010A200047
Pass-through Entity: None
Pass-through Award/Contract Number: None
Applicable Compliance Component: Special Tests and Provisions: Assessment System Security
Known Questioned Cost Amount: None

Background

The Title I Grants to Local Educational Agencies (Title I, Part A) provides financial assistance to improve the teaching and learning of children who are at risk of not meeting challenging academic standards and who reside in areas with high concentrations of children from low-income families.

The Every Student Succeeds Act (ESSA) requires states to perform annual statewide assessments in reading, language arts and mathematics to all students in grades three through eight. The ESSA also requires states to administer assessments in reading, language arts and mathematics once in high school, as well as in science at least once in each of grades three through five, six through nine, and 10 through 12.

The Office of Superintendent of Public Instruction (Office) administers the Title I, Part A program in Washington. The Office, in consultation with Local Education Agencies (LEAs), establishes and maintains an assessment system that is valid, reliable and consistent with professional and technical standards. In its assessment system, the Office has policies and procedures to maintain test security and ensure that LEAs implement those policies and procedures.

LEAs are required to complete a District Administration and Security Report (DASR) for each test administered, and they must submit the report to the Office no later than five business days after completion of each test administration.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Office did not have adequate internal controls over and did not comply with federal requirements to ensure LEAs implemented testing security measures. The prior finding number was 2020-026.

Description of Condition

The Office did not have adequate internal controls over and did not comply with federal requirements to ensure LEAs implemented testing security measures.

Through manuals, training modules, tools, templates and other documents, the Office provides guidance to LEAs on how they must manage and administer assessments in compliance with the law. The Office also requires LEAs to submit a DASR at the conclusion of the testing cycle to ensure they have implemented testing security measures.

During the audit period, the Office did not conduct on-site or desk monitoring to ensure LEAs followed the policies and procedures it implemented. The Office originally planned to implement new on-site and desk monitoring protocols in the spring of 2020 developed with the intent to conduct monitoring in accordance with federal requirements for the 2020-21 school year.

However, standard protocols were followed that included identifying a list of all LEAs that administered each assessment and checking to ensure the Office received DASRs for all assessments administered. At the time of the audit, the Office had not conducted all reviews due to difficulty gathering DASRs because of the COVID-19 pandemic.

During the audit period, 178 LEAs administered 178 total assessments. The Office did not receive 95 DASRs (53 percent of total assessments administered), but the 83 DASRs it did receive were completed and submitted within five business days after completion of each test administration.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

While the Office developed new monitoring protocols in response to the prior audit finding recommendations, management decided not to implement them until June 2021 due to the anticipated difficulties in obtaining records from LEAs because of the COVID-19 pandemic.

Effect of Condition

By not monitoring LEAs, the Office had no assurance that LEAs implemented proper testing security measures.

Recommendation

We recommend the Office follow its newly established procedures by monitoring the DASRs to ensure that the LEAs have implemented testing security measures.

Office's Response

OSPI will continue to provide school districts with all required training materials that, when implemented, help to ensure that appropriate protocols are in place for the security of the tests.

For purposes of this response, it is important to distinguish between the District Administration and Security Report (DASR), which has been in place and ongoing, and the planned onsite and desk monitoring, full implementation of which has been delayed due to the pandemic.

Districts ensure training and security protocols are followed by completing a DASR. OSPI requires all districts to submit completed DASRs to document the security training and protocols were followed. OSPI begins communicating to districts that DASRs are required and when they are due at the start of each school year. This information is included in training PowerPoints, monthly statewide webcasts, and in a weekly assessment newsletter, repeated many times prior to reporting deadline. At the end of the school year, OSPI follows up with districts that do not submit on-time DASR reports, via emails and/or phone calls. This follow-up continues for three months, into the start of the new school year. OSPI documents DASR reports not received by OSPI after this period.

During the 2020-21 school year, the timeframe for this audit, OSPI communicated broadly and regularly regarding the DASR requirement. This is evidenced by the broadcasting and posting of the New and All-District Coordinator Training webinars on August 28 and September 11, 2020; reminders in WAW articles on August 27, September 3, and September 10, 2020; published procedures in the Test Coordinators Manual and spring Test Coordinator Training (Feb 2021); Assessment Update Webcasts in May 2021 and June 2021; and Washington Assessment Weekly (WAW) articles on June 10 and 17, 2021.

Additionally, OSPI had begun due diligence to follow-up with districts that had not submitted their reports.

It is also important to note the unusual circumstances of the statewide assessment during the spring of 2021. General assessments (Smarter Balanced math and ELA and the Washington Comprehensive Assessment of Science) were deferred to a fall test administration. The alternate assessment (WA-AIM) allowed the option for either a spring or fall test administration. Therefore,

this audit’s timeline spanned only part of the test administration; the remainder of testing was completed in the fall of 2021.

Separate from DASR submission, and beginning with the spring 2022 assessments, OSPI will resume district monitoring, otherwise known as onsite and desk monitoring. District monitoring allows OSPI staff to make a direct and personal connection with school district staff while observing and recording that security protocols and test administration procedures are being/have been properly followed. Monitoring was paused beginning in March 2020 through the end of the school year 2021 due to the COVID pandemic. These observations will be conducted at a rotating sample of districts. The goal of these onsite and desk checks is to identify areas where districts need support and those supports can be carried over to support other districts statewide.

Collection of DASRs and district monitoring/audits are separate activities due to the nature and timing of each activity. DASR submission is an activity that is completed at the end of a school district’s test administration. For most districts in WA, DASRs are completed in June, after spring testing. WA-AIM spring testing concluded on June 11, 2021. In the last two weeks of June, OSPI had begun to follow-up with districts that hadn’t yet submitted DASRs.

As done in 2020-21, OSPI will continue to regularly communicate with districts regarding the DASR requirements and send follow-up communications if completed submissions are not timely.

Auditor’s Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office’s corrective action during our next audit.

Applicable Laws and Regulations

Title 20 U.S. Code §6311 – State plans, states in part:

(b) Challenging academic standards and academic assessments

(2) ACADEMIC ASSESSMENTS.—

(A) IN GENERAL.—Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality student academic assessments in mathematics, reading or language arts, and science. The State retains the right to implement such assessments in any other subject chosen by the State.

(B) REQUIREMENTS — The assessments under subparagraph (A) shall—

(i) except as provided in subparagraph (D), be—

(I) the same academic assessments used to measure the achievement of all public elementary school and secondary school students in the State; and

(II) administered to all public elementary school and secondary school students in the State;

(ii) be aligned with the challenging State academic standards, and provide coherent and timely information about student attainment of such standards and whether the student is performing at the student's grade level;

(iii) be used for purposes for which such assessments are valid and reliable, consistent with relevant, nationally recognized professional and technical testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information;

(iv) be of adequate technical quality for each purpose required under this Act and consistent with the requirements of this section, the evidence of which shall be made public, including on the website of the State educational agency;

(v)(I) in the case of mathematics and reading or language arts, be administered—

(aa) in each of grades 3 through 8; and

(bb) at least once in grades 9 through 12;

(II) in the case of science, be administered not less than one time during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12; and

(III) in the case of any other subject chosen by the State, be administered at the discretion of the State;

(vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding which may include measures of student academic growth and may be partially delivered in the form of portfolios, projects, or extended performance tasks;

(vii) provide for—

(I) the participation in such assessments of all students;

(II) the appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities (as defined in section 602(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(3))), including students with the most significant cognitive disabilities, and students with a disability who are provided accommodations under an Act other than the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), necessary to measure the academic achievement of such children relative to the challenging State academic standards or alternate academic achievement standards described in paragraph (1)(E); and

(III) the inclusion of English learners, who shall be assessed in a valid and reliable manner and provided appropriate accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency, as determined under subparagraph (G);

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

The Professional Standards and Security, Incident, and Reporting Guidelines (PIRG) established by the Office states in part:

After testing, it is the LEA's responsibility to complete a District Administration and Security Report for each test administration. This report has check boxes of responsibilities. Include an explanation of boxes checked "no" and notation of any missing or damaged materials. As required, submit the report to OSPI through ARMS no later than five business days after completion of each test administration.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-022 The Office of Superintendent of Public Instruction did not have adequate internal controls over and did not comply with requirements to ensure payments to subrecipients were adequately supported for the Special Education program.

CFDA Number and Title: 84.027 Special Education-Grants to States (IDEA, Part B)
84.173 Special Education-Preschool Grants (IDEA Preschool)

Federal Grantor Name: U.S. Department of Education

Federal Award/Contract Number: H027A190074 - 19A, H027A200074- 20A, H173A180074, H173A190074, H173A200074

Pass-through Entity Name: None

Pass-through Award/Contract Number: None

Applicable Compliance Component: Activities Allowed or Unallowed, Allowable Costs/Cost Principles, Subrecipient Monitoring

Known Questioned Cost Amount: None

Background

The Individuals with Disabilities Education Act's (IDEA) Special Education Grants to States program (IDEA, Part B) provides grants to states, and through them to local educational agencies (LEAs), to help provide special education and related services to eligible children with disabilities. IDEA's Special Education Preschool Grants program (IDEA Preschool), also known as the "619 program," provides grants to states, and through them to LEAs, to assist with providing special education and related services to children with disabilities ages 3 through 5 and, at a state's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

The Office of Superintendent of Public Instruction (Office) administers the Special Education program (program) in Washington and serves about 143,000 eligible students. The program provides specially designed instruction that addresses the unique needs of a student. The Office offers the program at no cost to parents, and it includes the related services students need to access their educational program. The Office spent about \$234 million in federal IDEA grant funds during fiscal year 2021 and passed about \$230 million of that funding through to LEAs. The Office also passes funding to educational service districts (ESDs) to help school districts save money by

pooling resources, providing essential services for school districts and communities, and helping the Office implement education initiatives. ESDs spend about 3 percent of total program funding.

The Office approves LEA grant applications that outline proposed special education projects, goals, a description of the services they will provide and budget categories for carrying out project activities. LEAs claim grant funding on a reimbursement basis through the Office's Grants Claim System (system). The system allows LEAs to request reimbursement only in the specific categories laid out within their approved budget. The system approves the reimbursement request as long as grant funds are budgeted in the specific categories and are still available. LEAs are not required to submit any supporting documentation with the reimbursement requests.

The Office's procedure is to perform on-site monitoring and desk reviews of selected LEAs to ensure they use federal funds only for allowable purposes and that they meet federal cost principles. The Office uses a risk-based approach to select LEAs for review annually.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Office did not have adequate internal controls over and did not comply with requirements to ensure payments to subrecipients were adequately supported for the program. The prior finding number was 2020-028.

Description of Condition

The Office did not have adequate internal controls over and did not comply with requirements to ensure payments to subrecipients were adequately supported for the program.

During the audit period, the Office did not perform any fiscal monitoring of subrecipients. Adequate fiscal monitoring is especially important for this grant because the Office does not receive supporting documentation with reimbursement requests.

We consider this internal control deficiency to be a material weakness, which lead to material noncompliance.

Cause of Condition

Local Educational Agencies (LEAs)

Based on the previous audit finding, the Office developed and began piloting a new fiscal monitoring process to increase its fiscal documentation reviews. However, the new process did not take place during the audit period due to the COVID-19 pandemic.

Educational Service Districts (ESDs)

The Office's employees responsible for monitoring were unaware the ESDs were subrecipients and, therefore, did not include them in their monitoring process.

Effect of Condition

By failing to perform adequate fiscal monitoring, the Office cannot ensure reimbursement requests are accurate, allowable and adequately supported.

Recommendation

We recommend the Office:

- Continue with its plan to increase its fiscal monitoring of LEAs
- Comply with federal grant requirements by implementing procedures to monitor its ESD subrecipients

Office's Response

The Office concurs with the finding.

A. OSPI continues to implement its plan to increase fiscal monitoring of LEAs.

In response to the previous audit finding from SAO (2020-028), OSPI has implemented its monthly expenditure reporting process for its LEAs. Instruction provided to LEAs related to those reporting requirements is found within the grant application and Special Education Monthly Updates. Implementation of on-site and desk reviews are being accomplished during the 2021-22 school year. Review of documentation, site-visits, Zoom meetings all are in progress. Final reviews will be completed August 2022. Special Education fiscal monitoring for 2022-23 school year will be coordinated with our WISM team and implemented.

B. OSPI is implementing procedures to monitor ESD subrecipients.

In response to the previous finding from SAO (OSPI 2021-003) OSPI is continuing to implement fiscal monitoring procedures to ensure payments to ESD subrecipients are adequately supported for the Special Education program. These procedures include revisions and additions to the form package submitted annually by ESD partners; documentation of time and effort, contracts, and meeting materials; end-of-year expenditure reports; and professional development and technical assistance on these new procedures. Additional details and timelines for the fiscal monitoring procedures are outlined in more detail in the table below:

<i>Plan</i>	<i>Timeline</i>	<i>Responsible Staff</i>
<i>Revise and expand the form package submitted by Educational Service Districts (ESDs), including the required end of year reporting, to include the submission of documentation related to the activities identified in the Coordinated Services Agreement (CSA). Include factors for timely completion of form package activity due dates, timely submitting end-of-year reporting, and additional items listed below:</i>	<i>March-April 2022</i>	<i>Director of Operations, Special Education Executive Director of Special Education Program Improvement Coordinator, Special Education Fiscal Program Supervisor, Special Education</i>
<i>a. Documentation submitted by ESD and reviewed by OSPI will include evidence that verifies the implementation of the approved CSA activities, such as time and effort certifications, copies of contracts, contract procurement procedures, professional development agendas, sign-in sheets, etc.</i>	<i>March-April 2022</i>	<i>Director of Operations, Special Education Fiscal Program Supervisor, Special Education</i>
<i>b. ESDs will submit an end-of-year expenditure report. OSPI will review to verify that the expenditure report contains allowable expenditures and is in alignment with the ESD's approved CSA.</i>	<i>March-April 2022</i>	<i>Director of Operations, Special Education Executive Director of Special Education Fiscal Program Supervisor, Special Education</i>
<i>c. The CSA form package will be expanded to include a section to identify contractor name and service provided. OSPI will use this information to request a copy of selected contracts for OSPI review.</i>	<i>March-April 2022</i>	<i>Director of Operations, Special Education Fiscal Program Supervisor, Special Education</i>
<i>d. Update fiscal/program monitoring guidance to reflect these changes.</i>	<i>March-April 2022</i>	<i>Director of Operations, Special Education Fiscal Program Supervisor, Special Education</i>

<p><i>e. Provide professional development/training to ESDs on new process.</i></p>	<p><i>April-June 2022</i></p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Executive Director of Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>
<p><i>f. Implement revised process, including OSPI review of all submitted documentation for compliance.</i></p>	<p><i>2022-23 school year</i></p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Executive Director of Special Education</i></p> <p><i>Program Improvement Coordinator, Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>

Auditor’s Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office’s corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.302 Financial management, states in part:

- (a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also § 200.450 Lobbying.

- (b) The financial management system of each non-Federal entity must provide for the following (see also §§ 200.334, 200.335, 200.336 and 200.337):
- (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the Assistance Listings title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
 - (2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§ 200.328 and 200.329. If a Federal awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.
 - (3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
 - (4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See § 200.303.
 - (5) Comparison of expenditures with budget amounts for each Federal award.
 - (6) Written procedures to implement the requirements of § 200.305.
 - (7) Written procedures for determining the allowability of costs in accordance with subpart E of this part and the terms and conditions of the Federal award.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated

Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.
- (e) Depending upon the pass-through entity’s assessment of risk posed by the subrecipient (as prescribed in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
 - (1) Providing subrecipients with training and technical assistance on program-related matters; and
 - (2) Performing on-site reviews of the subrecipient’s program operations;

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose

of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-023 The Office of Superintendent of Public Instruction did not have adequate internal controls over requirements to perform risk assessments for subrecipients of the Special Education program.

CFDA Number and Title: 84.027 Special Education Grants to States (IDEA, Part B)
84.173 Special Education Preschool Grants (IDEA Preschool)

Federal Grantor Name: U.S. Department of Education

Federal Award/Contract Number: H027A190074 - 19A, H027A200074- 20A, H173A180074, H173A190074, H173A200074

Pass-through Entity Name: None

Pass-through Award/Contract Number: None

Applicable Compliance Component: Subrecipient Monitoring

Questioned Cost Amount: None

Background

The Individuals with Disabilities Education Act's (IDEA) Special Education Grants to States program (IDEA, Part B) provides grants to states, and through them to local educational agencies (LEAs), to help provide special education and related services to eligible children with disabilities. IDEA's Special Education Preschool Grants program (IDEA Preschool), also known as the "619 program," provides grants to states, and through them to LEAs, to assist with providing special education and related services to children with disabilities ages 3 through 5 and, at a state's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

The Office of Superintendent of Public Instruction (OSPI) administers the Special Education program (program) in Washington and serves about 143,000 eligible students. The program provides specially designed instruction that addresses the unique needs of a student. OSPI offers the program at no cost to parents, and it includes the related services students need to access their educational program. OSPI spent about \$234 million in federal IDEA grant funds during fiscal year 2021 and passed about \$230 million of that funding through to LEAs. OSPI also passes funding to educational service districts (ESDs) to help school districts save money by pooling resources, providing essential services for school districts and communities, and helping OSPI implement education initiatives. ESDs spent about three percent of total program funding.

Federal law requires OSPI to evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for the purposes of determining the appropriate amount and type of subrecipient monitoring.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

OSPI did not have adequate internal controls over requirements to perform risk assessments for subrecipients of the Special Education program. As a result, OSPI did not perform risk assessments of any ESDs that received program funding.

We consider this internal control deficiency to be a significant deficiency.

This issue was not reported as a finding in the prior audit.

Cause of Condition

OSPI did not consider the ESDs to be subrecipients. Therefore, OSPI has never evaluated each ESD's risk of noncompliance for the purposes of determining the appropriate amount of subrecipient monitoring.

Effect of Condition

Without performing risk assessments, management cannot ensure OSPI performs the appropriate amount of monitoring to ensure subrecipients comply with program requirements.

Recommendation

We recommend OSPI ensure it performs the required risk assessments, which would allow management to evaluate the results, monitor subrecipients appropriately, and demonstrate compliance with federal requirements.

Office's Response

The Office concurs with the finding.

SAO has recommended OSPI ensure it performs the required risk assessment, which would allow management to evaluate the results, monitor subrecipients appropriately, and demonstrate compliance with federal requirements.

OSPI's Response:

Plan	Timeline	Responsible Staff
<p>1. <i>Revise and expand the form package submitted by Educational Service Districts (ESDs), including the required end of year reporting, to include the submission of documentation related to the activities identified in the Coordinated Services Agreement (CSA). Include factors for timely completion of form package activity due dates, timely submitting end-of-year reporting, and additional items listed below:</i></p>	<p>March-April 2022</p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Executive Director of Special Education</i></p> <p><i>Program Improvement Coordinator, Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>
<p>a. <i>Documentation submitted by ESD and reviewed by OSPI will include evidence that verifies the implementation of the approved CSA activities, such as time and effort certifications, copies of contracts, contract procurement procedures, professional development agendas, sign-in sheets, etc.</i></p>	<p>March-April 2022</p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>
<p>b. <i>ESDs will submit an end-of-year expenditure report. OSPI will review to verify that the expenditure report contains allowable expenditures and is in alignment with the ESD's approved CSA.</i></p>	<p>March-April 2022</p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Executive Director of Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>
<p>c. <i>The CSA form package will be expanded to include a section to identify contractor name and service provided. OSPI will use this information to request a copy of selected contracts for OSPI review.</i></p>	<p>March-April 2022</p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>
<p>d. <i>Update fiscal/program monitoring guidance to reflect these changes.</i></p>	<p>March-April 2022</p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>

<p><i>e. Provide professional development/training to ESDs on new process.</i></p>	<p><i>April-June 2022</i></p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Executive Director of Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>
<p><i>f. Implement revised process, including OSPI review of all submitted documentation for compliance.</i></p>	<p><i>2022-23 school year</i></p>	<p><i>Director of Operations, Special Education</i></p> <p><i>Executive Director of Special Education</i></p> <p><i>Program Improvement Coordinator, Special Education</i></p> <p><i>Fiscal Program Supervisor, Special Education</i></p>

Auditor’s Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will follow up on the status of the Office’s corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
 - (1) The subrecipient's prior experience with the same or similar subawards;
 - (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
 - (4) The extent and results of Federal awarding agency monitoring (if the subrecipient also receives Federal awards directly from a Federal awarding agency).
- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.
- (e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as prescribed in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
 - (1) Providing subrecipients with training and technical assistance on program-related matters; and
 - (2) Performing on-site reviews of the subrecipient's program operations;

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the

purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-024 Washington State University did not establish adequate internal controls over and did not comply with federal requirements to monitor its third-party servicer for compliance with Federal Perkins Loan Program recordkeeping and record retention requirements.

CFDA Number and Title:	84.038 Federal Perkins Loan Program
Federal Grantor Name:	U.S. Department of Education
Federal Award/Contract Number:	Not applicable
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component	Special Tests and Provisions: Perkins Loan Recordkeeping and Record Retention
Known Questioned Cost Amount:	None

Background

The Federal Perkins Loan Program and Perkins Loan Extension Act of 2015 awarded loans to undergraduate and graduate students until the program was suspended nationwide on September 30, 2017. Institutions are required to continue servicing their Perkins Loan portfolio (or continue contracting with a third-party servicer) and comply with various repayment, administrative and reporting requirements until they have completed their loan liquidation process and closed out their Perkins Loan program.

Institutions must retain original or true and exact copies of promissory and master promissory notes (MPN), repayment records, and cancellation and deferment requests for each Perkins Loan made. They also must retain disbursement records, electronic authentication records and signature authorizations for loans made with a MPN.

When an institution uses a third-party servicer for its Perkins Loan program, the institution must perform due diligence monitoring to ensure that its third-party servicer is complying with the requirements for the functions it is performing for the school. The U.S. Department of Education recommends that such monitoring could include obtaining and reviewing the third-party servicer's most recent Title IV compliance audit.

In fiscal year 2021, Washington State University (University) reported approximately \$12.7 million in its outstanding Perkins Loan portfolio.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The University did not establish adequate internal controls over and did not comply with federal requirements to monitor its third-party servicer for compliance with Perkins Loan recordkeeping and record retention requirements.

The University entered into a contract with its third-party servicer in January 2011 to provide loan processing services and perform, in part, the following functions:

- Retain and maintain electronic records, such as loan profile and payment history, borrower information, and other pertinent loan records
- Perform all due diligence procedures, including timely mailing of grace notices, regular past-due bills, and final demand notices
- Maintain electronically signed MPNs
- Provide borrower outreach and education on repayment, delinquency and default, and required borrower disclosures

We found the University did not perform due diligence monitoring of its third-party servicer during the audit period to ensure it complied with Federal Perkins Loans Program requirements.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Management was aware of the University's responsibility of monitoring its third-party servicer for the Perkins Loan program requirements. However, the University did not perform monitoring during the audit period because it experienced turnover in the position responsible for this process.

Additionally, management directed staff to assist with a University-wide software system conversion and did not ensure it performed a review of the third-party servicer's compliance with program requirements as required.

Effect of Condition

By not monitoring the third-party servicer, the University could not ensure the servicer complied with Title IV requirements to maintain appropriate Perkins Loans records as set forth in federal regulations.

Additionally, the University may be subject to sanctions from the federal grantor and be liable for repayment of any improperly spent program funds that the third-party servicer administered.

Recommendations

We recommend the University:

- Establish adequate internal controls to ensure it performs due diligence monitoring of the functions its third-party servicer performs for the Perkins Loan program in accordance with federal requirements
- Ensure staff have the necessary resources to perform due diligence monitoring of the third-party servicer for compliance, as federal regulations require

University's Response

The University agrees with the Condition and the State Auditor's Office recommendations. As noted, during the audit period, the University experienced turnover in key positions responsible for this oversight. At the same time, and with new employees in place, there was a significant effort to prepare for and implement transition to a new personnel/finance system and a new point of sale system.

While these extenuating circumstances impacted implementation of monitoring controls during the audit period, the University commits to ensuring that oversight is performed in the current period and going forward.

To this end, the University has established the following procedures for performing the required due diligence in regards to monitoring ECSI, our third-party services provider:

- *In August/September the University will request the compliance audit report (SOC) from ECSI for review of compliance with Perkins loan recordkeeping and record retention requirements.*
- *The University will review that ECSI is in compliance with regulatory requirements and sign and date said report on the date the review occurs.*
- *For 2021 the report has been requested and reviewed.*
- *This will be handled by the Bursars Collection manager on a go forward basis with back up to be done by the Bursar.*

Auditor's Remarks

We thank the University for its cooperation and assistance throughout the audit. We will review the status of the University's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of

Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that

results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 34 *U.S. Code of Federal Regulations* (CFR) Part 674, *Fiscal procedures and records* establishes the following applicable requirements:

Section 674.19 Retention of Records, states in part:

(e) Retention of Records

(1) *Records*. An institution shall follow the record retention and examination provisions in this part and in 34 CFR 668.24.

(2) *Loan records*.

(i) An institution shall retain a record of disbursements for each loan made to a borrower on a Master Promissory Note (MPN). This record must show the date and amount of each disbursement.

(ii) For any loan signed electronically, an institution must maintain an affidavit or certification regarding the creation and maintenance of the institution's electronic MPN or promissory note, including the institution's authentication and signature process in accordance with the requirements of [§ 674.50\(c\)\(12\)](#).

(iii) An institution shall maintain a repayment history for each borrower. This repayment history must show the date and amount of each repayment over the life of the loan. It must also indicate the amount of each repayment credited to principal, interest, collection costs, and either penalty or late charges.

(3) *Period of retention of disbursement records, electronic authentication and signature records, and repayment records*.

(i) An institution shall retain disbursement and electronic authentication and signature records for each loan made using an MPN for at least three years from the date the loan is canceled, repaid, or otherwise satisfied.

(ii) An institution shall retain repayment records, including cancellation and deferment requests for at least three years from the date on which a loan is assigned to the Secretary, canceled or repaid.

(4) *Manner of retention of promissory notes and repayment schedules*. An institution shall keep the original promissory notes and repayment schedules

until the loans are satisfied. If required to release original documents in order to enforce the loan, the institution must retain certified true copies of those documents.

- (i) An institution shall keep the original paper promissory note or original paper MPN and repayment schedules in a locked, fireproof container.
- (ii) If a promissory note was signed electronically, the institution must store it electronically and the promissory note must be retrievable in a coherent format. An original electronically signed MPN must be retained by the institution for 3 years after all the loans made on the MPN are satisfied.
- (iii) After the loan obligation is satisfied, the institution shall return the original or a true and exact copy of the note marked “paid in full” to the borrower, or otherwise notify the borrower in writing that the loan is paid in full, and retain a copy for the prescribed period.
- (iv) An institution shall maintain separately its records pertaining to cancellations of Defense, NDSL, and Federal Perkins Loans.
- (v) Only authorized personnel may have access to the loan documents.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-025 The Office of Superintendent of Public Instruction did not have adequate internal controls over and did not comply with requirements to ensure it monitored Education Stabilization Fund program subrecipients and that payments to them were allowable and adequately supported.

CFDA Number and Title:	84.425D COVID-19 Elementary and Secondary School Emergency Relief (ESSER) Fund 84.425R COVID-19 Coronavirus Response and Relief Supplemental Appropriations Act, 2021 – Emergency Assistance to Non-Public Schools (CRRSA EANS) 84.425U COVID-19 American Rescue Plan – Elementary and Secondary School Emergency Relief (ARP ESSER)
Federal Grantor Name:	U.S. Department of Education
Federal Award/Contract Number:	S425D200015; S425D210015
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed, Allowable Costs/Cost Principles, Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The U.S. Department of Education distributed funding to multiple federal subprograms of the Education Stabilization Fund (ESF) program. In March 2020, Congress set aside the Elementary and Secondary School Emergency Relief (ESSER) Fund to address the effect that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation. ESSER funds awarded to State Educational Agencies (SEAs) are awarded in the same proportion as each state received funds under Part A of the Title I program in fiscal year 2019. An additional award known as ESSER II was issued in December of 2020 to provide additional funding to schools in the same proportion as Title I, Part A for fiscal year 2020. Additionally, the Emergency Assistance to Non-Public Schools (EANS) program awarded grants by formula to each state governor with an

approved Certification and Agreement to provide services or assistance to eligible non-public schools to address the effect that COVID-19 has had, and continues to have, on non-public school students and teachers statewide.

The Office of Superintendent of Public Instruction (Office) serves as a pass-through agency to Local Education Agencies (LEAs) for ESF funding. As a pass-through agency, the Office accepts grant applications from LEAs for a variety of federal programs. It reviews and approves the applications that outline proposed projects and services, and LEAs provide budget categories for carrying out these projects. The Office reimburses LEAs through its Grants Claim System (iGrants). The Office approves reimbursement requests as long as grant funds are available in the budgeted categories and are still available for the LEA to use. LEAs are not required to submit any additional supporting documentation with these reimbursement requests.

Pass-through entities are required to monitor the activities of subrecipients in order to ensure they are properly using the funds. To ensure federal funds are used only for allowable purposes, meet cost principles and grant requirements, the Office performs annual onsite monitoring of LEAs through its Consolidated Program Review (CPR) process. The CPR includes a review of a selection of reimbursement requests the LEAs submitted during the previous school year.

In fiscal year 2021, the Office awarded about \$936 million in new ESF subawards to approximately 308 LEAs. The federal grantor has designated the ESF program as a program of higher risk.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Office did not have adequate internal controls over and did not comply with requirements to ensure it monitored ESF program subrecipients and that payments to them were allowable and adequately supported.

When conducting fiscal monitoring of LEAs through its CPR process, the Office excluded the ESF payments it made during the audit period. Since the Office does not receive supporting documentation with the reimbursement requests that LEAs submit, it did not perform any fiscal monitoring of ESF funds during the audit period.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The CPR process occurs annually in July and August. The Office issued the ESF funds to LEAs beginning in July 2020 (ESSER I) and March 2021 (ESSER II). The Office's CPR process uses prior year payment information, and management did not design monitoring procedures to address first-year grant awards, such as the ESF grants. Management decided not to review ESF reimbursements during the 2020-21 school year because LEAs had only just started to receive their subawards when the Office was planning the CPR visits. Therefore, management chose to wait until the 2021-22 school year to review ESF reimbursements as part of the CPR.

Effect of Condition

Without performing fiscal monitoring of its subrecipients of the ESF program, which the federal government has designated as a program of higher risk, the Office cannot reasonably ensure that LEAs are using federal funds only for allowable purposes in accordance with the terms and conditions of the subaward. Additionally, the Office cannot ensure that its reimbursements to LEAs were allowable and supported by adequate documentation.

Recommendations

We recommend the Office:

- Ensure it performs fiscal monitoring of subrecipients to determine that they are complying with the terms and conditions of the subaward
- Implement additional monitoring procedures for first-year grant awards to ensure the reimbursements it makes to subrecipients are allowable and supported by adequate documentation
- Consider reviewing the reimbursements it made during this audit period to determine if subrecipients used program funds only for allowable activities and in accordance with the terms and conditions of the subaward

Office's Response

OSPI included the ESSER programs in its fiscal subrecipient monitoring during the current cycle, performed in the 2021-2022 school year, which included a review of 2019-20 and 2020-21 school year expenditures for these programs. The ESSER programs will also be included in future fiscal subrecipient monitoring through the end of the respective grant periods. We will also ensure that any new federal awards are included in future fiscal subrecipient monitoring.

Auditor's Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.302 Financial management, states in part:

- (a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also § 200.450 Lobbying.
- (b) The financial management system of each non-Federal entity must provide for the following (see also §§ 200.334, 200.335, 200.336 and 200.337):
 - (4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See § 200.303.
 - (5) Comparison of expenditures with budget amounts for each Federal award.
 - (7) Written procedures for determining the allowability of costs in accordance with subpart E of this part and the terms and conditions of the Federal award.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated

Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.
- (e) Depending upon the pass-through entity’s assessment of risk posed by the subrecipient (as prescribed in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
 - (1) Providing subrecipients with training and technical assistance on program-related matters; and
 - (2) Performing on-site reviews of the subrecipient’s program operations;

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose

of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-026 The Office of Superintendent of Public Instruction did not have adequate internal controls over and did not comply with requirements to perform risk assessments for subrecipients of the Education Stabilization Fund programs.

CFDA Number and Title:	84.425D COVID-19 Elementary and Secondary School Emergency Relief (ESSER) Fund 84.425R COVID-19 Coronavirus Response and Relief Supplemental Appropriations Act, 2021 – Emergency Assistance to Non-Public Schools (CRRSA EANS) 84.425U COVID-19 American Rescue Plan – Elementary and Secondary School Emergency Relief (ARP ESSER)
Federal Grantor Name:	U.S. Department of Education
Federal Award/Contract Number:	S425D200015; S425D210015
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The U.S. Department of Education distributed funding to multiple federal subprograms of the Education Stabilization Fund (ESF) program. In March 2020, Congress set aside the Elementary and Secondary School Emergency Relief (ESSER) Fund to address the effect that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation. ESSER funds awarded to State Educational Agencies (SEAs) are awarded in the same proportion as each state received funds under Part A of the Title I program in fiscal year 2019. An additional award known as ESSER II was issued in December of 2020 to provide additional funding to schools in the same proportion as Title I, Part A for fiscal year 2020. Additionally, the Emergency Assistance to Non-Public Schools (EANS) program awarded grants by formula to each state governor with an approved Certification and Agreement to provide services or assistance to eligible non-public schools to address the effect that COVID-19 has had, and continues to have, on non-public school students and teachers statewide.

The Office of Superintendent of Public Instruction (Office) serves as a pass-through agency to Local Education Agencies (LEAs) for ESF funding. Pass-through entities are required to monitor the activities of subrecipients in order to ensure they are properly using the funds. To determine the appropriate level of monitoring, federal regulations require the Office to evaluate each subrecipient's risk of noncompliance with federal statutes and regulations and the terms and conditions of the subaward.

In fiscal year 2021, the Office awarded about \$936 million in new ESF subawards to approximately 308 LEAs. The federal grantor has designated the ESF program as a program of higher risk.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Office did not have adequate internal controls over and did not comply with requirements to perform risk assessments for subrecipients of the ESF programs. Specifically, the Office did not perform risk assessments of LEAs for any ESF funds awarded during the fiscal year.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance. This issue was not reported as a finding in the prior audit.

Cause of Condition

The Office issued ESF subawards beginning in July 2020. In August 2020, Office management performed centralized risk assessments for other federal programs awarded to LEAs during the audit period. However, Office management chose to wait to perform risk assessments and conduct fiscal monitoring of ESF funds until the 2021-22 school year, which was after the LEAs spent the funds they were awarded during this audit period.

Effect of Condition

Without performing risk assessments of its subrecipients for the ESF program, which the federal government has designated a program of higher risk, the Office cannot determine the appropriate amount of monitoring required for each subrecipient. It also makes the Office less likely to detect noncompliance with grant terms and conditions and federal regulations.

Recommendations

We recommend the Office:

- Establish internal controls to ensure it performs risk assessments for each subaward it issues
- Document the results of each completed risk assessment so management can evaluate them and demonstrate compliance with federal requirements
- Modify its risk assessment process to incorporate new federal awards to determine the appropriate level of monitoring for each subrecipient more timely

Office's Response

When the risk assessment for the year in question was developed, OSPI was not aware this federal award was required in the risk assessment. When we found out, we did include this federal award in the risk assessment and the result was not a material issue. From the point of this finding OSPI will:

- *Establish internal controls to ensure it performs risk assessments for each subaward it issues*
 - *As noted, and stated above, the risk assessment has been updated to include the funds in question.*
- *Document the results of each completed risk assessment so management can evaluate them and demonstrate compliance with federal requirements*
- *As noted, and stated above, this item will be evaluated when determining for federal compliance.*
- *Modify its risk assessment process to incorporate new federal awards to determine the appropriate level of monitoring for each subrecipient more timely*
 - *As noted, and stated above, the risk assessment will incorporate new and high risk federal awards the year that they are awarded to determine the appropriate level of monitoring.*

Auditor's Remarks

We thank the Office for its cooperation and assistance throughout the audit. We will review the status of the Office's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.332 Requirements for pass-through entities, states in part:

All pass-through entities must:

- (b) Evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
 - (1) The subrecipient’s prior experience with the same or similar subawards;
 - (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
 - (4) The extent and results of Federal awarding agency monitoring (if the subrecipient also receives Federal awards directly from a Federal awarding agency).

- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.
- (e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as prescribed in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
 - (1) Providing subrecipients with training and technical assistance on program-related matters; and
 - (2) Performing on-site reviews of the subrecipient's program operations;

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not

allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: *2 CFR 200 – Frequently Asked Questions*, states in part:

.331-10 Requirements for Pass-Through Entities. Timing of Subrecipient Risk Assessments

Section 200.331(b) indicates that pass-through entities must “evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring...” Are pass-through entities required

to assess the risk of non-compliance for each applicant prior to issuing a subaward?

No. While section 200.331(b) requires risk assessments of subrecipients, there is no requirement for pass-through entities to perform these assessments before making subawards. Under the Uniform Guidance, the purpose of these risk assessments is for pass-through entities to determine appropriate subrecipient monitoring. Pass-through entities may use judgment regarding the most appropriate timing for the assessments. Regardless of the timing chosen, the pass-through entity should document its procedures for assessing risk. Section 200.331(b)(1) – (4) includes factors that a pass-through entity may consider when assessing subrecipient risk.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-027 The Department of Social and Health Services did not have adequate internal controls over Random Moment Time Samples and did not comply with some Public Assistance Cost Allocation Plan requirements.

CFDA Number and Title:	93.558 Temporary Assistance for Needy Families (TANF)
Federal Grantor Name:	U.S. Department of Health and Human Services, Administration for Children & Families
Federal Award Number:	2001WATANF; 2101WATANF
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed/Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	None

Background

The Department of Social and Health Services (Department) uses the Random Moment Time Sample (RMTS) as a method for allocating payroll costs for its field operations to state and federally funded programs.

Department staff generally work on multiple programs throughout a workday, which makes keeping timesheets difficult and time consuming. RMTS simplifies how the Department allocates salaries and wages to state and federal programs. RMTS is a sampling tool that the Department uses to generate statistically valid statewide estimates of the various activities employees perform. The Department also uses a system called Barcode that allows staff to work on client cases, document information, generate samples and compile RMTS results.

The Department includes its use of RMTS in its Public Cost Allocation Plan (PACAP) with the federal grantor. The PACAP is approved annually and outlines the general operating policies and procedures RMTS staff must follow.

For RMTS to properly calculate the percentages of activities that Department employees perform, it first must identify a sampling universe that is accurate and complete. The sampling universe must include eligible worker types, and it is updated monthly to ensure it includes all RMTS-eligible employees. RMTS coordinators are responsible for updating the list of employees by the

19th day of each month. Sampled employees are responsible for accurately completing the RMTS samples within two hours of receiving them. RMTS coordinators must complete samples in accordance with the PACAP on behalf of employees who are unavailable to complete them. At the end of the month, the samples are compiled and results are entered into the cost allocation system.

During fiscal year 2021, the Department used RMTS to allocate about \$77 million in payroll costs to the Temporary Assistance for Needy Families program.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over RMTS and did not comply with some PACAP requirements. The prior finding numbers were 2020-006 and 2019-008.

Description of Condition

The Department lacked adequate internal controls over RMTS, and it did not comply with some PACAP requirements.

In response to the prior audit finding, the Department developed a corrective action plan to address the internal control deficiencies our Office identified. However, the Department had not fully implemented the action plan during the current audit period. During this audit, we identified the following:

Monthly employee updates

We examined all 12 of the monthly reconciliations the Operation Analyst created and forwarded to the RMTS coordinators to update eligible staff in Barcode. We identified 18 RMTS-eligible employees that were not included in the sampling universe. We also identified nine RMTS-ineligible employees who were included in the sampling universe but should have been removed. All exceptions identified occurred before the full implementation of the corrective action plan.

RMTS coordinators completing samples on behalf of sampled employees

The PACAP requires RMTS coordinators to respond on behalf of sampled employees who are not on the job at the sample time or unable to respond within two hours. If a sampled employee is on the job and unable to respond within two hours, an RMTS coordinator is required to review systems to determine the employee's activity during the sample time and complete the sample moment with the appropriate information.

We used a statistically valid sampling method to randomly select and examine 58 of the 3,661 RMTS samples that RMTS coordinators completed on behalf of sampled employees who could not respond. We found one instance where the RMTS coordinator completed the employee's sample without supporting evidence. The PACAP does not allow staff to complete samples without providing supporting evidence.

We consider these internal control deficiencies to be a significant deficiency.

Cause of Condition

Monthly employee updates

The Department had not fully completed its corrective action plan for the prior audit finding during the current audit period.

RMTS coordinators completing samples on behalf of sampled employees

An RMTS coordinator made a mistake by not including supporting evidence for the activities the sampled employee performed.

Effect of Condition

The Department's inadequate internal controls affected the integrity of its RMTS sampling universe, and it led to the Department using incorrect percentages for federal reimbursement. An incorrect sample could cause the costs that the Department charges to federally funded programs for its field operations to be considered unallowable under the PACAP.

When RMTS coordinators complete RMTS samples without supporting documentation, costs for employees' salaries and benefits will be incorrectly allocated to state and federal programs.

Recommendations

We recommend the Department:

- Implement adequate internal controls to ensure RMTS coordinators properly update the staff list in Barcode
- Monitor to ensure that changes RMTS coordinators make to RMTS samples are adequately supported

Department's Response

The Department partially concurs with the audit finding.

As part of our corrective action plans for the SFY 2019 audit finding (2019-008) and the SFY 2020 audit finding (2020-006), the Department:

- Implemented a process in January 2021 to ensure monthly staff reconciliations are performed when key personnel are out of the office. The Department also developed standard guidelines and procedures for updating the eligible staff list in Barcode.*
- Reviewed the Public Assistance Cost Allocation Plan with the RMTS auditors in January 2021 to ensure they are aware of when it is appropriate to modify an RMTS sample during an audit.*
- Implemented a process in February 2021 to conduct a monthly review on a subset of the staff on the reconciliation report to ensure the RMTS coordinators are properly updating the eligible staff list in Barcode.*
- Updated current guidance in February 2021 to provide additional examples to staff on types of activities that are appropriate for each selection.*
- Completed a one-time review of a subset of RMTS samples in June 2021 to conduct root cause analysis and determine whether additional training, procedure changes or system changes are needed.*

We concur with the exceptions identified by the auditor. However, we implemented all necessary corrective actions to resolve the control issues by February 2021, which was five months before the end of the SFY 2021 audit period. The exceptions identified by the auditor occurred before February 2021.

Due to the timing and frequency of the audits, we acknowledged in our prior audit responses that we would likely see the same findings for the SFY 2020 State of Washington Single Audit and the SFY 2021 State of Washington Single Audit. This is because the state fiscal year spans the period of July 1 through June 30, and the audit process is conducted from August through February (which spans halfway through the next SFY). Therefore, the Department is not made aware of a finding until six months after the SFY is over and only has six months to correct the issue before the next audit begins (which is not always feasible). This means the auditor's findings from the previous year will still be an exception during at least the first six months of their current audit period. This results in the Department receiving repeat findings for two or three years in a row.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.430 Compensation-personal services, states in part:

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

- (i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i) (1) of this section.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (4) Known questioned costs that are greater than \$25,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program that is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program that is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than \$25,000, then the auditor must report this as an audit finding.
 - (5) The circumstances concerning why the auditor's report on compliance for each major program is other than an unmodified opinion, unless such circumstances are otherwise reported audit findings in the schedule of findings and questioned costs for Federal awards.
 - (6) Known or likely fraud affecting a Federal program award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's report under the direct reporting requirements of GAGAS.
 - (7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with §200.511. Audit findings follow-up, paragraph (b) materially misrepresents the status of any prior audit findings.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

DSHS RMTS Program Instructions, Pg. 39-46, states in part:

Reports and Analysis

The Barcode RMTS database compiles the electronic results information and produces a monthly results summary report. The results from the most recent three months are combined to produce a statistically valid percentage of participation for each program. This information is transmitted to the Office of Accounting Services (OAS) who enters the information into the automated Cost Allocation System.

Local RMTS Coordinators

By the 19th of each month, the RMTS coordinators must review and update the Barcode list of employees to be sampled to ensure all eligible workers are included for the RMTS sampling. All employees added between the 19th and the date the moments are generated, will be included in the sample pool. Necessary changes to the list of workers must be completed before the samples for that month can be generated.

RMTS coordinators are responsible for ensuring the sampled moments are completed. If a sample worker is not on the job or does not respond, the RMTS Coordinator is responsible for responding on behalf of the sampled workers who are not on the job at the sample time or is unable to respond to the sample moment after 2 hours. If the sampled worker was on the job and unable to respond after 2 hours, the Coordinator will review systems to determine worker's activity during the sample time and complete the sample moment with the appropriate information.

RMTS Auditors

Of the 1500 random samples moments generated each month, 150 (10%) sample moments are pre-selected for audits when completed.

The auditor will log into Barcode and locate the audit from the RMTS- sample list to review the sample results and compare with other resources or systems to determine the accuracy of the sample. Any corrections made by the auditor is included as a final sample response. The auditor must complete the audit of the sample, and make any necessary edits, within 2 business days from the sample completion date.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-028 **The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with requirements to ensure payments to child care providers paid with Temporary Assistance for Needy Families funds were allowable and properly supported.**

CFDA Number and Title:	93.558 Temporary Assistance for Needy Families
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2001WATANF; 2101WATANF
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Known Questioned Cost Amount:	\$119,917,902

Background

The Department of Social and Health Services (DSHS), Community Services Office, administers the Temporary Assistance for Needy Families (TANF) grant that provides temporary cash assistance for families in need. To receive TANF benefits, participants must be engaged in activities listed in the Individual Responsibility Plan (IRP) through the WorkFirst program, unless the TANF benefits are received only on behalf of a child. TANF grant funds are also used to pay clients' child care costs to meet one of the program's primary purposes of helping clients obtain employment.

Washington has established the Working Connections Child Care (WCCC) program to help eligible working families pay for child care. Both the Department of Children, Youth, and Families (Department) and DSHS administer the program. The Department is responsible for establishing policies and procedures for licensing child care providers and paying providers for allowable child care services. DSHS determines TANF client eligibility and reimburses the Department for child care payments under an agreement with the Department.

The Department uses its Social Service Payment System (SSPS) to process the payments it makes to child care providers. The system allocates payments to various funding sources, partially based on the eligibility of the client. These funding sources include multiple federal programs, multiple Child Care Development Fund (CCDF) federal grant awards, and state funding. The Department uploads the payment data into the state's accounting system at a summary level based on the various funding sources.

DSHS worked with the Department to setup coding in the Payment Allocating Model (PAM) system that looks at the client-level information and then assigns the correct TANF source of funds. Once source of funds is identified, that information is then sent to the SSPS for allocation assignment. The Department prepares electronic reports for funds allocated to TANF funding sources and sends DSHS a monthly bill.

There is always a need to transfer the funding sources for some payments throughout the year to manage federal and state funds properly. In prior audit periods, the Department prepared supporting documentation for transfers that included details of what payments it was transferring. The purpose of documenting this detail was to maintain proper support for federal expenditures.

Some payments the Department makes for child care are funded by both the CCDF and TANF grants. While the two federal programs are separate, the requirements and policies in Washington for child care payments are consolidated under the WCCC program. Federal regulations require grant fund expenditures to be adequately supported to show that they have been used in accordance with program requirements.

In fiscal year 2021, DSHS paid the Department \$119,917,902 of TANF funds for child care services that were funded at least partially with federal TANF grant funds.

Federal regulations require recipients to establish and follow internal controls that ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure payments to child care providers paid with TANF funds were allowable and properly supported.

In order to identify payments the Department made to child care providers that were funded by TANF, we requested a population of payments charged to TANF sources from SSPS. However, for fiscal year 2021, management informed us the Department recently changed its grant management practices to process expenditure transfers at the grant level. This new process made the original expenditure coding in SSPS inaccurate and unreliable for testing.

As a result, we could not trace the federal funds to a level of expenditure adequate to establish whether the Department spent TANF funds in accordance with federal and state regulations. As a result, we could not test the Department's payments to child care providers for compliance with activities allowed and cost principles.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department is required to maintain sufficient documentation for each payment it makes with federal dollars. Management decided to modify the Department's accounting practices in a way that now prevents it from meeting this requirement.

The Department implemented what management referred to as fund-level accounting. This consisted of making significant accounting adjustments between funding sources in its general ledger without identifying the underlying transactions from SSPS that supported the adjustments. This affected all populations of child care expenditures for every month of the fiscal year.

By processing these adjustments at the fund level, the Department invalidated the transaction-level documentation of the original child care expenditure in SSPS and did not identify the new allocation at the payment level. Additionally, the Department transferred some of these child care expenditures more than once at the fund level, making the underlying data increasingly unreliable with each transfer.

DSHS paid TANF funds to the Department based on the understanding that it had implemented and followed the agreed upon PAM process and that payments were traceable to the expenditure level. Therefore, DSHS relied on the Department's accounting system and internal controls to support the reports it received when the Department requested reimbursement of TANF funds.

Effect of Condition and Questioned Costs

By not complying with federal law regarding maintaining adequate supporting documentation for expenditures, the Department created a condition that made it impossible for our Office to audit the federal dollars it used for payments to child care providers. Because we could not test transaction-level detail, we also could not determine whether the issues we identified in prior audits had improved or worsened, including the Department's lack of adequate internal controls and significant rate of noncompliance for payments to child care providers.

The total amount of known child care payments with federal TANF funds in the audit period was \$119,917,902. Because the Department did not comply with federal requirements to allow for the tracing of grant expenditures to a payment level, we are questioning all \$119,917,902 in federal program costs the Department incurred during the audit period.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Design and implement internal controls to ensure transaction-level data is sufficient to comply with federal law and state rules
- Update service level agreements with DSHS to ensure payments are sufficient and properly supported
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges, and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

The Department has managed the WCCC program since 2019, prior to that it was managed by the Department of Social and Health Services and the Department of Early Learning. The Department implemented grant-level management of all federal funds, including the TANF and CCDF grants. The Department allocated the TANF and CCDF grants to eligible clients and allowable activities in compliance with 45 CFR 98.67. This consisted of making significant grant level adjustments between allowable grant sources to properly spend grant dollars within the allowable period of performance and ensure level of effort and matching requirements. The volume increased this year in comparison to previous years due to the Department's implementation of changes to the SSPS system which were not in place until March 2021 resulting in adjustments to July through February data. The Department's grant adjustments were processed based on eligible clients and allowable activities. However, the adjustments did not include child level data as suggested in 2 CFR 200.302.

The Department will work to improve our internal controls. The Department does not currently have the staff to develop and maintain the business process redesign, as well as the information technology initiatives necessary to meet the level of assurance as identified by SAO. The Department will review options available for processing adjustments to include transaction-level data that is sufficient to comply with federal regulations.

In addition, the Department will work with the Department of Social and Health Services (DSHS) to amend the current Service Level Agreement between DSHS and the Department related to TANF funding for WCCC provider payments to ensure the Department follows the agreed upon PAM process and that payments are traceable to the expenditure level.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued

by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are

unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-029 The Department of Social and Health Services did not have adequate internal controls over and did not comply with federal requirements to reduce or deny assistance to recipients of the Temporary Assistance for Needy Families grant who did not cooperate with the child support program.

CFDA Number and Title:	93.558 Temporary Assistance For Needy Families
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2001WATANF; 2101WATANF
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Child Support Noncooperation
Known Questioned Cost Amount:	\$142

Background

The Department of Social and Health Services (Department) administers the Temporary Assistance for Needy Families (TANF) grant that provides temporary cash assistance for families in need. To receive TANF benefits, participants must be engaged in entering the workforce through the Work First program, with limited exceptions. State agencies must meet or exceed minimum annual work participation rates of 50 percent overall and 90 percent for two-parent families. The Department spent more than \$309 million in federal grant funds during fiscal year 2021.

Federal regulations require the state agency responsible for administering the state plan under Title IV-D of the Social Security Act to determine when an individual is not cooperating with the state in establishing paternity, or in establishing, modifying or enforcing a support order with respect to a child of the individual. When it identifies non-cooperation, it is to report that information to the state agency responsible for the TANF program. The TANF program must then deduct an amount equal to not less than 25 percent from the individual's TANF assistance and may deny the family any TANF assistance. In Washington, the Department performs both functions and therefore there is no second agency involved in this requirement.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to reduce or deny TANF assistance when recipients did not cooperate with the child support program.

During fiscal year 2021, the Department referred 12 cases of child support noncooperation for further sanctions. However, we found one instance (8 percent) where the Department did not properly reduce the TANF assistance. In this one case, management did not detect a data input error by staff, and therefore, the Department did not properly reduce TANF assistance.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The staff member who made the data input error was in training at the time they made the error. Management did not detect the error because it has not implemented sufficient internal controls.

Effect of Condition and Questioned Costs

By not implementing adequate internal controls, the Department did not materially comply with federal requirements. Additionally, the one instance where the Department did not reduce the TANF assistance resulted in an overpayment of \$142.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Improve its internal controls to ensure it reduces or denies TANF assistance when recipients are not cooperating with the child support program
- Consult with the federal grantor about whether or not the questioned costs identified should be repaid

Department's Response

The Department partially concurs with this audit finding.

The Department does not concur with the State Auditor's Office (SAO) determination that a total population of 12 cases has a direct and material effect on the program. Our concern is around the SAO's objectivity.

In response to the pandemic, the IV-D program implemented a Policy Clarification Memo changing the process on how the IV-D program determines non-cooperation. This policy change reduced the number of non-cooperation cases the IV-D program sent to the IV-A program during the fiscal year.

The Department believes the SAO had a preconception about the program's objectives. When SAO learned the IV-A program had received a significantly lower number of non-cooperation cases from the IV-D program than previous years, they crept outside the scope of the audit requesting the IV-D program's policies and procedures around determining non-cooperation, as well as verification that the Federal Office of Child Support Enforcement had approved the IV-D program's policy change for determining non-cooperation. When the Department questioned this scope creep, SAO did reach out to the federal grantor for clarification and was able to determine that they did not need confirmation that the IV-D program's policy was properly authorized.

Regarding the scope creep, the SAO stated they "do not view the two divisions within DSHS to be separate agencies as defined in the compliance supplement and therefore approach our testing with the understanding that DSHS is both the Title IV-D agency and the TANF (IV-A) agency." While the Department manages both the IV-A and IV-D programs, these are still separate entities with different objectives and compliance requirements. The audit objective is to determine whether, after notification by the state Title IV-D agency, the TANF agency has taken necessary action to reduce assistance. The specific compliance requirement is outlined in 45 CFR 264.30(b) and (c) states:

(b) If the IV-D agency determines that an individual is not cooperating, and the individual does not qualify for a good cause or other exception established by the State agency responsible for making good cause determinations in accordance with section 454(29) of the Act or for a good cause domestic violence waiver granted in accordance with § 260.52 of this chapter, then the IV-D agency must notify the IV-A agency promptly.

(c) The IV-A agency must then take appropriate action by:

(1) Deducting from the assistance that would otherwise be provided to the family of the individual an amount equal to not less than 25 percent of the amount of such assistance.

The IV-D program's policies and procedures for determining non-cooperation are not relevant to the SAO determining if the IV-A program took the appropriate actions upon receipt of the non-

cooperation case. The Department understands the SAO's questions regarding the decrease in non-cooperation cases received by the IV-A program; however, once the SAO learned the decrease was not caused by any programmatic errors in the electronic notification process between the two programs, they should have then evaluated if the small number of non-cooperation cases received would likely have a direct and material effect on the program.

The Department believes the SAO's preconceptions on the program's objectives impacted their decision. When the Department questioned the direct and material effect the 12 non-cooperation cases has on the program, the SAO stated:

"For the TANF non-cooperation requirement, the team learned through meetings with staff that the (IV-D) program significantly changed its approach during the pandemic in how it chose to refer cases to CSD. With this significant procedural change along with the knowledge that DSHS staffing was negatively impacted by the COVID-19 pandemic, the team felt there was an increased risk to meeting federal requirements despite the prior years of no significant audit issues. These factors made the team consider the requirement material to the program and I agree with that assessment."

The IV-D program's policies and procedures do not affect the IV-A program's ability to reduce TANF assistance upon receipt of the non-cooperation case as required by 45 CFR 264.30 and should not have been a factor in determining whether the 12 non-cooperation cases received by the IV-A program were likely to have a direct and material effect on the IV-A program. In addition, the Department's IV-A program never stated that staffing was negatively impacted by the COVID-19 pandemic or that it affected their ability to process non-cooperation notices. Public confidence is maintained by auditors' integrity which includes performing their work with an attitude that is objective and fact based.

The Department also does not concur that adequate internal controls were not in place. When a non-cooperation case is received and good cause is not applicable, the worker takes action by updating the case as "not cooperating" in the Automated Client Eligibility System (ACES). This status update triggers a reduction in TANF assistance. The system has controls in place to alert the worker when there is no change to the client's benefit amount, which should prompt the worker to review the coding of the case.

The Department does concur one case did not have its TANF assistance properly reduced. When the Department's IV-A program is notified of non-cooperation, staff take action by entering the non-cooperation in the Automated Client Eligibility System (ACES). For non-cooperation cases where good cause is not applicable, the worker would update the following fields on the "Non-Custodial Parent" page of ACES:

- IV-D Cooperation field is changed to No (N) from the dropdown; and
- Status is changed to Not Cooperating (NC)

When the worker updates both aforementioned fields as not cooperating, it results in a reduction of the TANF assistance. There is a system control so if the worker only updates one of the two aforementioned fields as “not cooperating,” then the system alerts the worker with a warning message that “Eligibility Recalculation results in no change.” The worker must then review the details screen which shows the previous benefit amount and the new benefit amount as unchanged and again displays a highlighted warning message that the “Eligibility Recalculation results in no changes.” The worker must review and click “confirm benefits” to process the action. The worker then documents their actions in the narrative screen using an auto populated template of the actions they took which again states if there was a change in benefits.

The worker who processed the single non-cooperation case in question was in-training at the time the error was made, did not have the full understanding that benefits would be reduced as a result of non-cooperation, and therefore did not take action to review the coding when prompted by the system alerts.

Upon discovery of the error, the IV-A program immediately corrected the case to properly code it as “not cooperating” and processed an overpayment for the appropriate amount. In addition, the IV-A program followed up with the worker to go over the error and prevent future errors.

To further address the finding, the department will:

- *Continue existing regular auditing of the TANF program and further address the correct coding of noncooperation notices during a statewide policy announcement.*
- *Continue to review internal controls and analyze if further advancements are needed.*

Auditor’s Remarks

The Department asserts that we “crept outside of the scope of the audit” when we performed procedures to determine why the number of non-cooperative cases the Department identified decreased by 99.5 percent, from 2,437 to 12, in one year. This level of fluctuation in a federal program is rare and may be an indicator of significant changes in process or potential issues. In our judgment, not inquiring with management and following up on this decrease would have not been exercising good professional judgement or due diligence. It does not constitute scope creep.

The Department asserts that this Special Test and Provision should not have been audited due to only 12 cases being processed during the audit period. Auditors apply both quantitative and qualitative factors when determining whether a compliance requirement is direct and material to a federal program. Materiality for this compliance requirement cannot be determined based solely on quantitative criteria. Relying on dollar amounts alone would result in this requirement never being material compared to program expenditures, and therefore it would never be tested. Instead,

it is determined material for qualitative reasons, due to the nature of the requirement. This is not uncommon for Special Tests and Provisions. Federal grantors specifically include them in the compliance supplement because they want auditors to examine them and they do not fall within the standard compliance requirements.

The Department also does not concur that adequate internal controls were not in place to prevent noncompliance. The Department acknowledges that the worker who processed the noncompliant case made an error. The Department said it corrected the error upon discovery. However, the Department did not detect the error; it was only made aware of the error by the auditor who performed the testing. The internal control weakness identified was not the error itself, but that management had not implemented an internal control to detect this type of error and is therefore reliant on the worker unflinchingly entering correct information. This weakness in the design of the internal control structure at the Department, in our judgment, led to material noncompliance during the audit period.

We reaffirm our finding, and we will follow up on the Department's corrective action during the next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal

award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 42 *U.S. Code of Federal Regulations Part A – Block Grants to States for Temporary Assistance for Needy Families* establishes the following requirements:

Section 608, Prohibitions; Requirements states in part:

- (2) Reduction or elimination of assistance for noncooperation in establishing paternity or obtaining child support

If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing paternity or in establishing, modifying, or enforcing a support order with respect to

a child of the individual, and the individual does not qualify for any good cause or other exception established by the State pursuant to section 654(29) of this title, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part an amount equal to not less than 25 percent of the amount of such assistance; and

(B) may deny the family any assistance under the State program.

Section 609, Penalties states in part:

(8) Noncompliance of State child support enforcement program with requirements of part D

(A) In general

If the Secretary finds, with respect to a State's program under part D, in a fiscal year beginning on or after October 1, 1997—

(i) (I) on the basis of data submitted by a State pursuant to section 654(15)(B) of this title, or on the basis of the results of a review conducted under section 652(a)(4) of this title, that the State program failed to achieve the paternity establishment percentages (as defined in section 652(g)(2) of this title), or to meet other performance measures that may be established by the Secretary;

(II) on the basis of the results of an audit or audits conducted under section 652(a)(4)(C)(i) of this title that the State data submitted pursuant to section 654(15)(B) of this title is incomplete or unreliable; or

(III) on the basis of the results of an audit or audits conducted under section 652(a)(4)(C) of this title that a State failed to substantially comply with 1 or more of the requirements of part D (other than paragraph (24), or subparagraph (A) or (B)(i) of paragraph (27), of section 654 of this title); and

(ii) that, with respect to the succeeding fiscal year—

(I) the State failed to take sufficient corrective action to achieve the appropriate performance levels or compliance as described in subparagraph (A)(i); or

(II) the data submitted by the State pursuant to section 654(15)(B) of this title is incomplete or unreliable;

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program has achieved the paternity establishment percentages or other performance measures as described in subparagraph (A)(i)(I), or is in substantial compliance with 1 or more of the requirements of part D as described in subparagraph (A)(i)(III), as appropriate, shall be reduced by the percentage specified in subparagraph (B).

(B) Amount of reductions

The reductions required under subparagraph (A) shall be—

- (i) not less than 1 nor more than 2 percent;
- (ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive finding made pursuant to subparagraph (A); or
- (iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding.

(C) Disregard of noncompliance which is of a technical nature

For purposes of this section and section 652(a)(4) of this title, a State determined as a result of an audit—

- (i) to have failed to have substantially complied with 1 or more of the requirements of part (D) shall be determined to have achieved substantial compliance only if the Secretary determines that the extent of the noncompliance is of a technical nature which does not adversely affect the performance of the State's program under part D; or
- (ii) to have submitted incomplete or unreliable data pursuant to section 654(15)(B) of this title shall be determined to have submitted adequate data only if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's paternity establishment percentages (as defined under section 652(g)(2) of this title) or other performance measures that may be established by the Secretary.

Title 45 *U.S. Code of Federal Regulations* (CFR) Part 264, *Other Accountability Provisions*, establishes the following applicable requirements:

Section 264.30 – What procedures exist to ensure cooperation with the child support enforcement requirements?

(a) (1) The State agency must refer all appropriate individuals in the family of a child, for whom paternity has not been established or for whom a child support order needs to be established, modified or enforced, to the child support enforcement agency (i.e., the IV-D agency).

(2) Referred individuals must cooperate in establishing paternity and in establishing, modifying, or enforcing a support order with respect to the child.

(b) If the IV-D agency determines that an individual is not cooperating, and the individual does not qualify for a good cause or other exception established by the State agency responsible for making good cause determinations in accordance with section 454(29) of the Act or for a good cause domestic violence waiver granted in accordance with § 260.52 of this chapter, then the IV-D agency must notify the IV-A agency promptly.

(c) The IV-A agency must then take appropriate action by:

(1) Deducting from the assistance that would otherwise be provided to the family of the individual an amount equal to not less than 25 percent of the amount of such assistance; or

(2) Denying the family any assistance under the program.

Section 264.31 – What happens if a State does not comply with the IV-D sanction requirement?

(a) (1) If we find that, for a fiscal year, the State IV-A agency did not enforce the penalties against recipients required under § 264.30(c), we will reduce the SFAG payable for the next fiscal year by one percent of the adjusted SFAG.

(2) Upon a finding for a second fiscal year, we will reduce the SFAG by two percent of the adjusted SFAG for the following year.

(3) A third or subsequent finding will result in the maximum penalty of five percent.

(b) We will not impose a penalty if:

(1) The State demonstrates to our satisfaction that it had reasonable cause pursuant to § 262.5 of this chapter; or

(2) The State achieves compliance under a corrective compliance plan pursuant to § 262.6 of this chapter.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-030 The Department of Social and Health Services improperly charged \$224,752 for the Child Support Enforcement and Child Support Enforcement Research programs.

CFDA Number and Title:	93.563 Child Support Enforcement 93.564 Child Support Enforcement Research
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2001WACSES; 2101WACSES
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Known Questioned Cost Amount:	\$224,752

Background

As a condition of receiving federal grant funds, the Department of Social and Health Services (Department) must submit a public assistance cost allocation plan (PACAP) to the U.S. Department of Health and Human Services (DHHS) each state fiscal year. The PACAP describes how the Department allocates costs to all funding sources, including federal grants. If the state amends its PACAP and fails to submit it to DHHS, the costs improperly claimed will be disallowed.

The Department uses the Cost Allocation System (CAS), a subsystem of the Agency Financial Reporting System (AFRS), to execute its PACAP. The Department develops appropriate methodologies that automatically distribute the cost of payments to either state, local or federal funding sources.

As part of its cost allocation process, the Department establishes bases that are used to distribute costs to multiple funding sources. Each base consists of elements that are assigned a percentage that dictates how much of the original payment is allocated to it. Each base is required to be included in the PACAP. The Department is required to submit an amended PACAP any time its cost allocation plan changes.

In fiscal year 2021, the Department used CAS to allocate about \$4.5 billion in costs to federal programs.

Description of Condition

The Department improperly charged \$224,752 for the Child Support Enforcement and Child Support Enforcement Research programs.

During our review, we identified 97 bases that the Department used during state fiscal year 2021. Out of those bases, we identified two bases that were not included in the PACAP.

Federal regulations require the auditor to issue a finding when the known or estimated questioned costs identified in a Single Audit exceed \$25,000. As stated in the Effect of Condition and Questioned Cost section below, we are issuing this finding because the identified questioned costs exceed that threshold.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The bases were not originally intended to be used for administrative costs, and staff inadvertently omitted language from the PACAP when the plans changed.

Effect of Condition and Questioned Costs

We are questioning \$224,752 the Department improperly charged these programs. This includes:

- \$148,336 charged to the Child Support Enforcement program
- \$76,416 charged to the Child Support Enforcement Research program

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid
- Strengthen internal controls to ensure all bases are included in the PACAP

Department's Response

The Department partially concurs with the audit finding.

The Department concurs we inadvertently omitted language from the Public Assistance Cost Allocation Plan (PACAP). Upon discovery of this error, the Department updated the PACAPs for

state fiscal years 2021 and 2022 to include the bases for the Child Support Enforcement and the Child Support Enforcement Research Programs, and resubmitted the PACAPs to the federal grantor. To ensure ongoing accuracy of the PACAP, effective October 10, 2021, the Department implemented a quarterly review of all administrative expenditures to confirm all bases are included in the PACAP.

The Department does not concur that we improperly charged these funds to the Child Support Enforcement and Child Support Enforcement Research programs. The federal grantor awarded the Department the funds for the purpose for which we used them. This was strictly a technical error in the PACAP.

If the grantor contacts the Department regarding the questioned costs, the Department will discuss the manner in which we used the funds with the grantor and will take additional action if appropriate.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. As stated above in the Description of Condition, the Department did not include the cost bases related to Child Support Enforcement and Child Support Enforcement Research in its PACAP submitted to the federal grantor, and therefore the federal grantor could not have been aware of the Department's intent to apply federal funds from those awards to costs incurred by the Department.

45 CFR 95.919 states that *"if costs under a Public Assistance program are not claimed in accordance with the approved cost allocation plan, or if the State failed to submit an amended cost allocation plan as required by §95.509, the costs improperly claimed will be disallowed."* Therefore, we reaffirm the finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or

service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 45 *U.S. Code of Federal Regulations* (CFR), Subtitle A, Subchapter A, Part 95, *General Administration-Grant Programs(Public Assistance, Medical Assistance and State Children's Health Insurance Programs, states in part:*

95.509 Cost allocation plan amendments and certifications.

- (a) The State shall promptly amend the cost allocation plan and submit the amended plan to the DCA Director when changes occur.
- (b) If a State has not submitted a plan or plan amendment during a given State fiscal year, an annual statement shall be submitted to the DCA Director certifying that it's approved cost allocation plan is not outdated. This statement shall be submitted within 60 days after the end of that fiscal year.

95.517 Claims for Federal financial participation.

- (a) A State must claim FFP for costs associated with a program only in accordance with its approved cost allocation plan. However, if a State has submitted a plan or plan amendment for a State agency, it may, at its option claim FFP based on the proposed plan or plan amendment, unless otherwise advised by the DCA. However, where a State has claimed costs based on a proposed plan or plan amendment the State, if necessary, shall retroactively adjust its claims in accordance with the plan or amendment as subsequently approved by the Director, DCA. The State may also continue to claim FFP under its existing approved cost allocation plan for all costs not affected by the proposed amendment.

95.519 Cost disallowance.

If costs under a Public Assistance program are not claimed in accordance with the approved cost allocation plan, or if the State failed to submit an amended cost allocation plan as required by §95.509, the costs improperly claimed will be disallowed.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-031 The Department of Commerce did not have adequate internal controls over and did not comply with requirements to ensure it filed reports required by the Federal Funding Accountability and Transparency Act.

CFDA Number and Title:	93.568, Low-Income Home Energy Assistance 93.568, COVID-19 Low-Income Home Energy Assistance
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2001WALIEA; 2001WALIE4; 2101WALIEA; 2101WAE5C6
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The Department of Commerce (Department) administers the Low-Income Home Energy Assistance program (program), which provides financial assistance to low-income households to meet their home energy needs. The Department makes subawards to community-based organizations to provide this assistance.

In fiscal year 2021, the Department spent over \$58 million in federal program funds, approximately \$52 million of which it paid to subrecipients.

Under the Federal Funding Accountability and Transparency Act (Act), the Department is required to collect and report information on each subaward of federal funds more than \$25,000 in the Federal Funding Accountability and Transparency Subaward Reporting System (FSRS). For federal awards issued on or after November 12, 2020, the monetary threshold for reporting increased to \$30,000. The Department must report subawards by the end of the month following the month in which it made the subaward (or subaward amendment). The intent of the Act is to empower citizens with the ability to hold the federal government accountable for spending decisions and, as a result, reduce wasteful government spending.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure it filed reports required by the Act.

During the audit period, the Department was required to report approximately \$65.6 million of program funds that it awarded to 26 subrecipients. We found the Department did not report any of these subawards in FSRS as required.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Department officials said they were not aware of the reporting requirements, and the grant award's terms and conditions did not specify the Act's reporting requirements. Additionally, management did not identify all reporting requirements of 2 CFR Subtitle A, Part 170 and, as a result, did not detect the applicability of the Act's reporting requirements to its subawards.

Effect of Condition

Failing to submit the required reports diminishes the federal government's ability to ensure accountability and transparency of federal spending. The terms and conditions of the federal award allow the grantor to penalize the Department for noncompliance by suspending or terminating the federal award or withholding future awards.

Recommendations

We recommend the Department:

- Establish effective internal controls to ensure reports are submitted as required
- Establish policies and procedures for filing required reports
- Provide training for employees who oversee reporting and who verify the submission and accuracy of the reports
- Ensure management monitors reporting of this information to ensure future reports are submitted completely and timely

Department's Response

The Department concurs with the finding.

History

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. This legislation intends to empower every American to hold the government accountable for spending decisions. The Commerce LIHEAP team understands and values this work.

The LIHEAP program was completing this requirement of reporting. In 2015 Commerce underwent a FFATA process mapping exercise to ensure that each federal program met this requirement. In addition, the agency implemented a FFATA training to ensure compliance among agency staff.

Around 2017 our team incorrectly interpreted the need to continue entering the contract amounts into the database. The incorrect interpretation was around what would continue to be tested in the LIHEAP Program audits and the federal compliance supplement.

Solution to Finding

The LIHEAP team walked through the specifics of the finding and developed written procedures to train staff on FFATA. Effective immediately, LIHEAP will add FFATA reporting to their funding obligation and contracting process. Our team has set an internal deadline for completing the FFATA reporting for no later than 30 days after the CSHD assistant director signs the obligation memo. The signed obligation memo ensures that the amounts that are contracted to LIHEAP agencies have been vetted through division budget staff, the community economic opportunities managing director, and the CSHD assistant director.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 2 U.S. Code of Federal Regulations (CFR) Part 170, *Reporting Subaward and Executive Compensation Information*, states in part:

Appendix A to Part 170 – Award Term

I. Reporting Subawards and Executive Compensation

a. Reporting of first-tier subawards.

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-032 The Department of Commerce did not have adequate internal controls over and did not comply with reporting requirements for the Low-Income Home Energy Assistance Program.

CFDA Number and Title:	93.568 Low-Income Home Energy Assistance Program 93.568 COVID-19 Low-Income Home Energy Assistance Program
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2001WALIEA; 2001WALIE4; 2101WALIEA; 2101WAE5C6
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The U.S. Department of Health and Human Services, through the Office of Community Services at the Administration for Children and Families, administers the Low-Income Home Energy Assistance Program (LIHEAP). The agency distributes LIHEAP block grant funds by formula to states, the District of Columbia, and territories.

In Washington, the Department of Commerce (Department) administers LIHEAP, which provides financial assistance to low-income households to meet their home energy needs. The Department makes subawards to community-based organizations to provide this assistance.

The Department is required to file the Annual Report on Households Assisted by LIHEAP, which consists of six different sections that outline assistance given to households and households applying for assistance. Two key sections are:

1. The number and income levels of households granted assistance under the Coronavirus Aid, Relief and Economic Security (CARES) Act or LIHEAP (heating, cooling, crisis, and weatherization); and

2. The number of households served that contained young children, elderly, or persons with disabilities, or any vulnerable household that receives funding under the CARES Act or LIHEAP.

In fiscal year 2021, the Department spent over \$58 million in federal program funds. Of this amount, the Department paid more than \$51 million to subrecipients.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding reporting requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure the Annual Report on Households Assisted that it submitted was accurate and complete.

The Department was unable to provide us with the source documentation it used to prepare the report. We examined the report the Department submitted for the federal fiscal year ended September 30, 2020, and attempted to reperform the Department's calculations using data the Department pulled from its LIHEAP database. The Department informed us this data did not contain sufficient information to fully reperform all calculations for the program year under review.

Based on the data the Department provided, we found eight of the 14 fields (57 percent) required under section one and four of the 10 fields (40 percent) required under section two of the report were materially inaccurate. The difference between values reported and the data provided varied between 13 and 656 percent.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

During the audit period, the Department designed an automated system to sort and categorize funds that were traditional LIHEAP and funds that were from the Coronavirus Relief Fund, and automatically populate those numbers on the report. However, the data did not contain information necessary to identify the funding source of each household benefit payment, and the staff responsible for preparing and submitting the report did not retain the data used to support the amounts listed in the report.

Although management reviewed the report, it did not ensure staff retained the supporting data to evidence the accuracy of the report.

Effect of Condition

By not retaining supporting documentation for the report, management was unable to demonstrate the amounts the Department reported to the federal grantor were complete and accurate.

Additionally, the terms and conditions of the federal award allow the grantor to penalize the Department for noncompliance with reporting requirements by suspending or terminating the award, or withholding future awards, should it choose to do so.

Recommendations

We recommend the Department:

- Establish effective internal controls to ensure queries of household expenditure data are configured appropriately to produce accurate results for reporting
- Strengthen its management reviews to ensure amounts reported are accurate and adequate documentation is retained to support amounts included in the reports
- Provide any necessary training for employees who oversee reporting and verify the submission and accuracy of the reports
- Consult with the federal grantor to determine if a revision and resubmission of the report is necessary to correct amounts reported under sections one and two

Department's Response

While the program concurs with the finding of not retaining supporting documentation for the report, we will dispute being unable to demonstrate the amounts the Department reported to the federal grantor were complete and accurate. The program manager offered to provide the necessary documentation if provided with enough time. The program manager's best estimate was that three months would be needed to complete the data analysis.

A condition of the funding Commerce was awarded was being able to track whether the funds were spent and to which grant they were charged. That information for the period of review was from the Commerce Contract Management System (CMS) and required the program to review each month's invoices for each contractor by contract. This was completed and reported.

Receiving the funds after the start of the regular LIHEAP program year left the program without sufficient time to change the LIHEAP database. Interrupting the availability of the database would hinder services to Washington residents, and the program manager opted to move forward and

pull the necessary data from the CMS system and match CMS spending reports to the LIHEAP data system reports by month.

Since the fiscal year 2020 report was submitted to the United States Department of Health and Human Services, the developer for the LIHEAP program has retired, and the program has hired a new developer. The program has begun a modernization effort for the LIHEAP database that is planned for implementation from July 2022 through September 2022.

One of the first tasks completed by the new developer was to add contract numbers to the LIHEAP database, which has been in place since LIHEAP program year 2021. Contractors must enter a contract number for every benefit awarded in the LIHEAP data system. The second task was to update the reports to include the ability to pull all administration reports by contract number, date range, and benefit type.

Commerce supports that this issue has been resolved. We thank the State Auditor's Office for the opportunity to respond to this exception.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. As stated above in the Description of Condition, the Department did not retain supporting documentation provided with the draft report to management for review, and therefore it did not have source documentation readily available for review during the audit. The timeframe noted in the Department's response to re-create the source documentation necessary to support amounts listed in the household report exceeded the duration of our audit field work, and therefore was not considered.

We reaffirm the finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance

with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, and paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control

operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

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Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 170, *Annual Report on Households Assisted by LIHEAP* (OMG No. 0970-0060), states in part:

As part of the application for block grant funds each year, a report is required for the preceding fiscal year of (1) the number and income levels of the households assisted for each component and any type of LHEAP assistance (heating, cooling, crisis, and weatherization); and (2) the number of households served that contained young children, elderly, or persons with disabilities, or any vulnerable household for each component. Territories with annual allotments of less than \$200,000 and all Indian tribes are required to report only on the number of households served for each program component (42 USC 8629; 45 CFR section 96.82).

Section 309 of the *Human Services Amendments of 1994*, Public Law 103-252, amended section 2605(c)(1)(G) of the LIHEAP statute requires grantees, as part of their annual LIHEAP grant application, to report certain data on households which apply for LIHEAP assistance and on households which receive LIHEAP assistance in the most recent Federal Fiscal Year.

To separately identify the impact of supplemental federal LIHEAP funding, HHS expanded the LIHEAP Household Report - Long Form for FFY 2020. For each item in the report, the revised form now includes three lines:

- The first line is for grantees to report information for all applicable households *regardless of funding source*. This is consistent with what grantees were required to report in the past. Grantees should report the total count of households, counting each household once if it received that type of assistance during FY 2020.
- The second line is for grantees to report information for all applicable households that were assisted with CARES Act supplemental LIHEAP funding. Include households that received a benefit that was fully or partially funded with CARES Act funds. Exclude households that did not receive a benefit that was fully or partially funded by CARES Act funds.
- The third line is for grantees to report information for all applicable households that were assisted with other federal supplemental LIHEAP funding (not including CARES Act funding), if any. (Not Applicable).

For each funding category, count a household once that received at least one type of LIHEAP assistance regardless of the type(s) of assistance provided to a household. For example, if a household received three heating assistance benefits, one winter crisis assistance benefit, and one cooling assistance benefit, then count that household only once under ANY Type of LIHEAP assistance. If a household only received a SNAP nominal benefit and no other LIHEAP assistance, it should not be included in the number of households receiving any type of assistance.

The U.S. Department of Health and Human Services, Division of Energy Assistance, Office of Community Services, Administration of Children and Families' *Instructions for the LIHEAP Household Report Long Form FY2020*, states in part:

Introduction:

Federal LIHEAP Funds

The purpose of the LIHEAP Household Report is to report on the number of households assisted with available federal LIHEAP funds during FY 2020, including those LIHEAP funds obligated in FY2019 but not expended until FY 2020.

LIHEAP funding includes all federal funds allocated to LIHEAP.

General Requirements:

Reporting Period

Household data are for the reporting period for FY2020 (October 1, 2019 – September 30, 2020). Grantees may operate their programs on a different program year (e.g. starting January 1 or July 1). However, complete household data still need to be reported for the reporting period of FY 2020.

Data Consistency

The data will be checked for consistency against the type of LIHEAP assistance that states report in their *LIHEAP Model Plan for FY 2020* and later with the data reported in each state's *LIHEAP Performance Data Form for FY 2020*. For example, if obligated funds are reported for cooling assistance and there are no household data reported for cooling assistance, then the state should include a note which explains the inconsistency. States may correct such issues by creating a revision and submitting their *LIHEAP Household Report* or *LIHEAP Performance Data Form* in OLDC.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-033 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with requirements to ensure payments to child care providers for the Child Care and Development Fund Cluster programs were allowable and properly supported.

CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.575 – COVID-19 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award Number:	G1901WACCDF, 2003WACCDF, 2103WACCDF, 2003WACCC3, 2103WACCS5
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	\$271,353,409

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) grants to help eligible working families pay for child care and fund improvements to child care quality. In fiscal year 2021, the Department spent about \$327.5 million in CCDF federal funding, which was an increase of about \$82 million compared to the prior fiscal year.

The Department is responsible for establishing policies to ensure payments to providers for child care services are allowable. In fiscal year 2021, the Department spent over \$271 million on monthly child care subsidy payments to child care providers.

There are three child care provider types: licensed centers, licensed family homes, and licensed exempt providers referred to as Family, Friends and Neighbor providers. The Department uses a payment system to process the payments it makes to child care providers. The system allocates

payments to various funding sources, partially based on the eligibility of the client. These funding sources include multiple federal programs, multiple CCDF federal grant awards, and state funding. The Department uploads the payment data into the state's accounting system at a summary level based on the various funding sources. There is always a need to transfer the funding sources for some payments throughout the year to manage federal and state funds properly.

In prior audit periods, the Department prepared supporting documentation for transfers that included details of what payments it was transferring. The purpose of documenting this detail was to maintain proper support for federal expenditures.

The Department of Health and Human Services (HHS), which oversees the CCDF program at the federal level, requires recipients have accounting procedures that are sufficient for tracing grants to a level of expenditure adequate to show that they have been used in accordance with program requirements.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure payments to child care providers were allowable and properly supported. We have reported this condition since 2005. The most recent audit finding numbers were 2020-038, 2019-035, 2018-034, 2017-024, 2016-021, 2015-023, 2014-023, 2013-016, 12-28, 11-23, 10-31, 9-12 and 8-13.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure payments to child care providers for the CCDF programs were allowable and properly supported.

In order to identify payments the Department made to child care providers, we requested and received a population of payments charged to CCDF funding sources from the Department's Social Service Payment System (SSPS). Since 2008, we have tested samples of these transactions and found significant noncompliance with federal and state requirements.

However, for fiscal year 2021, management informed us of recent changes in the Department's grant management practices to process expenditure transfers at the grant level. This new process made the original expenditure coding in SSPS inaccurate and unreliable for testing. As a result, we could not trace the federal funds to a level of expenditure adequate to establish whether the Department spent CCDF funds in accordance with federal and state regulations. As a result, we could not test the Department's payments to child care providers for compliance with activities allowed and cost principles.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

The Department is required to maintain sufficient documentation for each payment it makes with federal dollars. Management decided to modify the Department's accounting practices in a way that now prevents it from meeting this requirement.

The Department implemented what management referred to as fund-level accounting. This consisted of making significant accounting adjustments between funding sources in its general ledger without identifying the underlying transactions from SSPS that supported the adjustments. This affected all populations of child care expenditures for every month of the fiscal year.

By processing these adjustments at the fund level, the Department invalidated the transaction-level documentation of the original child care expenditure in SSPS and did not identify the new allocation at the payment level. Additionally, the Department transferred some of these child care expenditures more than once at the fund level, making the underlying data increasingly unreliable with each transfer.

Effect of Condition and Questioned Costs

By not complying with federal law regarding maintaining adequate supporting documentation for expenditures, the Department created a condition that made it impossible for our Office to audit the federal dollars it used for payments to child care providers. Because we could not test transaction-level detail, we also could not determine whether the issues we identified in prior audits had improved or worsened, including the Department's lack of adequate internal controls and significant rate of noncompliance for payments to child care providers.

The total amount of known child care payments with federal CCDF funds in the audit period was \$271,353,409. The Department also partially funded these payments with an additional \$116,852,022 in state dollars.

Because the Department did not comply with HHS requirements to allow for the tracing of grant expenditures to a payment level, we are questioning all \$271,353,409 in federal program costs the Department incurred during the audit period. The payments the Department partially paid with state funds are not included in the federal questioned costs.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Design and implement internal controls to ensure transaction-level data is sufficient to comply with federal law and state rules
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges and supports the State Auditor's Office's (SAO) mission, which is to hold state and local governments accountable for the use of public resources.

The Department has managed the CCDF program since 2019, prior to that it was managed by the Department of Social and Health Services and the Department of Early Learning. The Department implemented grant-level management of all federal funds, including the CCDF grant. The Department allocated the CCDF grants to eligible clients and allowable activities in compliance with 45 CFR 98.67. This consisted of making significant grant level adjustments between allowable grant sources to properly spend grant dollars within the allowable period of performance and ensure level of effort and matching requirements. The volume increased this year in comparison to previous years due to the Department's implementation of changes to the SSPS system which were not in place until March 2021 resulting in adjustments to July through February data. The Department's grant adjustments were processed based on eligible clients and allowable activities. However, the adjustments did not include child level data as suggested in 2 CFR 200.

The Department will work to improve our internal controls. The Department does not currently have the staff to develop and maintain the business process redesign, as well as the information technology initiatives necessary to meet the level of assurance as identified by SAO. The Department will review options available for processing adjustments to include transaction-level data that is sufficient to comply with 2 CFR 200.

Auditor's Remarks

We appreciate the Department's acknowledgement that accounting adjustments were made without supporting child level data. The level of assurance needed to support grant expenditures is not established by our Office, but in titles 2 and 45 of the Code of Federal Regulations and the State's grant award.

We appreciate the Department's commitment to resolving these matters and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The

auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

- (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 45 U.S. Code of Federal Regulations, Section 98.67 – Fiscal requirements, states:

- (a) Lead Agencies shall expend and account for CCDF funds in accordance with their own laws and procedures for expending and accounting for their own funds.
- (b) Unless otherwise specified in this part, contracts that entail the expenditure of CCDF funds shall comply with the laws and procedures generally applicable to expenditures by the contracting agency of its own funds.
- (c) Fiscal control and accounting procedures shall be sufficient to permit:
 - (1) Preparation of reports required by the Secretary under this subpart and under subpart H; and
 - (2) The tracking of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the provisions of this part.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not

allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-034 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with requirements to ensure payroll charges paid by the Child Care and Development Fund cluster were allowable and properly supported.

CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund 93.575 COVID-19 Child Care and Development Block Grant
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award Number:	G1901WACCDF, 2003WACCDF, 2103WACCDF, 2003WACCC3, 2103WACCS5
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Known Questioned Cost Amount:	\$21,708,066

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) grant to help eligible working families pay for child care.

The Department is allowed to request federal reimbursement for salaries and benefits for program activities. The Department established a policy in which employees who spend 100 percent of their time working on the grant must be included in a semiannual certification. The Department requires the cost allocation unit to complete a certification for its employees whose positions are funded by a single federal award. The division director or office unit manager must approve the certification and attest that the employees did not perform any other duties.

In fiscal year 2021, the Department spent about \$327.5 million in CCDF federal funding. More than \$21.7 million of that total was for payroll expenses of employees who worked on the program.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure payments for payroll charges paid by the CCDF were allowable and properly supported. The prior finding numbers were 2020-037, 2019-036, and 2018-033.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure payroll charges paid by the CCDF were allowable and properly supported.

The Department has established a policy that requires the cost allocation unit to complete semiannual certifications in the second month following the certification period. This is to ensure there is a timely review of payroll expenditures applied to the CCDF to verify they are allowable and meet cost principles.

We reviewed the semiannual certifications for the first half of fiscal year 2021 (July 1 to December 31, 2020) that the Department should have completed during the audit period. This set of semiannual certifications were due no later than February 28, 2021. The Department had not completed the certifications by the end of our audit period of June 31, 2021.

We also reviewed the semiannual certifications for the second half of fiscal year 2021 (January 1 to June 30, 2021). The Department did not complete these semiannual certifications by the August 31, 2021, deadline.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

The Department had written policies in place to ensure salaries and benefits paid with federal grant funds were adequately supported. Department management said that due to the lack of available resources, they considered other areas to be of higher priority for responsible staff, resulting in the Department not following its established policy.

Effect of Condition and Questioned Costs

The Department charged \$21,708,066 in direct payroll costs to the CCDF that were not adequately supported during the audit period. We are questioning these costs.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

Follow established policies and procedures to ensure payroll costs charged to a federal grant are adequately supported

- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department agrees that payroll certifications were not completed timely, but maintains that the employees charged to the grant were allowable per the Public Assistance Cost Allocation Plan (PACAP). In addition, the cost allocation and grants unit and the budget unit review all position coding to determine allowable charges to the grant prior to position establishment or changes.

The Department is committed to complying with grant requirements and the semiannual certification related to the audit period were completed in July 2021 and October 2021.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any

payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.430 Compensation-personal services states in part:

- (a) *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in §200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:
 - (1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;
 - (2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and
 - (3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.
- (b) *Reasonableness.* Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it

is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

(c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

(1) Non-Federal entity activities, and

(2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis

(i) Standards for Documentation of Personnel Expenses

(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-Federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and

(vi) [Reserved]

- (vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.
 - (viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:
 - (A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;
 - (B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and
 - (C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.
 - (ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.
 - (x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.
- (2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

- (3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.
- (4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.
- (5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, “rolling” time studies, case counts, or other quantifiable measures of work performed.
 - (i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:
 - (A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;
 - (B) The entire time period involved must be covered by the sample; and
 - (C) The results must be statistically valid and applied to the period being sampled.
 - (ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.
 - (iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

- (6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.
- (7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.
- (8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those

specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than

a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

The Department of Children, Youth, and Families Administrative Policy 1.03.04, Time Certification for Positions Charged to a Single Federal Award, states in part:

The cost allocation manager must:

- a. Verify the allocation of employees' time that is directly charged to federal awards is identified in the DCYF written cost allocation plan and approved by the granting federal authority.
 - b. List all of the names and position numbers for employees charged to a single federal award and distribute to appropriate agency staff for semi-annual certifications.
 - c. Verify certifications are completed in the second month following the certification period. DCYF certification are based on the state fiscal year.
 - d. Retain all required documentation per the applicable State Government Records Retention Schedule.
2. The division of office unit manager must:
- a. Review charges for the salaries and wages of employees within their program who are coded directly to a single federal award by completed semi-annual certifications.
 - b. Validate the employees' payroll coding at the time of the certification.
 - c. Email the cost allocation manager any necessary corrections.
 - d. Sign the semi-annual certification and return to the cost allocation manager.
3. The division or office director or designee must:
- a. Review the list of names and position numbers for division level semi-annual certifications.

- b. Have first-hand knowledge of the actual work performed by the individuals being certified if certifying for an entire division or work unit
- c. Send an email to the cost allocation manager to communicate any necessary corrections.
- d. Sign the semi-annual certification and return to the cost allocation manager.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-035 The Department of Children, Youth, and Families did not have adequate internal controls over client eligibility requirements for the child care services funded with the Child Care and Development Fund.

CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.575 COVID-19 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	G1901WACCDF; 2003WACCDF; 2103WACCDF; 2003WACCC3; 2103WACCS5
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Eligibility
Known Questioned Cost Amount:	\$32

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) grant to help eligible working families pay for child care. In fiscal year 2021, the Department spent about \$327.5 million in federal funding.

For a family to be eligible for child care assistance, state and federal rules require that at the time of application or reapplication, children must:

- Reside in Washington and be a citizen or legal resident of the United States;
- Be younger than 13 years, or if for verified special needs, be younger than 19 years;
- Reside with a parent(s) or guardian whose countable income does not exceed 200 percent of the federal poverty level at application or 220 percent at reapplication;
- Reside with a parent(s) or guardian whose countable income does not increase to over 85 percent of state, territorial or tribal median income for a family of the same size; and

- Reside with a parent(s) or guardian who works or attends a job-training or education program, or needs to be receiving protective services.

In response to the COVID-19 pandemic, the Department updated its CCDF State Plan to reflect necessary changes applicable to child care eligibility determinations. The State Plan amendments were approved by the Administration for Children & Families, under the U.S. Department of Health and Human Services. Effective February 29, 2020, the Department was approved for the following eligibility changes during the state declared emergency for COVID-19:

- Family contribution to copayment:
- Copayments in effect from July through September 31, 2020
- Copayments waived from October 1, 2020, through December 31, 2020
- Copayments capped at \$115 from January 1, 2021, through June 30, 2021
- Level of care: The amount of school-age child care for recipients was increased
- Approved activities: eligibility is extended at reapplication if the recipient is no longer in an approved activity due to a pandemic-related layoff

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the past eight audits, we reported findings related to eligibility for the CCDF program. In these prior audits, we reported the Department did not have adequate internal controls over the eligibility process for child care subsidy recipients. The five most recent audits also reported the Department was materially noncompliant with federal requirements. These were reported as finding numbers 2020-039, 2019-032, 2018-030, 2017-026, 2016-023, 2015-026, 2014-026, 2013-017 and 2012-30.

Description of Condition

The Department did not have adequate internal controls over client eligibility requirements for the CCDF program.

Specifically, the Department did not establish a secondary review process of eligibility determinations at the time they were made. The Department performed internal audits of some eligibility determinations for the CCDF program throughout the year, but those audits occurred after it may have already issued payments for the client. In prior audits, we determined these audits of client eligibility usually have a particular focus, do not address all eligibility requirements, and the process is insufficient for detecting and correcting improper eligibility determinations timely.

In May 2021, near the end of the audit period, the Department implemented a new audit process that required audit staff to review all eligibility requirements for a selected sample. Department

management believes this will address the weaknesses in internal controls. However, since the Department did not implement the process until the month before the end of the audit period, we were not able to determine if the new internal control was effective.

During the audit period, the Department determined 53,260 clients to be eligible for child care. We used a statistical sampling method to randomly select and examine 86 of these determinations. We identified four instances (4.7 percent) where the Department made eligibility determinations improperly. Specifically, we found:

- One case when the Department did not follow procedure for verifying new employment, which led to incorrect household income calculation. This resulted in the Department incorrectly assessing the copay amount.
- One case when the Department incorrectly calculated child support.
- One case when the Department did not include child support received in determining eligibility.
- One case when the Department incorrectly assessed the copay amount due to a system error.

We consider this internal control deficiency to be a significant deficiency.

Cause of Condition

The Department did not fully implement its new audit process until the month before the end of the audit period because the change in process required negotiation with the Washington Federation of State Employees (WFSE).

Effect of Condition and Questioned Costs

By not implementing adequate internal controls, the Department is at higher risk of paying providers for child care services when clients are ineligible.

Of the four client eligibility determinations that had errors, one resulted in \$32 of federal overpayments to providers. The Department used CCDF grant funds to pay this entire amount.

Because we used a statistical sampling method to randomly select the payments examined in the audit, we estimate the amount of likely improper payments to be \$19,818.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions

exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3).

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department improve its internal controls over determining eligibility to ensure it:

- Reviews eligibility determinations sufficiently to detect improper eligibility determinations
- Reviews sufficient support for income and household composition information for accuracy

We also recommend the Department consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid.

Department’s Response

The Department appreciates, acknowledges, and supports SAO’s mission, which is to hold state and local government accountable for the use of public resources. Further, we particularly appreciate SAO’s work with us over the past year to strengthen the auditing process.

The Department performed internal audits of about 11,000 eligibility determinations for the CCDF program during the audit period. Because the eligibility system and the payment system are not linked, the reviews of determination happen after payment is made for the client. Full audits are not conducted on each client case, but are focused on high risk areas of eligibility to maximize staff resources. We have seen considerable decrease in identified errors over the last fiscal year in response to these focused audit areas.

In addition, the Department has continued to simplify our rules making it easier for workers to establish eligibility and easier for families to be approved for child care. The Fair Start for Kids Act was enacted October 2021 which included several components to simplify the rules and expand eligibility. The Department will continue to improve processes and internal controls and create and deliver staff training on using data systems and performing income calculations, specifically the Division of Child Supports (SEMS) system and Employment Security Division (ESD) systems.

Auditor’s Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department’s corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Washington Administrative Code 110-15-0065 Calculation of income, states in part:

DSHS uses a consumer's countable income when determining income eligibility and copayment. A consumer's countable income is the sum of all income listed in WAC [110-15-0060](#) minus any child support paid out through a court order, division of child support administrative order, or tribal government order.

- (1) To determine a consumer's income, DSHS either:
- (a) Calculates an average monthly income by:
 - (i) Determining the number of months, weeks or pay periods it took the consumer's WCCC household to earn the income; and dividing the income by the same number of months, weeks or pay periods.
 - (ii) If the past wages are no longer reflective of the current income, DSHS may accept the employer's statement of current, anticipated wages for future income determination.
 - (b) When the consumer begins new employment and has less than three months of wages, DSHS uses the best available estimate of the consumer's WCCC household's current income:
 - (i) As verified by the consumer's employer; or
 - (ii) As provided by the consumer through a verbal or written statement documenting the new employment at the time of application, reapplication or change reporting, and wage verification within sixty days of DSHS request.

Washington Administrative Code 110-15-0075 Determining income eligibility and copayment amounts, states:

- (1) DCYF takes the following steps to determine a consumer's eligibility and copayment, whether care is provided under a WCCC voucher or contract:
 - (a) Determine the consumer's family size (under WAC 110-15-0015);
 - (b) Determine the consumer's countable income (under WAC 110-15-0065).
- (2) DCYF calculates the consumer's copayment as follows:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) At or below 82% of the federal poverty guidelines (FPG).	\$15
(b) Above 82% of the FPG up to 137.5% of the FPG.	\$65
(c) Above 137.5% of the FPG through 200% of the FPG.	The dollar amount equal to subtracting 137.5% of the FPG from countable income, multiplying by 50%, then adding \$65, up to a maximum of \$115.

- (3) DCYF does not prorate the copayment when a consumer uses care for part of a month.
- (4) The FPG is updated every year. The WCCC eligibility level is updated at the same time every year to remain current with the FPG.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-036 The Department of Children, Youth, and Families did not have adequate internal controls and did not comply with matching, level of effort, and earmarking requirements for the Child Care and Development Fund Cluster.

CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.575 COVID-19 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	G1801WACCDF; G-1901WACCDD; G1901WACCDM; 2003WACCDF; 2103WACCDF; 2101WVCCDF
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Matching, Level of Effort, Earmarking
Known Questioned Cost Amount:	\$171,849

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) grants to help eligible working families pay for child care and fund improvements to child care quality. In fiscal year 2021, the Department spent about \$327.5 million in federal funding, which was an increase of about \$82 million compared to the prior fiscal year.

The CCDF consists of three distinct funding sources: Discretionary Fund, Mandatory Fund, and Matching Fund. Additionally, under the Temporary Assistance for Needy Families (TANF) program, the Department may transfer TANF funds to the CCDF, which are then treated as Discretionary Funds. The Department is instructed how to spend this federal money. For the Department to receive its allotted share of the Matching Fund, it must meet the Maintenance of Effort (MOE) requirement and match the federal Matching Fund claimed with state expenditures

at the Federal Medical Assistance Percentage rate for the applicable fiscal year. The Department must also meet earmarking requirements for expenditures for administrative and quality activities.

The Department of Health and Human Services (HHS), which oversees the CCDF program at the federal level, requires recipients have accounting procedures that are sufficient for tracing funds to a level of expenditure adequate to show that they have been used in accordance with program requirements. Department staff run monthly and quarterly expenditure reports to track requirements over matching, level of effort, and earmarking for each open grant award.

Federal regulations require recipients to establish and follow internal controls that ensure compliance with program requirements. These controls include understanding program requirements and monitoring the effectiveness of established controls.

In a prior audit, we reported the Department did not have adequate internal controls over matching, level of effort, and earmarking requirements for the Child Care and Development Fund Cluster programs. The prior finding number was 2020-040.

Description of Condition

The Department did not have adequate internal controls and did not comply with matching, level of effort, and earmarking requirements for the CCDF programs.

During the audit period, the earmarking requirement applied to the federal fiscal year 2018 award. The requirement stipulated the Department could not spend more than five percent of total CCDF awards expended and any state expenditures for which matching funds are claimed on administrative costs. We found the Department exceeded the administrative cost maximum for the 2018 award.

The Department also did not have any written policies and procedures describing how it monitored the CCDF programs to ensure it complied with matching, level of effort, and earmarking requirements.

The Department's accounting records should be used to verify it has met matching, level of effort, and earmarking requirements. During the audit period, the Department's grant management practice was to process expenditure transfers at the grant level without identifying which expenditures it transferred. Therefore, we could not rely on the data supporting the Department's expenditures or verify that the accounting records are accurate. This condition is also referenced in audit finding 2021-033.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

Management transferred the responsibility for tracking grant expenditures to multiple employees during the audit period. Management said the lack of an established process was due to insufficient staffing. The Department's ongoing monitoring throughout the year was ineffective for ensuring it met the matching, level of effort, and earmarking requirements.

Additionally, the Department implemented what management referred to as fund-level accounting. This consisted of making significant accounting adjustments between funding sources in its general ledger without identifying the underlying transactions that supported the adjustments. This affected all populations of child care expenditures for every month of the fiscal year.

By processing these adjustments at the fund level, the Department invalidated the transaction-level documentation of the original child care expenditure in the Social Service Payment System (SSPS) and did not identify the new allocation at the payment level. Additionally, the Department transferred some of these child care expenditures more than once at the fund level, making the underlying data increasingly unreliable with each transfer.

Effect of Condition and Questioned Costs

For federal fiscal year 2018 awards, the Department provided us with an expenditure report showing that it had spent \$171,849 over the administrative earmarking requirement.

By not maintaining reliable accounting records, the Department created a condition that made it impossible for us to determine if it had met matching, level of effort, and earmarking requirements. Furthermore, without adequate internal controls in place, the Department is at a higher risk of making improper payments with grant funds.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Develop written policies and procedures describing how it will ensure it meets matching, level of effort, and earmarking requirements
- Develop effective ongoing monitoring procedures
- Design and implement internal controls to ensure CCDF expenditures are supported with transaction-level data that is sufficient to comply with federal law and state rules
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges, and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

The Child Care and Development Fund (CCDF) program was previously managed by the Department of Social and Health Services and the Department of Early Learning. Since the program transitioned in 2019, the Department has been making efforts to strengthen internal controls over CCDF grant requirements. The identified questioned costs were for the federal fiscal year 2018 awards and during the transition year. The Department agrees that internal controls were not in place during the transition to verify compliance with the administrative earmarking requirement.

The audit period covered expenditures related to grant award years 2018, 2019, 2020, and 2021. Level of effort and other earmarking expenditures were not affected by journal vouchers related to child care expenditures paid through SSPS as noted in the Effect of Condition. The grantor requires specific levels of spend based on the grant award. The Department uses various elements of the Chart of Accounts in order to track the matching, level of effort, and earmarking spend requirements. These elements include using allocation code and program index to track specific activities and reporting the expenditures on the ACF-696 report. The expenditures related to the earmarking requirements are direct expenditures for quality activities related to infant and toddler services. Expenditures related to level of effort requirements are direct payments for ECEAP, tiered reimbursement, and other allowable expenditures paid with state funds.

During state fiscal year 2021, the Department utilized grant-level accounting to manage the direct payments for child care subsidy payments and verified the expenditures met the minimum and maximum allowable earmarks under the federal program requirements for applicable grant award years. The expenditures to meet quality activities, level of effort, and other earmarks were not tested to verify this compliance. The Department maintains that expenditures charged to these programs were allowable payments to the CCDF grant and processed directly through the state's agency financial reporting system. The Department will establish written procedures for federal requirements and fiscal monitoring of these areas.

The Department implemented grant-level management of all federal funds, including the CCDF grants. The Department allocated the CCDF grants to eligible clients and allowable activities in compliance with 45 CFR 98.67. This consisted of making significant grant level adjustments between allowable grant sources to properly spend grant dollars within the allowable period of performance and ensure level of effort, earmarking, and matching requirements. The volume increased this year in comparison to previous years due to the Department's implementation of changes to the SSPS system which were not in place until March 2021 resulting in adjustments to

July through February data. The Department's grant adjustments were processed based on eligible clients and allowable activities. However, the adjustments did not include child level data as suggested in 2 CFR 200.

The Department will work to improve our internal controls. The Department does not currently have the staff to develop and maintain the business process redesign, as well as the information technology initiatives necessary to meet the level of assurance as identified by SAO. The Department will review options available for processing adjustments to include transaction-level data that is sufficient to comply with federal regulations.

Auditor's Remarks

The level of assurance needed to support grant expenditures is not established by our Office, but in titles 2 and 45 of the Code of Federal Regulations and the State's grant award.

By not identifying the underlying transactions in SSPS affected by year-end accounting adjustments, management does not have reasonable assurance of compliance with level of effort and earmarking requirements for the federal awards pertaining to the transactions.

We appreciate the Department's commitment to resolving these matters and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 2 *US. Code of Federal Regulations* (CFR) Part 98, Child Care and Development Fund establishes the following applicable requirements:

Section 98.50 Child care services states in part:

(b) Of the aggregate amount of funds expended by a State or Territory (*i.e.*, Discretionary, Mandatory, and Federal and State share of Matching funds):

(1) No less than seven percent in fiscal years 2016 and 2017, eight percent in fiscal years 2018 and 2019, and nine percent in fiscal year 2020 and each succeeding fiscal year shall be used for activities designed to improve the quality of child care services and increase parental options for, and access to, high-quality child care as described at § 98.53; and

(2) No less than three percent in fiscal year 2017 and each succeeding fiscal year shall be used to carry out activities at § 98.53(a)(4) as such activities relate to the quality of care for infants and toddlers.

(3) Nothing in this section shall preclude the State or Territory from reserving a larger percentage of funds to carry out activities described in paragraphs (b)(1) and (2) of this section.

(c) Funds expended from each fiscal year's allotment on quality activities pursuant to paragraph (b) of this section:

(1) Must be in alignment with an assessment of the Lead Agency's need to carry out such services and care as required at § 98.53(a);

(2) Must include measurable indicators of progress in accordance with § 98.53(f); and

(3) May be provided directly by the Lead Agency or through grants or contracts with local child care resource and referral organizations or other appropriate entities.

(d) Of the aggregate amount of funds expended (*i.e.*, Discretionary, Mandatory, and Federal and State share of Matching Funds), no more than five percent may be used for administrative activities as described at § 98.54.

(e) Not less than 70 percent of the Mandatory and Federal and State share of Matching Funds shall be used to meet the child care needs of families who:

(1) Are receiving assistance under a State program under Part A of title IV of the Social Security Act;

(2) Are attempting through work activities to transition off such assistance program; and

(3) Are at risk of becoming dependent on such assistance program.

(f) From Discretionary amounts provided for a fiscal year, the Lead Agency shall:

(1) Reserve the minimum amount required under paragraph (b) of this section for quality activities, and the funds for administrative costs described at paragraph (d) of this section; and

(2) From the remainder, use not less than 70 percent to fund direct services (provided by the Lead Agency).

(g) Of the funds remaining after applying the provisions of paragraphs (a) through (f) of this section, the Lead Agency shall spend a substantial portion of funds to provide direct child care services to low-income families who are working or attending training or education.

(h) Pursuant to § 98.16(i)(4), the Plan shall specify how the State will meet the child care needs of families described in paragraph (e) of this section.

Section 98.55 Matching fund requirements states in part:

(c) In order to receive Federal matching funds for a fiscal year under paragraph (a) of this section:

(1) States shall also expend an amount of non-Federal funds for child care activities in the State that is at least equal to the State's share of expenditures for fiscal year 1994 or 1995 (whichever is greater) under sections 402(g) and (i) of the Social Security Act as these sections were in effect before October 1, 1995; and

(2) The expenditures shall be for allowable services or activities, as described in the approved State Plan if appropriate, that meet the goals and purposes of the Act.

(3) All Mandatory Funds are obligated in accordance with § 98.60(d)(2)(i).

(d) The same expenditure may not be used to meet the requirements under both paragraphs (b) and (c) of this section in a fiscal year.

(e) An expenditure in the State for purposes of this subpart may be:

(1) Public funds when the funds are:

- (i) Appropriated directly to the Lead Agency specified at § 98.10, or transferred from another public agency to that Lead Agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for Federal match;
 - (ii) Not used to match other Federal funds; and
 - (iii) Not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds; or
- (2) Donated from private sources when the donated funds:
- (i) Are donated without any restriction that would require their use for a specific individual, organization, facility or institution;
 - (ii) Do not revert to the donor's facility or use;
 - (iii) Are not used to match other Federal funds;
 - (iv) Shall be certified both by the Lead Agency and by the donor (if funds are donated directly to the Lead Agency) or the Lead Agency and the entity designated by the State to receive donated funds pursuant to paragraph (f) of this section (if funds are donated directly to the designated entity) as available and representing funds eligible for Federal match; and
 - (v) Shall be subject to the audit requirements in § 98.65 of these regulations.

Title 45 U.S. Code of Federal Regulations, Section 98.67 – Fiscal requirements, states:

- (d) Lead Agencies shall expend and account for CCDF funds in accordance with their own laws and procedures for expending and accounting for their own funds.
- (b) Unless otherwise specified in this part, contracts that entail the expenditure of CCDF funds shall comply with the laws and procedures generally applicable to expenditures by the contracting agency of its own funds.
- (c) Fiscal control and accounting procedures shall be sufficient to permit:
 - (3) Preparation of reports required by the Secretary under this subpart and under subpart H; and
 - (4) The tracking of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the provisions of this part.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-037 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with period of performance requirements for the Child Care and Development Fund.

CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.575 COVID-19 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	G1801WACCDF, G1901WACCDD, G1901WACCDM, 2003WACCDF, 2103WACCDF, 2101WVCCDF
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Period of Performance
Known Questioned Cost Amount:	\$4,039

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) to help eligible working families pay for child care and fund improvements to child care quality. In fiscal year 2021, the Department spent about \$327.5 million in CCDF federal funding.

Each federal grant specifies a performance period during which recipients must obligate and liquidate program costs. These periods typically align with the federal fiscal year of October 1 through September 30. Payments for costs charged before a grant's beginning date or after the ending date are not allowed without the grantor's prior approval.

The CCDF consists of three distinct funding sources: Discretionary Fund, Mandatory Fund, and Matching Fund. Each of these funds has specific period of performance requirements established in federal regulation (45 CFR 98.60(d)):

- Discretionary Funds must be obligated by the end of the succeeding fiscal year after award and expended by the end of the third fiscal year after award.

- Mandatory Funds for states must be obligated by the end of the fiscal year in which they are awarded if the state also requests Matching Funds. If no Matching Funds are requested for the fiscal year, then the Mandatory Funds are available until liquidated.
- Matching Funds must be obligated by the end of the fiscal year in which they are awarded and liquidated by the end of the succeeding fiscal year after award.

The Department of Health and Human Services (HHS), which oversees the CCDF at the federal level, requires recipients to have accounting procedures that are sufficient for tracing grants to a level of expenditure adequate to show that they have been used in accordance with program requirements.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Department did not have adequate internal controls over period of performance requirements. The prior finding number was 2020-041.

Description of Condition

The Department did not have adequate internal controls over and did not comply with period of performance requirements for the CCDF.

Our Office uses the Department's accounting records to verify it has met the period of performance requirements. However, for fiscal year 2021, management informed us of recent changes in the Department's grant management practices to process expenditure transfers at the grant level. This process made the original expenditure coding inaccurate and unreliable for audit testing. As a result, we could not trace the federal funds to a level of expenditure adequate to establish whether the Department spent CCDF funds in accordance with federal and state regulations. As a result, we could not test the Department's payments to child care providers for compliance with period of performance requirements. This condition is also referenced in audit finding 2021-033.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

The Department is required to maintain sufficient documentation for each payment it makes with federal dollars. Management decided to modify the Department's accounting practices in a way that now prevents it from meeting this requirement.

The Department implemented what management referred to as fund-level accounting. This consisted of making significant accounting adjustments between funding sources in its general

ledger without identifying the underlying transactions that supported the adjustments. This affected all populations of child care expenditures for every month of the fiscal year.

By processing these adjustments at the fund level, the Department invalidated the transaction-level documentation of the original child care expenditure and did not identify the new allocation at the payment level. Additionally, the Department transferred some of these child care expenditures more than once at the fund level, making the underlying data increasingly unreliable with each transfer.

Additionally, the Department's ongoing monitoring throughout the year was ineffective for ensuring it met the period of performance requirements during the audit period. We also determined the Department did not have any written policies and procedures describing how it monitored to ensure it met the period of performance requirements.

Effect of Condition

By not complying with federal law regarding maintaining adequate supporting documentation for expenditures, the Department created a condition that made it impossible for our Office to determine if it materially met the period of performance requirements. However, when analyzing the Department's accounting records, we identified \$4,039 in expenditures it charged to the CCDF for costs that occurred prior to the grant award's beginning date.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Design and implement internal controls to ensure transaction-level data is sufficient to comply with federal law and state rules
- Develop written policies and procedures over federal period of performance requirements

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges, and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

The Child Care and Development Fund (CCDF) program was previously managed by the Department of Social and Health Services and the Department of Early Learning. Since the program transitioned in 2019, the Department has been making efforts to strengthen internal controls over CCDF grant requirements. The Department implemented grant-level management

of all federal funds, including the CCDF grant. The Department allocated the CCDF grants to eligible clients and allowable activities in compliance with federal regulations outlined in 45 CFR 98.67. This consisted of making grant level adjustments for eligible clients and allowable activities between allowable funding sources to properly spend grant dollars within the allowable period of performance and ensure level of effort and matching requirements. However, the adjustments did not include child level data as suggested in federal regulations outlined in 2 CFR 200.

As to the questioned cost identified by State Auditor's Office (SAO), all of the cost identified were corrected in state fiscal year 2022 and within the liquidation period allowed by federal regulations. The corrections were not considered by SAO because they were processed outside of the audit period reviewed. The expenditures charged to indirect cost bases are automatically allocated in the cost allocation system to any open grants at the time of entry into the state's accounting system. The CCDF grants analyst then processes a journal voucher to move the expenditures out of the grant if they are not allowable or outside the period of performance. The Department will establish written procedures for federal period of performance requirements and fiscal monitoring of these areas.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).

- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 45 U.S. Code of Federal Regulations, Section 98.60 -Availability of funds, states in part:

- (d) The following obligation and liquidation provisions apply to States and Territories:
 - (1) Discretionary Fund allotments shall be obligated in the fiscal year in which funds are awarded or in the succeeding fiscal year. Unliquidated obligations as of the end of the succeeding fiscal year shall be liquidated within one year.

(2)

(i) Mandatory Funds for States requesting Matching Funds per § 98.55 shall be obligated in the fiscal year in which the funds are granted and are available until expended.

(ii) Mandatory Funds for States that do not request Matching Funds are available until expended.

(3) Both the Federal and non-Federal share of the Matching Fund shall be obligated in the fiscal year in which the funds are granted and liquidated no later than the end of the succeeding fiscal year.

Title 45 U.S. Code of Federal Regulations, Section 98.67 – Fiscal requirements, states in part:

(e) Lead Agencies shall expend and account for CCDF funds in accordance with their own laws and procedures for expending and accounting for their own funds.

(f) Unless otherwise specified in this part, contracts that entail the expenditure of CCDF funds shall comply with the laws and procedures generally applicable to expenditures by the contracting agency of its own funds.

(g) Fiscal control and accounting procedures shall be sufficient to permit:

(5) Preparation of reports required by the Secretary under this subpart and under subpart H; and

(6) The tracking of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the provisions of this part.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person

performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-038 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with financial reporting requirements for the Child Care and Development Fund Cluster.

CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.575 COVID-19 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	G1901WACCDF, 2003WACCDF, 2103WACCDF, 2003WACCC3, 2103WACCS5
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) grant to help eligible working families pay for child care and fund improvements to child care quality. In fiscal year 2021, the Department spent about \$327.5 million in federal funding, which was an increase of about \$82 million compared to the prior fiscal year.

The Department is required to submit a quarterly ACF-696 report for each open grant. These reports contain information on expenditures for three CCDF funding sources: the Mandatory Fund, the Matching Fund, and the Discretionary Fund. The Department uses CCDF expenditures recorded in the state's accounting system to compile and support the ACF-696 report.

The Department of Health and Human Services (HHS), which oversees the CCDF program at the federal level, requires recipients have accounting procedures that are sufficient for tracing funds to a level of expenditure adequate to show that they have been used in accordance with program requirements.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with financial reporting requirements for the CCDF program.

During the audit period, the Department was required to submit ACF-696 reports for the following federal fiscal years: 2018 (final report due), 2019 (four quarterly reports due), 2020 (four quarterly reports due), and 2021 (three quarterly reports due).

The Department's accounting records must provide and support the financial information reported on ACF-696 reports. During the audit period, the Department's grant management practice was to process expenditure transfers at the grant level without identifying which expenditures it transferred. Therefore, we could not rely on the data supporting the Department's reported ACF-696 expenditures, and could not test whether the reports were accurate and complete. This condition is also referenced in audit finding 2021-033.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department implemented what management referred to as fund-level accounting. This consisted of making significant accounting adjustments between funding sources in its general ledger without identifying the underlying transactions that supported the adjustments. This affected all populations of child care expenditures for every month of the fiscal year.

By processing these adjustments at the fund level, the Department invalidated the transaction-level documentation of the original child care expenditure in the Social Service Payment System (SSPS) and did not identify the new allocation at the payment level. Additionally, the Department transferred some of these child care expenditures more than once at the fund level, making the underlying data increasingly unreliable with each transfer.

Effect of Condition

By not complying with federal law regarding maintaining adequate supporting documentation for expenditures, the Department created a condition that made it impossible for our Office to audit the federal expenditures reported on the ACF-696 financial report.

While the Department submitted all the required ACF-696 reports for the audit period, we could not determine whether the expenditures reported are reliable.

Recommendation

We recommend the Department design and implement internal controls to ensure the ACF-696 report is supported with transaction-level data that is sufficient to comply with federal law and state rules.

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges, and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

The Child Care and Development Fund (CCDF) program was previously managed by the Department of Social and Health Services and the Department of Early Learning. Since the program transitioned in 2019, the Department has been making efforts to strengthen internal controls over CCDF grant requirements. The Department implemented grant-level management of all federal funds, including the CCDF grant. The Department allocated the CCDF grants to eligible clients and allowable activities in compliance with federal regulations outlined in 45 CFR 98.67. This consisted of making grant level adjustments for eligible clients and allowable activities between allowable funding sources to properly spend grant dollars within the allowable period of performance and ensure level of effort and matching requirements. However, the adjustments did not include child level data as suggested in federal regulations outlined in 2 CFR 200.

The ACF-696 reports that were filed during the audit period were submitted timely and accurately to reflect the grant level expenditures as document in the agency financial reporting system. SAO also tested the reporting requirements for Federal Funding Accountability and Transparency Act for internal controls and compliance and found no deficiencies or internal control weaknesses. The Department will review options available for processing adjustments to include transaction-level data that is sufficient to comply with federal regulations and supports the ACF-696 requirements.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
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Title 45 U.S. Code of Federal Regulations, Section 98.67 – Fiscal requirements, states:

- (h) Lead Agencies shall expend and account for CCDF funds in accordance with their own laws and procedures for expending and accounting for their own funds.
- (i) Unless otherwise specified in this part, contracts that entail the expenditure of CCDF funds shall comply with the laws and procedures generally applicable to expenditures by the contracting agency of its own funds.
- (j) Fiscal control and accounting procedures shall be sufficient to permit:
 - (7) Preparation of reports required by the Secretary under this subpart and under subpart H; and
 - (8) The tracking of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the provisions of this part.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

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Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-039 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with health and safety requirements for the Child Care and Development Fund Program.

CFDA Number and Title:	93.575 Child Care and Development Block Grant 93.575 COVID-19 Child Care and Development Block Grant 93.596 Child Care Mandatory and matching Funds of the Child Care and Development Fund
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	G1901WACCDF; 2003WACCDF; 2103WACCDF; 2003WACCC3; 2103WACCS5
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Health and Safety Requirements
Known Questioned Cost Amount:	None

Background

The Department of Children, Youth, and Families (Department) administers the federal Child Care and Development Fund (CCDF) grant to help eligible working families pay for child care. In fiscal year 2021, the Department spent about \$327.5 million in CCDF federal funding

The Department oversees two types of providers: licensed providers and license-exempt Family, Friends, & Neighbors (FFN) providers. The Department is responsible for ensuring all these providers meet health and safety standards. The monitoring activity varies for licensed and FFN providers.

The Department has an approved CCDF State Plan for federal fiscal year 2019-2021 that outlines how the Department will meet the health and safety requirements for licensed and FFN providers.

Licensed providers

Department licensors conduct annual, unannounced onsite monitoring visits of licensed providers, using a monitoring checklist, to verify whether they have met required health and safety standards. The licensors use the WA Compass system to document their activities. The system allows licensing staff to monitor the completion of visits, make timely updates and streamline their processes.

When licensors identify health and safety violations during a monitoring visit, they document them on an inspection report. The inspection report contains the areas of provider noncompliance and establishes deadlines for correcting them. The Department is required to conduct timely follow-up visits on noncompliance issues to ensure providers correct them. Depending on the severity of the noncompliance, the Department has five, ten or fifteen business days to verify the noncompliance has been corrected.

FFN providers

Non-relative FFN providers must complete initial and ongoing health and safety training and sign a health and safety agreement between providers and parents. The Department conducts an annual health and safety visit to ensure providers are following health and safety rules. Additionally, all relative and non-relative FFN providers who receive subsidy payments are required to complete a fingerprint background check.

COVID-19 waiver

In response to the COVID-19 pandemic, the Administration for Children & Families, under the U.S. Department of Health and Human Services, waived the following health and safety requirements:

- Non-relative FFN annual technical visits
- Fingerprint background checks for licensed providers, non-relative FFNs, and relative FFNs

Additionally, the Department:

- Revised the state plan and conducted annual, announced virtual monitoring visits of licensed providers rather than typical unannounced onsite visits
- Issued a management decision to reinstate the fingerprint requirements beginning January 2021 ahead of the waiver expiration date

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported that the Department did not have adequate internal controls over and did not comply with health and safety requirements. The previous finding numbers were 2020-042, 2019-039, 2018-035, 2017-025, 2016-022 and 2015-024.

Description of Condition

The Department did not have adequate internal controls over and did not comply with health and safety requirements for the CCDF Program.

Licensed provider annual monitoring and noncompliance follow-ups

We used a statistical sampling method to randomly select 59 out of a total population of 5,480 licensed providers. We examined this sample of licensed providers to determine if they received an annual virtual monitoring visit and that the Department performed timely, appropriate follow-ups when they found noncompliance issues. We identified six instances (10 percent) where the provider did not receive their required annual monitoring visit. Of the remaining 53 providers that did receive a monitoring visit, we identified:

- One instance (2 percent) where the licensor did not fully complete all health and safety checklist items during the virtual monitoring visit
- Three instances (6 percent) where the licensor did not conduct the appropriate follow-up visit on noncompliance issues. Specifically, we found:
 - Two providers did not have a follow-up visit for identified noncompliance.
 - One provider did not have a timely follow-up visit for identified noncompliance. The Department was required to conduct the visit within ten business days, but performed it 17 days after the initial visit.

Non-relative FFN provider health and safety agreements

The state plan and a state rule require non-relative FFN providers to complete a health and safety agreement with the parent of the child receiving care within 45 days of completing initial training requirements. This agreement is required to be signed by both the parent and the provider.

During the audit period, Department management chose to not require agreements to be signed by both the parent and the provider. It instead accepted other forms of agreements, such as email or verbal confirmations to meet this requirement. These forms of agreement do not meet the requirements of the state plan and Washington Administrative Code 110-16-0030.

During the audit period, 79 providers were required to complete health and safety agreements. However, the Department only received 38 from providers. Of those 38, only 18 were properly signed, 19 were agreed to via email and one was agreed to verbally. This resulted in 41 providers

(52 percent) not completing the required health and safety agreements in any form for state fiscal year 2021.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

Licensed provider annual monitoring and noncompliance follow-ups

The Department did not conduct six of the 59 monitoring visits we reviewed because management chose to allow providers to refuse a monitoring visit even though this was not permitted by the state plan or the waiver.

Department is working on a report to track health and safety visits that require follow-ups, but development has been delayed due to other priorities in response to the COVID-19 pandemic.

Non-relative FFN provider health and safety agreements

In response to the COVID-19 pandemic, Department management decided to accept an email or verbal conversation and confirmation of completion from the provider in lieu of a signed copy of the agreement due to providers having difficulties obtaining electronic signatures on the document. Management said staff did not prioritize complying with the state rule because the Department was amending it during the audit period to change the requirement.

Effect of Condition

Licensed provider annual monitoring and noncompliance follow-ups

By not completing monitoring visits or following up on noncompliance in a timely manner, the Department did not have assurance that providers met health and safety requirements. Further, not following up on noncompliance violations in a timely manner can put children in jeopardy of harm, neglect, and unhealthy environments.

Non-relative FFN provider health and safety agreements

The Department did not comply with state rule and did not meet requirements in its federally approved plan. Additionally, by not having an agreement demonstrating that providers and parents have discussed health and safety requirements, children can be in jeopardy of harm, neglect, and unhealthy environments.

Recommendations

We recommend the Department:

- Ensure management follows established policies and procedures to ensure licensors complete all monitoring visits and conduct thorough, timely follow-ups on any identified noncompliance issues
- Obtain a waiver from the grantor if management wants to deviate from the approved state plan

Department's Response

The Department is strongly committed to ensuring the health, safety, and well-being of all children in care. The Department would like to acknowledge the child care providers that continued to operate during the COVID-19 pandemic and provided support to families and their community.

As to the Auditor's specific findings, the Department offers the following detail:

Licensed provider annual monitoring and noncompliance follow-ups

Due to the COVID-19 pandemic and the Washington State Governor's Stay Home, Stay Healthy Order, the Department received a waiver for the annual unannounced monitoring visits. The CCDF State Plan was updated to allow for virtual monitoring visits, but some providers were unable to participate in the virtual process resulting in monitoring visits not being conducted during SFY21.

System enhancements were made in WA Compass and changes continue to be made to track when follow up health and safety visits are required. Currently the WA Compass recheck report has not been finalized and only shows violations with serious and immediate risks, not all health and safety rechecks needed. In addition, due to COVID-19, some providers denied the licensor access or were not available for recheck within the required recheck time-period.

Non-relative FFN provider health and safety agreements

The Department found that non-relative providers had difficulty returning a signed copy of the parent/provider health and safety agreement. As an alternative, the Department allowed providers to submit an email in lieu of the signature and added two technical assistance calls to enhance the provider's understanding of the health and safety requirements.

Regarding the recommendations to obtain a waiver from the grantor to support deviations from the approved state plan, the Department always endeavors to implement programs consistent with applicable state and federal requirements and its CCDF State Plan, or to seek waiver from federal requirements, when available, through the CCDF State Plan as necessary to support effective

implementation. In July 2021, the Department updated the CCDF State Plan to be consistent with accepting email or verbal confirmation of the FFN Parent Agreement.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
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- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

45 U.S. Code of Federal Regulations (CFR) part 98.41 Health and safety requirements, states in part:

(a) Each Lead Agency shall certify that there are in effect, within the State (or other area served by the Lead Agency), under State, local or tribal law, requirements (appropriate to provider setting and age of children served) that are designed, implemented, and enforced to protect the health and safety of children. Such requirements, which are subject to monitoring pursuant to § 98.42, shall:

(1) Include health and safety topics consisting of, at a minimum:

(i) The prevention and control of infectious diseases (including immunizations); with respect to immunizations, the following provisions apply:

(A) As part of their health and safety provisions in this area, Lead Agencies shall assure that children receiving services under the CCDF are age-appropriately immunized. Those health and safety provisions shall incorporate (by reference or otherwise) the latest recommendation for childhood immunizations of the respective State, territorial, or tribal public health agency.

(B) Notwithstanding this paragraph (a)(1)(i), Lead Agencies may exempt:

(1) Children who are cared for by relatives (defined as grandparents, great grandparents, siblings (if living in a separate residence), aunts, and uncles), provided there are no other unrelated children who are cared for in the same setting.

(2) Children who receive care in their own homes, provided there are no other unrelated children who are cared for in the home.

(3) Children whose parents object to immunization on religious grounds.

(4) Children whose medical condition contraindicates immunization.

(C) Lead Agencies shall establish a grace period that allows children experiencing homelessness and children in foster care to receive services under this part while providing their families (including foster families) a reasonable time to take any necessary action to comply with immunization and other health and safety requirements.

(1) The length of such grace period shall be established in consultation with the State, Territorial or Tribal health agency.

(2) Any payment for such child during the grace period shall not be considered an error or improper payment under subpart K of this part.

(3) The Lead Agency may also, at its option, establish grace periods for other children who are not experiencing homelessness or in foster care.

(4) Lead Agencies must coordinate with licensing agencies and other relevant State, Territorial, Tribal, and local agencies to provide referrals and support to help families of children receiving services during a grace period comply with immunization and other health and safety requirements;

(ii) Prevention of sudden infant death syndrome and use of safe sleeping practices;

(iii) Administration of medication, consistent with standards for parental consent;

(iv) Prevention and response to emergencies due to food and allergic reactions;

(v) Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;

(vi) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;

(vii) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602(a)(1) of the Robert T. Stafford Disaster Relief and

Emergency Assistance Act (42 U.S.C. 5195a(a)(1)) that shall include procedures for evacuation, relocation, shelter-in-place and lock down, staff and volunteer emergency preparedness training and practice drills, communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

(viii) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;

(ix) Appropriate precautions in transporting children, if applicable;

(x) Pediatric first aid and cardiopulmonary resuscitation; (xi) Recognition and reporting of child abuse and neglect, in accordance with the requirement in paragraph (e) of this section; and

(xii) May include requirements relating to:

(A) Nutrition (including age-appropriate feeding);

(B) Access to physical activity;

(C) Caring for children with special needs; or

(D) Any other subject area determined by the Lead Agency to be necessary to promote child development or to protect children's health and safety.

(2) Include minimum health and safety training on the topics above, as described in § 98.44.

(b) Lead Agencies may not set health and safety standards and requirements other than those required in paragraph (a) of this section that are inconsistent with the parental choice safeguards in § 98.30(f).

(c) The requirements in paragraph (a) of this section shall apply to all providers of child care services for which assistance is provided under this part, within the area served by the Lead Agency, except the relatives specified at §98.42(c).

(d) Lead Agencies shall describe in the Plan standards for child care services for which assistance is provided under this part, appropriate to strengthening the adult

and child relationship in the type of child care setting involved, to provide for the safety and developmental needs of the children served, that address:

- (1) Group size limits for specific age populations;
- (2) The appropriate ratio between the number of children and the number of caregivers, in terms of age of children in child care; and
- (3) Required qualifications for caregivers in child care settings as described at §98.44(a)(4).
 - (e) Lead Agencies shall certify that caregivers, teachers, and directors of child care providers within the State or service area will comply with the State's, Territory's, or Tribe's child abuse reporting requirements as required by section 106(b)(2)(B)(i) of the Child Abuse and Prevention and Treatment Act (42 U.S.C. 5106a(b)(2)(B)(i)) or other child abuse reporting procedures and laws in the service area.

CCDF State Plan for Federal Fiscal Year 2019-2021, states, in part:

5.2 Health and Safety Standards and Requirements for CCDF Providers

5.2.2 Health and safety standards for CCDF providers

- a) 1. The parent and provider must complete, sign and return to DCYF an in-home Health and Safety agreement.

5.2.3 Health and safety training for CCDF providers on required topics

- a) 3. In-home care:

Non-relative FFN providers must complete pediatric CPR/First Aid training (4-6 hours), and training on all other health and safety topics (2-4 hours), within 90 days of their authorization begin date.

5.2.4 Provide the minimum number of annual training hours on health and safety topics for caregivers, teachers, and directors required for the following.

- c) In-home care:

Nonrelative FFN providers receive ongoing health and safety training as part of their annual health and safety visit. The ongoing training is based on health and safety topics that the provider requests more information on and areas of need as determined by the annual visit, and typically will be 2-4 hours per year.

5.3 Monitoring and Enforcement Policies and Practices for CCDF Providers

5.3.3 Inspections for license-exempt CCDF providers

- c) Nonrelative FFN providers are required to receive announced monitoring annually on all health and safety and fire safety topics described in plan.

WAC 110-16-0030 Health and safety activities, states:

(1) Providers not related to the child as described in WAC 110-16-0015 (4)(c), must comply with the following health and safety activity requirements:

- (a) Complete the Parent and FFN Provider Health and Safety Agreement; and

- (b) Participate in an annual, scheduled visit in the child's home. If necessary, as determined by the department, follow-up visits may occur on a more frequent basis.

(2) The Parent and FFN Provider Health and Safety Agreement must:

- (a) Be signed by the provider and parent(s) and verify that the parent(s) and provider discussed and reviewed all of the topics and subject matter items contained in the agreement. The subject matter items include, but are not limited to: Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment; emergency contacts; fire and emergency prevention; knowledge and treatment of children's illnesses and allergies; developmental and special needs; medication administration; safe transportation; child immunizations; and safe evacuation; and

- (b) Be received by the department within forty-five days of completion of the training requirements in WAC 110-16-0025 (2)(a) or verification of the training exemption in WAC 110-16-0025 (2)(b).

(3) The purpose of the annual, scheduled visit in the child's home is to:

- (a) Provide technical assistance to the provider regarding the health and safety requirements described in this chapter;

- (b) Observe the provider's interactions with the child, and discuss health and safety practices;

- (c) Provide written information and local resources about child development to include the major domains of cognitive, social, emotional, physical development, and approaches to learning; and

- (d) Provide regional contact information for FFN child care services and resources.

(4) If the department is not able to successfully complete a scheduled visit with the provider in the child's home after three attempts, the provider will be deemed not in compliance with the requirements of this chapter.

(5) At the annual, scheduled visit, the provider must show:

- (a) Proof of identity;
- (b) Proof of current certification for first aid and cardiopulmonary resuscitation (CPR) in the form of a card, certificate, or instructor letter;
- (c) Proof of vaccination against or acquired immunity for vaccine-preventable diseases for all children in care, if the provider's children are on-site at any time with the eligible children. Proof can include:
 - (i) A current and complete department of health certificate of immunization status (CIS) or certificate of exemption (COE) or other department of health approved form; or
 - (ii) A current immunization record from the Washington state immunization information system (WA IIS).
- (d) Written permission from the parent to:
 - (i) Allow children to use a swimming pool;
 - (ii) Administer medication for treatment of illnesses and allergies of the children in care;
 - (iii) Provide for and accommodate developmental and special needs; and
 - (iv) Provide transportation for care, activities, and school when applicable.
- (e) The written home evacuation plan required in WAC 110-16-0035 (4)(c).

Policy 10.1.8 Conducting Child Care Monitoring Visits, states, in part:

1. DCYF Must Monitor Early Learning Program Not Less Than Annually Per Federal Requirements Except When A Program Is On Inactive Status Monitoring visits must occur at least once every fiscal year. Staff may do a monitoring visit at any time during the year...
2. Annual Monitoring Visit Due Dates Follow DCYF's Fiscal Year

Procedure 10.1.21 Managing Child Care Inspection Reports, states, in part:

Licensors determine if health and safety recheck is required. If an issue of non-compliance is corrected during the licensing visit, a compliance verification for that specific WAC is not required.

- Immediate Concerns must verify compliance on site as soon as possible but no later than 10 business days from date of non-compliance. Discuss recheck schedule with Supervisor.
- Short Term Concerns must verify compliance within 15 business days from date of non-compliance.

Long Term Concerns do not require a licensor recheck.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, and paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-040 The Department of Children, Youth, and Families did not have adequate internal controls to ensure payments to providers for travel and family visits were allowable and adequately supported for the Foster Care program.

CFDA Number and Title:	93.658 Foster Care Title IV-E 93.658 COVID-19 Foster Care Title IV-E
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2002WAFOST; 2102WAFOST
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	None

Background

The federal Foster Care Title IV-E (Foster Care) program helps states provide safe and stable out-of-home care for children under the jurisdiction of the state's child welfare agency until the children are returned home, placed with adoptive families, or placed in other planned, permanent arrangements. The program provides funds to reduce the costs of foster care for eligible children, reduce administrative costs to manage the program, and provide training for the adults in the Foster Care program, including state agency staff, foster parents and certain private agency staff.

In Washington, the Department of Children, Youth, and Families (Department) administers the Foster Care program. During fiscal year 2021, the Department spent about \$121 million in federal grant funds, including approximately \$4.4 million dollars for travel and family visits.

Parent-child visits are a key strategy for minimizing a child's time in out-of-home care and working toward family reunification. The Department creates a visit plan based on court documents and other information to ensure the safety of the child. The Department uploads all visit plans to an electronic database system called Sprout where cases are assigned to a provider and sent to subcontractors. When travel is completed, the subcontractors send visit reports to the provider, who then uploads them into Sprout at summary level. The Department pays the provider

solely based on the summary level information it enters into Sprout. The Department conducts periodic fiscal monitoring of providers to verify payments are accurate and adequately supported.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls to ensure payments to providers for travel and family visits were allowable and adequately supported for the Foster Care program.

The Department did not follow its procedures for performing fiscal monitoring of foster care service providers to ensure federally funded payments for travel and family visits were adequately supported and only for allowable activities.

We consider this internal control deficiency to be a significant deficiency.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Management decided not to perform fiscal monitoring of the Department's providers due to the COVID-19 pandemic.

Effect of Condition

By not performing fiscal monitoring, the Department cannot ensure payments for travel and family visits are allowable and adequately supported.

Recommendation

We recommend the Department follow its fiscal monitoring procedures to ensure payments to providers for travel and family visits are allowable and adequately supported.

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges, and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

The Department is committed to strengthening internal controls and complying with grant requirements. The Department will work with Financial and Business Services Division and

Foster Care Program to review the fiscal monitoring procedures to ensure payments to providers for travel and family visits are allowable and adequately supported.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-041 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with federal requirements to ensure indirect costs charged to the Foster Care program were allowable.

CFDA Number and Title:	93.658 Foster Care Title IV-E 93.658 COVID-19 Foster Care Title IV-E
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2002WAFOST; 2102WAFOST
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Known Questioned Cost Amount:	\$16,289,333

Background

In Washington, the Department of Children, Youth, and Families (Department) administers the Foster Care program. The federal government's share of all costs incurred by or allocated to the Department can be charged to the federal grants. As a condition of receiving federal grant funds, the Department must submit a Public Assistance Cost Allocation Plan (PACAP) to the U.S. Department of Health and Human Services (DHHS) each state fiscal year.

The PACAP describes how the Department allocates its administrative costs to all funding sources, including federal grants. If the state amends its PACAP and fails to submit it to DHHS, the costs will be disallowed.

The Department uses the Cost Allocation System (CAS), a subsystem of the Agency Financial Reporting System (AFRS), to execute its PACAP. The Department develops methodologies, including creating bases, which automatically distribute the cost of payments to either state, local or federal funding sources. The Department keeps records of these bases in workbooks, which management review and approve before uploading or keying them to AFRS for use.

As part of its cost allocation process, the Department uses bases to distribute costs to multiple funding sources. Each base consists of elements that are assigned a percentage that dictates how much of the original payment is allocated to it. For the costs to be allowable, each base must be included in the PACAP. The Department is required to submit an amended PACAP any time its cost allocation plan changes.

In fiscal year 2021, the Department used CAS to allocate approximately \$16.3 million in indirect costs to the Foster Care Title IV-E program.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to ensure indirect costs charged to the Foster Care program were allowable.

We reviewed the list of six bases the Department used to allocate costs to the Foster Care program during state fiscal year 2021 and found it did not include any of them in the approved PACAP.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Management did not effectively monitor to ensure that the Department had included the six bases in the state fiscal year 2021 PACAP submission before charging costs to the Foster Care program.

Effect of Condition and Questioned Costs

We identified \$16,289,333 of indirect costs tied to the six bases that were not included in the state fiscal year 2021 PACAP submission that the Department improperly charged to the Foster Care Title IV-E program. By not complying with federal regulations, the Department risks having to repay federal funds or having future federal funds withheld.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Strengthen internal controls to ensure it includes all bases in the approved PACAP
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid.

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

As of July 1, 2018, the Legislature created the Department of Children, Youth, and Families (DCYF) by combining the Children's Administration and the Department of Early Learning. The new agency assumed the responsibilities of managing the Foster Care program and created a PACAP to comply with federal regulations. The Cost Allocation and Grants Unit was under resourced due to vacancies and the hiring freeze during the time the original PACAP was established and submitted and the six bases were missed. As a newly established agency, the Department continues to work on documenting and refining internal control processes and procedures. The Department has been developing and refining internal controls to ensure that expenditures are properly allocated across the Department. The Department will verify all bases are included in the approved PACAP and communicate any updates or changes to DHHS in a timely manner.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs

on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 45 *U.S. Code of Federal Regulations* (CFR), Subtitle A, Subchapter A, Part 95, *General Administration-Grant Programs*(*Public Assistance, Medical Assistance and State Children's Health Insurance Programs*, states in part:

95.509 Cost allocation plan amendments and certifications.

- (c) The State shall promptly amend the cost allocation plan and submit the amended plan to the DCA Director when changes occur.
- (d) If a State has not submitted a plan or plan amendment during a given State fiscal year, an annual statement shall be submitted to the DCA Director certifying that it's approved cost allocation plan is not outdated. This statement shall be submitted within 60 days after the end of that fiscal year.

95.517 Claims for Federal financial participation.

- (a) A State must claim FFP for costs associated with a program only in accordance with its approved cost allocation plan. However, if a State has submitted a plan or plan amendment for a State agency, it may, at its option claim FFP based on the proposed plan or plan amendment, unless otherwise advised by the DCA. However, where a State has claimed costs based on a proposed plan or plan amendment the State, if necessary, shall retroactively adjust its claims in accordance with the plan or amendment as subsequently approved by the Director, DCA. The State may also continue to claim FFP under its existing approved cost allocation plan for all costs not affected by the proposed amendment.

95.519 Cost disallowance.

If costs under a Public Assistance program are not claimed in accordance with the approved cost allocation plan, or if the State failed to submit an amended cost allocation plan as required by §95.509, the costs improperly claimed will be disallowed.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-042 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with some Public Assistance Cost Allocation Plan requirements.

CFDA Number and Title:	93.658 Foster Care Title IV-E 93.658 COVID-19 Foster Care Title IV-E 93.659 Adoption Assistance 93.659 COVID-19 Adoption Assistance
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2002WAFOST; 2102WAFOST; 2002WAADPT; 2102WAADPT;
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	None

Background

The Department of Children, Youth, and Families (Department) uses the Random Moment Time Study (RMTS) to allocate costs for its headquarters and regional operations to the proper state and federal programs.

Department staff generally work on multiple programs and cases throughout a workday, which makes maintaining a timesheet difficult and time consuming. The RMTS simplifies how the Department allocates the cost of time and effort to state and federal programs. The RMTS is a sampling tool that the Department uses to generate statistically valid statewide estimates of various activities employees have performed. The Department also uses a system called FamLink, which allows staff to work on client cases, document information, generate samples and compile RMTS results.

The Department's use of the RMTS is included in its Public Assistance Cost Allocation Plan (PACAP) with the federal grantor. The PACAP is approved annually and outlines the general operating policies and procedures that the RMTS staff must follow.

For the RMTS to properly calculate the percentages of activities Department staff have performed, it must start by identifying a sampling universe that is accurate and complete. The sampling universe lists the eligible worker types to be included and is updated monthly to ensure all eligible workers are included in the sample. The RMTS Coordinators and RMTS Headquarters (HQ) are responsible for keeping the list of sample workers current.

To ensure the sample worker population is complete, the RMTS HQ runs the worker report, filters it, and then communicates the report to the RMTS Coordinators to verify proper workers are included, excluded, or documented with the right worker type to maintain an accurate RMTS population. The RMTS Coordinators send the RMTS HQ emails informing them of the changes that need to be made to assigned workers and the unassigned workers. The RMTS HQ will then update the workers profiles in FamLink as updates come in.

Sampled workers are responsible for completing an accurate and timely RMTS sample within three business days. The RMTS HQ performs a quality control review of all completed samples to ensure staff are completing them correctly. At the end of the month, the Department uses FamLink to summarize the sample results for the month. The results are then compiled and used to fill out the Cost Allocation Base Data Input Sheets for each RMTS base. The results are then entered into the Cost Allocation System (CAS).

During fiscal year 2021, the Department used the RMTS to allocate about \$52.7 million to the Foster Care-Title IV-E and Adoption Assistance programs.

Federal regulations require recipients to establish and follow internal controls that ensure compliance with program requirements. These controls include understanding program requirements and monitoring the effectiveness of established controls.

In the prior two audits, we reported the Department did not have adequate internal controls over and did not comply with some PACAP requirements. The prior finding numbers are 2020-044 and 2019-044.

Description of Condition

The Department did not have adequate internal controls over and did not comply with some PACAP requirements.

We randomly selected five out of the 12 monthly employee updates to determine whether the sampling universe was complete.

RMTS HQ

The RMTS HQ Program Manager is responsible for creating monthly employee reports that show current staff who are in the sampling population, as well as a report of employees who may be RMTS eligible. The Program Manager forwards these reports to the RMTS Coordinators asking

for updates of employees on each report. Once the Program Manager receives the RMTS Coordinators' responses, the Program Manager updates FamLink to ensure the sampling universe is complete.

For two of the five sampled months that we examined, we found the Department did not have documentation to support that it had ensured the RMTS sampling universe was complete. For one month, the Department was unable to provide the monthly employee reports or documentation of the communication of those reports to the RMTS Coordinators. For the second month, the Department was able to provide the monthly employee reports, but not evidence that it forwarded them to the RMTS Coordinators for updating.

RMTS Coordinators

The RMTS Coordinators receive reports from the Program Manager asking for updates on employees in the reports. The RMTS Coordinators review the reports and send updates to the Program Manager so the RMTS HQ can make updates in FamLink to ensure the sampling universe is complete. For one of the five sampled months we examined, the Department was unable to provide evidence that the RMTS Coordinators sent updates to the RMTS HQ to ensure the worker population was complete.

Additionally, for four of the five months we examined, the Department did not ensure all RMTS-eligible employees were included in the sampling universe. The sampling universe was also not completely updated for four of the five months we examined.

RMTS results updated incorrectly in the Cost Allocation System

The Department uses FamLink to summarize the results of all RMTS samples for a given month. The RMTS HQ then export this data to an Excel file summarizing the results for all codes. The Department then uses these results to fill out the Cost Allocation Base Data Input Sheets for the RMTS bases. Each base corresponds to a specific group of employees. This information is transmitted to the Cost Allocation and Grants Management Unit, which enters the information into the automated Cost Allocation System.

We examined five of the 12 base edit workbooks that staff created during the fiscal year. For two of the months we examined, there was no evidence that the Department reviewed the base edit workbooks and updates made to the automated CAS cost allfor accuracy.

We also examined the Base Data Input Sheets to determine if Cost Allocation and Grants Management Unit staff updated them correctly in CAS. For the five months we examined, we found that staff did not correctly update four months in accordance with the Department's procedures.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

Management said that limited staffing resources and information technology challenges affected the Department's ability to ensure timely entry and documentation of information, as well as the ability to ensure the RMTS Coordinators sent timely updates to the RMTS HQ Program Manager. Additionally, management did not monitor sufficiently to ensure compliance with PACAP requirements.

Effect of Condition

The Department's inadequate internal controls affected the integrity of its RMTS sampling universe. An erroneous sample could cause the costs the Department has charged to federally funded programs for its headquarters and regional operations to be unallowable, according to the PACAP.

Additionally, when staff incorrectly enter RMTS results into the base edit workbooks, the Cost Allocation System will incorrectly allocate the cost of salaries and benefits to state and federal programs. If the Department charged unallowable or unsupported costs to federal programs, federal grantors could seek repayment for those costs.

The Department used the RMTS to charge \$47,791,692 in payroll costs to the Foster Care-Title IV-E program and \$4,988,320 in payroll costs to the Adoption Assistance program.

Recommendations

We recommend the Department:

- Ensure staff follow its own established procedures to ensure RMTS sampling populations are accurate and complete
- Address the information technology challenges that prevented the RMTS Coordinators from sending timely updates to the RMTS HQ Program Manager
- Monitor to ensure that Cost Allocation and Grants Management Unit staff correctly update RMTS results into the Cost Allocation System

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges, and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

The Department does not concur with the Effect of the Condition that the sampling universe is inaccurate or incomplete. There is not a deficiency with the integrity of the RMTS sample, however

we acknowledge that the bases were not updated timely in Agency Financial Reporting System (AFRS) due to staffing and information technology challenges for two months during the audit period.

The Department maintains that we are in compliance with the RMTS instructions related to the sampling universe that are included in the federally approved Public Assistance Cost Allocation Plan (PACAP). The audit scope expanded beyond the approved process within the RMTS instructions and federal requirements.

To provide some additional background, there is a high turnover rate of staff within the cost pools. That coupled with system limitations regarding departing workers associated to active cases prevents the immediate removal of staff from previously sent RMTS samples and responses. To address this systemic issue; faced by most states, the Department performs a 100% review of the RMTS sample responses to ensure the accuracy of responses and any staff changes within the cost pools are updated. If a sample is received by a social worker that no longer holds the position, the sample is coded based on the most currently approved RMTS codes. Further, the Department oversamples cost pools to ensure statistical validity is met while considering staffing changes. The Department's error rate is less than +/- 1%, far below the required +/- 5% for Title IV-E.

Further, communication with the Regional Coordinators occurs regularly and cost pools are updated within the parameters identified within the RMTS instructions. For these reasons, the Department maintains the position that the sampling universe complies with federal regulations and the RMTS instructions in the most current approved PACAP.

The Department is currently negotiating a contract with the University of Massachusetts, effective October 2022, for the design and implementation of RMTS mechanism, which is a federally approved cost allocation methodology, to accurately claim allowable federal funds and update RMTS instructions for the new quarterly process. These changes will address the auditor's concerns around the internal controls related to the RMTS population. In addition, the Department will review base edit form procedures with staff and verify changes are entered and reviewed in AFRS timely.

Auditor's Remarks

Our audit procedures were designed to determine whether the Department charged only allowable costs to federal grants in compliance with their approved PACAP and federal law. 2 CFR 200.430 requires the sampling universe include all of the employees whose salaries and wages are to be allocated based on sample result, the entire time period involved must be covered by the sample and that the results must be statistically valid and applied to the period being sampled. During the audit period, the Department did not ensure the sampling universe was complete and therefore was not compliant with federal law.

We reaffirm our finding, and we will follow up on the Department’s corrective action during the next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.430 Compensation-personal services, states in part:

- (5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment time sampling, “rolling” time studies, case counts, or other quantifiable measures of work performed.
 - (i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

- (A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;
 - (B) The entire time period involved must be covered by the sample; and
 - (C) The results must be statistically valid and applied to the period being sampled.
- (ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable
 - (iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.
- (6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.
 - (7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to the time charged.
 - (8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:

- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Department of Children Youth and Families Public Assistance Cost Allocation Plan, RMTS Program Instructions, page 37, states in part:

Headquarters RMTS staff shall be responsible for the following actions:

Overseeing the system's monthly batching of new samples which includes three variables:

- Random Moment Starting Time
- Random Interval Time Random
- Employee List

The Headquarters RMTS Staff work with the RMTS Coordinators in order to keep the list of sampled workers current. Worker employment status changes should be reported by the social workers' supervisors to RMTS Coordinators. In addition, HQ Staff need to verify that each worker has an RMTS Worker Type associated with him or her and an RMTS Group linking the worker to his or her coordinator.

The Regional RMTS Coordinator shall be responsible for the following actions:

Notify HQ RMTS Staff of any updates to their worker list when there is any change in employment status of a worker participating in the RMTS survey within five working days of change. In addition, the coordinator needs to provide HQ RMTS Staff with an appropriate RMTS Worker Type code for each worker added to the system.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-043 The Department of Children, Youth and Families improperly charged \$1,850 in benefits to the Foster Care Title IV-E program.

CFDA Number and Title:	93.658 Foster Care – Title IV-E 93.658 COVID-19 Foster Care – Title IV-E
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2002WAFOST; 2102WAFOST
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Eligibility
Known Questioned Cost Amount:	\$1,850

Background

The federal Foster Care Title IV-E (Foster Care) program helps states provide safe and stable out-of-home care for children under the jurisdiction of the state’s child welfare agency until the children are returned home, placed with adoptive families, or placed in other planned, permanent arrangements. The program provides funds to reduce the costs of foster care for eligible children, reduce administrative costs to manage the program, and provide training for the adults in the Foster Care program, including state agency staff, foster parents and certain private agency staff.

To be eligible to receive foster care benefits a child must meet specific eligibility requirements including the former Aid to Families with Dependent Children (AFDC) criteria. To meet the AFDC criteria, the child must be both a needy child and a child who is deprived of parental support or whose principal wage earner parent is unemployed.

In Washington, the Department of Children, Youth, and Families (Department) administers the Foster Care program. During fiscal year 2021, the Department spent about \$121 million in federal grant funds for the Foster Care Title IV-E program.

Description of Condition

The Department improperly charged \$1,850 in benefits to the Foster Care Title IV-E program.

We found the Department had adequate internal controls to ensure it materially complied with eligibility requirements. We used a statistical sampling method to randomly select and examine 58 out of 1,199 children to determine whether they were eligible for the Foster Care program. We found one child who was not eligible, but for whom the Department paid \$1,850 in benefits on behalf of using Foster Care program funds. We are questioning these costs.

Federal regulations require the auditor to issue a finding when the known or estimated questioned costs identified in a single audit exceed \$25,000. We are issuing this finding because, as stated in the Effect of Condition and Questioned Costs section of this finding, the estimated questioned costs exceed that threshold.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department incorrectly applied AFDC income eligibility rules resulting in an ineligible case being charged to federal grant funds.

Effect of Condition and Questioned Costs

The Department improperly determined eligibility for one individual leading to known questioned costs of \$1,850 dollars, which led to likely questioned costs of \$38,242.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3).

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendation

We recommend the Department consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid.

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges, and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

The Department concurs with the finding. Upon validating the exception, the Department took immediate action to change the source of funds for the child from federal to state dollars in the FamLink application. In addition, the Department returned the federal portion of all payments made on behalf of the child to the grantor.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The *State Plan for Title IV-E, Section 2. Foster Care Maintenance Payments* states in part:

d. who:

i. Either:

- A. received AFDC, in the home referred to in section 472(a)(1), under the State plan approved under section 402 of the Act (as in effect (7/16/96) in or for the month in which either a voluntary placement agreement was entered into or court proceedings leading to the judicial determination, referred to in section 472(a)(2)(A) of the Act, were initiated;
 - B. would have received AFDC, in the home, in or for such month referred to in above clause if application for such aid had been made; or
 - C. had been living with a relative specified in section 406(a) of the Act (as in effect 7/16/96) within six months prior to the month in which a voluntary placement agreement was entered into or court proceedings leading to the judicial determination, referred to in section 472(a)(2)(A) of the Act, were initiated, and would have received AFDC in or for such month if the child had been living in the home with such relative and an application had been made for AFDC under title IV-A of the Act; and
- ii. had resources (determined under section 402(a)(7)(B) of the Act as in effect 7/16/96) that had a combined value of not more than \$10,000 consistent with section 472(a)(3)(B) of the Act; or
 - iii. Is not required to meet the AFDC requirements in 472(a)(3) of the AFDC requirements in 472(a)(3) of the Act because the child is placed with a parent residing in a licensed residential family-based substance abuse treatment facility (Tribes, see section 7 for related requirements in section 479B(c)(1)(C)(ii)(II) of the Act.)

The Department's Title IV-E desk guide states in part:

The AFDC financial need determination consists of two separate determinations, **income** eligibility and **resource** eligibility. In order to meet **financial need**:

- Total gross countable income of the **assistance unit** must not exceed the gross income (185%) standard for the number of individuals in the AU; **and**
- Total net countable income of the AU must not exceed the net income (100%) standard for the number of individuals in the AU; **and**
- Total countable resources of the assistance unit must be less than \$10,000

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-044 The Department of Children, Youth, and Families did not have adequate internal controls over its process to allocate the Adoption Assistance program expenditures to federal grants.

CFDA Number and Title:	93.659 Adoption Assistance 93.659 COVID-19 Adoption Assistance
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2002WAADPT, 2102 WAADPT
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Matching
Known Questioned Cost Amount:	None

Background

The Adoption Assistance program (program) provides federal matching funds to states that provide ongoing subsidy and/or non-recurring payments to parents who adopt eligible children with special needs and enter into an adoption assistance agreement.

In Washington, the Department of Children, Youth, and Families (Department) administers the program to provide funding for parents who adopt eligible children with special needs. The program provides financial and medical benefits to qualified children. Adoptive parents can receive a monthly assistance payment from the Department to care for the children, in addition to expenses related to the initial placement of the child in the home, such as court fees, payments for medical visits and transportation costs.

Federal financial participation in state expenditures for the program is provided at various rates, and the Department must match federal grant funds locally. The program provides for the use of the applicable Federal Medical Assistance Percentages (FMAP) rate for allowable program expenditures. The Department assigns specific expenditure coding that correlates to the applicable FMAPs for a particular type of expenditure.

The Department uses cost objective codes in the Cost Allocation System (CAS) to match every transaction with non-federal funds. The Department assigns a specific cost objective code to each transaction. When matching rates change, the Department uses edit forms to update the matching rate in the cost objective. According to Department policy, the person who edits the form must not

be the same person who prepares, approves or inputs the edit form into CAS. The edit form must be approved before being input into CAS to ensure that the Department claims only the federal percentage of expenditures. Staff must review the information input into CAS to ensure it is correct.

In fiscal year 2021, the Department spent about \$58.6 million in federal funding for the Adoption Assistance program and about \$48 million in state funds.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Department did not have adequate internal controls over its process to allocate the Adoption Assistance program expenditures to federal grants. The prior finding number was 2020-045.

Description of Condition

The Department did not have adequate internal controls over its process to allocate the Adoption Assistance program expenditures to federal grants.

The Department edits CAS when changes to matching rates become necessary. The Department created five cost objectives during fiscal year 2021. We reviewed the supporting documentation the Department used to create the five cost objectives and found three instances when staff did not properly review and approve the federal percentages entered to ensure they were correct.

We consider this internal control deficiency to be a material weakness, which may lead to material noncompliance.

Cause of Condition

Management said the Department processed these three cost objectives before implementing changes in response to the prior audit finding.

Effect of Condition

By not establishing adequate internal controls, the Department faces increased risk that it will not properly allocate costs to the federal government. Improper allocations could lead to improper payments, for which grantors could seek reimbursement from the Department.

Recommendation

We recommend the Department follow its established policy and:

- Ensure management reviews edit forms
- Ensure duties are segregated, with different people preparing, reviewing, and entering the edit forms

Department's Response

The Department is committed to strengthening internal controls and complying with grant requirements. In response to the previous audit finding, in October 2020 the Department established a workflow for segregating duties to strengthen internal controls over processing cost allocation edit forms and ensure approvals and reviews in all steps of the process. The three instances noted by the auditor where all changes made on one edit form entered in September 2020, prior to the new work flow being implemented. All samples reviewed after October 2020 had documentation of approval and review per the new process.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-045 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with level of effort requirements for the Adoption Assistance program.

CFDA Number and Title:	93.659 Adoption Assistance 93.659 COVID-19 Adoption Assistance
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2002WAADPT; 2102WAADPT
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Level of Effort
Known Questioned Cost Amount:	None

Background

The Adoption Assistance program is administered at the federal level by the Children’s Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the U.S. Department of Health and Human Services (HHS). Since federal fiscal year 2010, the Title IV-E Adoption Assistance program has provided eligibility provisions for any child who meets the expanded eligibility criteria that resulted in more children being determined as eligible for Title IV-E. The increased eligibility allows states to receive additional federal funding for adoption, thereby allowing them to reduce the level of nonfederal funds they use for these services. The reduction in nonfederal spending is referred to as “adoption savings.”

Beginning in federal fiscal year 2015, each Title IV-E agency must annually calculate and report on the amount of any adoption savings, how savings are spent, and on what services. Agencies must use their adoption savings to expand services that may be provided under Title IV-B or IV-E programs. Additionally, agencies must spend no less than 30 percent of the savings on post-adoption services, post-guardianship services, and services to support positive outcomes for children at risk of entering foster care. Agencies must also spend at least two-thirds of this 30 percent on post-adoption and post-guardianship services.

In Washington, the Department of Children, Youth, and Families (Department) administers the Adoption Assistance program to encourage people to adopt children out of the foster care system.

The program supports approximately 18,000 children and 10,000 families. In fiscal year 2021, the Department spent about \$58.6 million in federal funding.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with level of effort requirements for the Adoption Assistance program.

The Department reported to the federal government it spent \$1,353,842 of the adoption savings during the audit period. However, the Department only had documentation to support \$111,839 of adoption savings expenditures.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department split the responsibility for tracking and managing adoption savings expenditures between Child Welfare Program and Cost Allocation and Grant Management Unit staff. Coordination between these areas was insufficient for ensuring that staff maintained accounting records to verify adoption savings expenditures. After the audit period, the Department created a new position responsible for managing the adoption savings program.

We also determined the Department did not have policies or procedures to monitor its compliance with the program's level of effort requirements.

Effect of Condition

The grant agreement allows the grantor to take action for the Department's noncompliance. This can include temporarily withholding funds, wholly or partly suspending or terminating the award, and withholding further awards from the program.

Recommendations

We recommend the Department:

- Develop and implement written policies and procedures to properly track adoption savings spending
- Strengthen management oversight to ensure it complies with level of effort requirements

Department's Response

The Department of Children, Youth, and Families appreciates, acknowledges, and supports the State Auditor's Office's (SAO) mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, and develops strategies to make government more efficient and effective.

As stated in the Cause of Condition, the Department created a new position to manage the adoption saving program and hired for the position in February 2022. In May 2022, the Department revised the CB-496 Annual Adoption Savings report for federal fiscal year 2020 and submitted the corrected report to the Administration for Children and Families (ACF). The Department has established reoccurring meetings with impacted staff prior to and after the submission of the CB-496 financial report and reviewed the written procedures for federal adoption savings expenditure requirements and tracking. The Department will continue to take the necessary steps to improve our internal controls and accuracy in our financial reporting.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

42 U.S. Code § 673 - Adoption and guardianship assistance program

(a) Agreements with adoptive parents of children with special needs; State payments; qualifying children; amount of payments; changes in circumstances; placement period prior to adoption; nonrecurring adoption expenses

(8)

(A) A State shall calculate the savings (if any) resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, using a methodology specified by the Secretary or an alternate methodology proposed by the State and approved by the Secretary.

(B) A State shall annually report to the Secretary—

(i) the methodology used to make the calculation described in subparagraph (a), without regard to whether any savings are found;

(ii) the amount of any savings referred to in subparagraph (A); and

(iii) how any such savings are spent, accounting for and reporting the spending separately from any other spending reported to the Secretary under part B or this part.

(C) The Secretary shall make all information reported pursuant to subparagraph (B) available on the website of the Department of Health and Human Services in a location easily accessible to the public.

(D)

(i) A State shall spend an amount equal to the amount of the savings (if any) in State expenditures under this part resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year, to provide to children of families any service that may be provided under part B or this part. A State shall spend not less than 30 percent of any such savings on post-adoption services, post-guardianship services, and services to support and sustain positive permanent outcomes for children who otherwise might enter into foster care under the responsibility of the State, with at least $\frac{2}{3}$ of the spending by the State to comply with such 30 percent requirement being spent on post-adoption and post-guardianship services.

(ii) Any State spending required under clause (i) shall be used to supplement, and not supplant, any Federal or non-Federal funds used to provide any service under part B or this part.

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with §200.511. Audit findings follow-up, paragraph (b) materially misrepresents the status of any prior audit findings.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person

performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-046 The Health Care Authority did not have adequate internal controls to ensure clients were eligible for the Children's Health Insurance Program.

CFDA Number and Title:	93.767 Children's Health Insurance Program 93.767 COVID-19 Children's Health Insurance Program
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2005WA5021, 2105WA5021
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Eligibility
Known Questioned Cost Amount:	\$10,244

Background

The Health Care Authority (Authority) administers the Children's Health Insurance Program (CHIP). CHIP is a jointly funded state and federal partnership providing insurance coverage for more than 50,000 children in families with incomes too high to qualify for Medicaid. Federal CHIP financing is capped, and each state operates under an allotment. During fiscal year 2021, the Authority spent more than \$384 million in state and federal funds to administer CHIP, with over \$157 million being federal.

To determine initial eligibility for CHIP, families must complete an application in the Washington Health Benefit Exchange, known as HealthPlan Finder, or through a streamlined paper application. Once families complete their applications, electronic verification sources confirm their income, immigration status and Social Security Numbers (SSNs).

The Authority automatically reviews applicants' eligibility first for Medicaid and then for CHIP if they are ineligible for Medicaid. Children in low-income families who are ineligible for Medicaid are enrolled in CHIP under the state CHIP plan. Washington has also elected to cover the pre-natal period of some low-income pregnant women under the state CHIP plan.

CHIP clients must be either U.S. citizens or qualified noncitizens, and their eligibility is based on self-attested income in their applications; therefore, clients with verified citizenship and SSNs would be determined eligible if their reported income was between 210% and 312% of the federal poverty level.

Once the Authority determines clients' initial eligibility, their start date is recorded as the first of the month in which their application was submitted, thus allowing for payments prior to approval

to be processed after the fact. Children found eligible for medical assistance remain continuously eligible for a full 12 months, regardless of any changes in their household income or third-party liability. Households must report financial and nonfinancial changes, but these will not render them ineligible during the continuous eligibility period. However, if recipients' household income decreases, the Authority can move children to a more favorable program, such as Medicaid, to eliminate the premium payment requirements. Termination during the continuous eligibility period is acceptable only for the following reasons:

- Changes in residency (permanent move out of state)
- Death
- Fraud (unless it is going to prosecution)
- Failure to pay the premium in excess of three months
- The child turns 19 years old (remains eligible through the end of their birth month)
- After the end of the month in which the 60-day postpartum period ends for pregnant women
- When a client requests to be removed from the program

In response to the COVID-19 pandemic, the Center for Medicare and Medicaid Services (CMS) approved waivers and disaster relief state plan amendments (SPA), effective March 1, 2020, through the end of the public health emergency declaration, allowing flexibilities to ensure the continuity of coverage through the public health emergency. The waivers and SPA allowed the Authority to implement flexibilities, including the following:

- Allow self-attestations for all eligibility requirements, excluding citizenship and immigration status, on a case-by-case basis
- Extend the redetermination timeline for current CHIP enrollees in the state to maintain continuity of coverage as permissible.

From the start of the pandemic, CMS kept an ongoing Frequently Asked Questions (FAQs) document to aid state Medicaid and CHIP agencies in their response to COVID-19, including guidance on eligibility, benefits and financing regarding the pandemic. This document was finalized on January 6, 2021.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Authority did not have adequate internal controls to ensure clients were eligible for CHIP.

We used a statistical sampling method to randomly select and examine 59 out of a total population of 89,527 clients who had a federally verified SSN.

We also used a statistical sampling method to randomly select and examine 59 out of a total population of 7,187 clients who did not have a federally verified SSN.

For the sample of clients who had a verified SSN, we identified:

- One instance where a client aged out of services and was not referred to HealthPlan Finder in order to be redetermined eligible for Medicaid during the COVID-19 pandemic as required.

For the sample of clients who did not have a federally verified SSN, we identified:

- One instance where the Authority did not ensure that a client had a valid SSN or appropriate citizenship to be eligible for CHIP services.
- Two instances where the Authority continued CHIP coverage for clients after the allowable postpartum period.

We consider this internal control deficiency to be a material weakness.

This issue was not reported as a finding in the prior audit.

Cause of Condition

During the pandemic there was changing guidance from CMS and the Authority chose not to remove clients from CHIP even when they aged out of coverage. In addition, the Authority claims a system alert generation error was the cause for the client who was missing a valid SSN and HCA staff were not notified by the system to follow-up on this SSN verification.

Effect of Condition and Questioned Costs

By not having adequate internal controls, the Authority is at risk of not detecting or preventing ineligible payments of federal CHIP funds on behalf of recipients. We determined the following questioned costs:

Audit Area	Known questioned costs (state and federal)	Known questioned costs – federal portion only	Likely improper payments (state and federal)	Likely improper payments – federal portion only
Verified SSNs	\$3,992	\$3,992	\$6,058,049	\$6,058,049
Non-Verified SSNs	\$7,961	\$6,252	\$969,792	\$761,593
Totals	\$11,953	\$10,244	\$7,027,841	\$6,819,642

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3).

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Authority:

- Implement internal controls to ensure all clients meet CHIP eligibility requirements
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Authority’s Response

The Authority will work with its federal partners to understand the interpretation of claiming CHIP federal dollars when youth age out of the program and what is allowable. The policy information over the course of the public health emergency has changed several times and we will work to ensure clear policy guidance from CMS as Washington believes this policy could be supported by its CHIP disaster state plan or an 1115 waiver.

The Authority’s finance team will work to ensure it has internal processes in place during staff turnover events and that the journal vouchers are completed for any cases where CHIP dollars are used during the postpartum period.

The Authority’s eligibility team is working with the Department of Social and Health Services’ systems division to understand the system issue that caused alerts to not generate on cases where SSN verification needs follow up.

Auditor’s Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority’s corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.1 Definitions, states in part:

Improper payment means:

- 2) Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other *legally applicable* requirements.
 - (iv) Incorrect amounts are overpayments or underpayments that are made to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and duplicate payments). An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Note 1 to paragraph (1)(i) of this definition. Applicable discounts are only those discounts where it is both advantageous and within the agency's control to claim them.

- (v) When an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment should also be considered an improper payment. When establishing documentation requirements for payments, agencies should ensure that all documentation requirements are necessary and should refrain from imposing additional burdensome documentation requirements.
- (vi) Interest or other fees that may result from an underpayment by an agency are not considered an improper payment if the interest was paid correctly. These payments are generally separate transactions and may be necessary under certain statutory, contractual, administrative, or other legally applicable requirements.
- (iv) A “questioned cost” (as defined in this section) should not be considered an improper payment until the transaction has been completely reviewed and is confirmed to be improper.

- (v) The term “payment” in this definition means any disbursement or transfer of Federal funds (including a commitment for future payment, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.
- (vi) The term “payment” includes disbursements made pursuant to prime contracts awarded under the Federal Acquisition Regulation and Federal awards subject to this part that are expended by recipients.

(2) See definition of improper payment in OMB Circular A-123 appendix C, part I A (1) “What is an improper payment?” Questioned costs, including those identified in audits, are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A-123 appendix C.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total

costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 42 *U.S. Code of Federal Regulations (CFR) Public Health Part 435 Subpart J, Eligibility in the States and District of Columbia* establishes the following applicable requirements:

Section 435.926 Continuous eligibility for children, states in part:

(b) ***Eligibility.*** The agency may provide continuous eligibility for the period specified in paragraph (c) of this section for an individual who is:

- (1) Under age 19 or under a younger age specified by the agency in its State plan; and
- (2) Eligible and enrolled for mandatory or optional coverage under the State plan in accordance with subpart B or C of this part.

(c) ***Continuous eligibility period.***

- (1) The agency must specify in the State plan the length of the continuous eligibility period, not to exceed 12 months.
- (2) A continuous eligibility period begins on the effective date of the individual's eligibility under § 435.915 or most recent redetermination or renewal of eligibility under § 435.916 and ends after the period specified by the agency under paragraph (c)(1) of this section.

(d) ***Applicability.*** A child's eligibility may not be terminated during a continuous eligibility period, regardless of any changes in circumstances, unless:

- (1) The child attains the maximum age specified in accordance with paragraph (b)(1) of this section;
- (2) The child or child's representative requests a voluntary termination of eligibility;
- (3) The child ceases to be a resident of the State;
- (4) The agency determines that eligibility was erroneously granted at the most recent determination, redetermination or renewal of eligibility because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative; or
- (5) The child dies.

Title 42 *Public Health* Part 457 establishes the following applicable requirements:

Section 457.342 Continuous eligibility for children, states in part:

- (a) A State may provide continuous eligibility for children under a separate CHIP in accordance with the terms of § 435.926 of this chapter, and subject to a child remaining ineligible for Medicaid, as required by section 2110(b)(1) of the Act and § 457.310 (related to the definition and standards for being a targeted low-income child) and the requirements of section 2102(b)(3) of the Act and § 457.350 (related to eligibility screening and enrollment).

Section 457.380 Eligibility verification.

- (a) General requirements. Except where law requires other procedures (such as for citizenship and immigration status information), the State may accept attestation of information needed to determine the eligibility of an individual for CHIP (either self-attestation by the individual or attestation by an adult who is in the applicant's household, as defined in § 435.603(f) of this subchapter, or family, as defined in section 36B(d)(1) of the Internal Revenue Code, an authorized representative, or if the individual is a minor or incapacitated, someone acting responsibly for the individual) without requiring further information (including documentation) from the individual.
- (b) Status as a citizen, national or a non-citizen.
 - (1) Except for newborns identified in § 435.406(a)(1)(iii)(E) of this chapter, who are exempt from any requirement to verify citizenship, the agency must –
 - (i) Verify citizenship or immigration status in accordance with § 435.956(a) of this chapter, except that the reference to § 435.945(k) is read as a reference to paragraph (i) of this section; and
 - (ii) Provide a reasonable opportunity period to verify such status in accordance with § 435.956(a)(5) and (b) of this chapter and provide benefits during such reasonable opportunity period to individuals determined to be otherwise eligible for CHIP.
 - (2) [Reserved]
- (c) State residents. If the State does not accept self-attestation of residency, the State must verify residency in accordance with § 435.956(c) of this chapter.
- (d) Income. If the State does not accept self-attestation of income, the State must verify the income of an individual by using the data sources and following standards and

procedures for verification of financial eligibility consistent with § 435.945(a), § 435.948 and § 435.952 of this chapter.

- (e) Verification of other factors of eligibility. For eligibility requirements not described in paragraphs (c) or (d) of this section, a State may adopt reasonable verification procedures, consistent with the requirements in § 435.952 of this chapter, except that the State must accept self-attestation of pregnancy unless the State has information that is not reasonably compatible with such attestation.
- (f) Requesting information. The terms of § 435.952 of this chapter apply equally to the State in administering a separate CHIP.
- (g) Electronic service. Except to the extent permitted under paragraph (i) of this section, to the extent that information sought under this section is available through the electronic service described in § 435.949 of this chapter, the State must obtain the information through that service.
- (h) Interaction with program integrity requirements. Nothing in this section should be construed as limiting the State's program integrity measures or affecting the State's obligation to ensure that only eligible individuals receive benefits or its obligation to provide for methods of administration that are in the best interest of applicants and enrollees and are necessary for the proper and efficient operation of the plan.
- (i) Flexibility in information collection and verification. Subject to approval by the Secretary, the State may modify the methods to be used for collection of information and verification of information as set forth in this section, provided that such alternative source will reduce the administrative costs and burdens on individuals and States while maximizing accuracy, minimizing delay, meeting applicable requirements relating to the confidentiality, disclosure, maintenance, or use of information, and promoting coordination with other insurance affordability programs.
- (j) Verification plan. The State must develop, and update as modified, and submit to the Secretary, upon request, a verification plan describing the verification policies and procedures adopted by the State to implement the provisions set forth in this section in a format and manner prescribed by the Secretary.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Plan Amendment Approval Letter from CMS dated July 15, 2020 states in part:

This letter is to inform you that your title XXI Children's Health Insurance Program (CHIP) state plan amendment (SPA), WA-20-0001, submitted on May 4, 2020, has been approved. This SPA has an effective date of March 1, 2020.

This amendment, as it applies to the COVID-19 public health emergency (PHE), makes the following changes beginning March 18, 2020, unless otherwise noted, through the duration of the Federally-declared PHE:

- Delay acting on changes in circumstances for CHIP beneficiaries other than the required changes in circumstances described in 42 CFR 457.342(a) cross-referencing 42 CFR 435.926(d);

COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children's Health Insurance Program (CHIP) Agencies (Last Updated January 6, 2021)

Section J. *Children's Health Insurance Program (CHIP)* states in part:

4. Can states continue coverage for the duration of the Public Health Emergency for individuals in a separate CHIP who are aging out of eligibility or ending their postpartum period?

No. The requirement in section 6008(b)(3) of the FFCRA to maintain coverage in Medicaid in order to receive the temporary increase in the Medicaid federal medical assistance percentage does not apply to separate CHIPs. Therefore, states may not continue to provide separate CHIP coverage to young adults aging out or women ending their postpartum period. If the state determines that the individual is eligible for Medicaid, they may be transitioned to the appropriate Medicaid eligibility group. States may not transition individuals to Medicaid without first determining them eligible in accordance with 42 C.F.R § 457.350(b). States are required to transfer the accounts of individuals losing CHIP eligibility who are determined to be ineligible for Medicaid to the Exchange, in accordance with 42 C.F.R § 457.350(b)(3) and (i).

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington

July 1, 2020 through June 30, 2021

2021-047 The Health Care Authority did not have adequate internal controls over and did not comply with federal provider eligibility requirements for the Medicaid and Children’s Health Insurance Program.

CFDA Number and Title: 93.767 Children’s Health Insurance Program
93.767 COVID-19 Children’s Health Insurance Program
93.775 State Medicaid Fraud Control Units
93.777 State Survey and Certification of Health Care Providers and Suppliers
93.778 Medical Assistance Program
93.778 COVID-19 – Medical Assistance Program

Federal Grantor Name: U. S. Department of Health and Human Services

Federal Award/Contract Number: 1905WA5MAP; 1905WA5ADM; 2005WA5MAP; 2005WA5ADM; 2005WAINCT; 2005WAIMPL; 2105WAINCT; 2105WAIMPL; 2105WA5MAP; 2105WA5ADM; 1905WA5021; 2105WA5021

Pass-through Entity Name: None

Pass-through Award/Contract Number: None

Applicable Compliance Component: Special Tests and Provisions – Provider Eligibility (Screening and Enrollment)

Known Questioned Cost Amount: None

Background

The Health Care Authority (Authority) administers both Medicaid and the Children’s Health Insurance Program (CHIP). Medicaid is a jointly funded state and federal partnership providing coverage for about 2.1 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington’s largest public assistance program and usually accounts for about one third of the state’s federal expenditures. CHIP provides health coverage for more than 50,000 children in families with incomes too high to qualify for Medicaid. During fiscal

year 2021, the Medicaid program spent over \$15.3 billion in federal and state funds, and CHIP spent more than \$384 million in federal and state funds.

The Authority ensures medical providers for both programs are eligible to provide services for clients. Providers must continue to meet eligibility requirements in order to receive payments under the programs. Washington had more than 129,000 participating providers during fiscal year 2021. During that time, the Authority paid more than \$10.6 billion to providers for direct client services under the programs.

The Authority is responsible for performing screening measures appropriate for the provider type at application and initial enrollment. Federal regulations require state Medicaid agencies to revalidate the enrollment of all Medicaid and CHIP providers at least every five years. In order to meet this requirement the Authority has implemented an automated revalidation notification process that is supposed to send a revalidation letter to providers in time for them to be revalidated before they reach the end of the five-year period. Federal law also requires state Medicaid agencies to check federal databases at least monthly to confirm the identity and exclusion status of providers, as well as any person with ownership, controlling interest, or acting as an agent or managing employee of the provider.

The processes for provider enrollment and revalidation are very similar. The first step in both processes is to determine the provider's screening risk level. A provider can be designated as one of three risk levels: limited, moderate or high. Each risk level requires progressively greater scrutiny of the provider before it can be enrolled or revalidated. For providers enrolled with both Medicare and Medicaid, state Medicaid agencies must assign providers to the same or higher risk category applicable under Medicare. Additionally, certain provider behaviors require them to be moved to a higher screening level. The following are the required screening procedures for all risk types:

- Verify that the provider meets applicable federal regulations or state requirements for the provider type before making an enrollment determination
- Conduct license verifications, including for licenses in states other than where the provider is enrolling
- Conduct database checks to ensure providers continue to meet the enrollment criteria for their provider type. Such database checks include the National Plan and Provider Enumeration System (NPPES), List of Excluded Individuals/Entities (LEIE), Excluded Parties List System (EPLS), and Death Master File index.

If state Medicaid agencies assess providers at a moderate or high risk, they are required to conduct onsite visits for those that did not have one as part of their Medicare enrollment. Federal regulations require a high-risk provider, or a person with a 5 percent or more direct or indirect ownership in the provider, to receive a fingerprint-based criminal background check. The deadline to fully implement a fingerprint-based criminal background check process was July 1, 2018.

The Authority is also responsible for ensuring that providers obtain the proper signed attestations and disclosures. For servicing only providers, a direct link must be made to a billing provider who has an active Core Provider Agreement (CPA) on file. A CPA contains the required attestation and disclosures of the billing provider to allow for the payment of medical claims.

To ensure the Authority has completed all applicable screening and enrollment or revalidation steps before enrolling or revalidating providers, staff members use checklists for each enrollment and revalidation. The staff member signs and dates the checklist to indicate the provider is eligible to render services and receive payments.

In response to the COVID-19 pandemic, the Authority obtained flexibilities under blanket waivers approved by the Centers for Medicare and Medicaid Services (CMS), which were effective March 1, 2020, through the end of the emergency declaration period. These included the waiving of provider application fees and fingerprint-based criminal background checks. The CMS waivers also allowed for expedited processing of any new or pending provider applications, as well as the postponement of all revalidation actions until November 1, 2020.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Authority did not have adequate internal controls over and did not comply with requirements to ensure it revalidated providers every five years and met screening requirements. The prior finding numbers were 2020-046, 2019-048, 2018-042, 2017-033, and 2016-035.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal provider eligibility requirements for the Medicaid and CHIP programs.

During the audit period, the Authority processed 7,406 new provider enrollments. During this same period, the Authority was required to perform ongoing eligibility determinations for 122,056 active providers. We used a statistical sampling method to randomly select and examine 59 newly enrolled providers and 59 active providers to determine if the Authority properly screened them based on their enrollment status and correctly determined their eligibility status. Of the 118 providers examined, we found six instances (5 percent) when the Authority did not take the appropriate actions to ensure providers met eligibility requirements. Specifically, we found:

- Staff did not conduct a proper license check for three providers. For two of these providers, a proper license check would have led staff to identify that the providers had expired licenses and, therefore, were ineligible.

- Staff enrolled two servicing only providers without properly reviewing them to ensure they were attached to a billing provider with a valid CPA. Because the billing provider did not have a CPA, the two servicing providers were improperly enrolled.
- One provider had been designated a moderate risk and required an onsite visit. However, staff did not conduct an onsite visit and only performed limited risk screening procedures.

Additionally, we found staff did not complete enrollment checklists for two newly enrolled providers. A provider should not be enrolled or remain in active status without staff completing all proper enrollment and ongoing screening steps.

To determine if the Authority had revalidated providers every five years or had taken actions to deactivate providers, we used a statistical sampling method to randomly select and examine 57 out of a total population of 1,058 providers that had a revalidation due date during the audit period. We found the Authority did not comply with the revalidation requirements for all 57 (100 percent) of the sampled providers. Though many providers were subsequently revalidated, the Authority did not complete the revalidations before the due date. For providers that were deactivated, the Authority did not process their deactivation until 30 days after their eligibility end date.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

Although the Authority has established internal controls over screening and enrolling providers, they were ineffective for preventing or detecting noncompliance. Management also did not ensure staff consistently followed the procedures in place.

Additionally, the automated revalidation notification was inadequate for ensuring the Authority complied with the five-year revalidation requirement. To comply with this requirement, the Authority should notify providers about their revalidations and ensure they are started and completed before the due date. Our audit found that the Authority's automated system is designed to notify providers of their revalidations one day after the due date. Due to this inadequate system design, the providers' revalidations were completed after the due date.

Effect of Condition

By not conducting required licensing, screening, and enrollment processes in a timely manner, the Authority is at risk of not detecting or preventing ineligible providers from providing services to clients and receiving federal Medicaid and CHIP funds. Payments to providers who are ineligible are unallowable, and the Authority could be required to repay the grantor for these payments.

Recommendations

We recommend the Authority:

- Strengthen internal controls to ensure providers are adequately screened, licensed, enrolled, and eligible to provide and bill for services
- Implement internal controls designed to bring it into material compliance with the provider revalidation process

Authority's Response

The Authority will strengthen internal controls to ensure providers are adequately screened, licensed, enrolled, and eligible to provide and bill for services. The Authority will update its automated system to ensure the notifications are sent to allow the revalidations to be completed within the five-year deadline.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will follow up on the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 42 *U.S. Code of Federal Regulations (CFR) Part 433, State Fiscal Administration, Subpart F, Refunding of Federal Share of Medicaid Overpayments to Providers* states in part:

Section 433.300 Basis.

This subpart implements -

- (a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.
- (b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

- (a) *General rule.* The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.
- (b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.
- (c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of -
 - (1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;
 - (2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the Medicaid agency; or
 - (3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.
- (d) *Overpayments resulting from fraud.*
 - (1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.
 - (2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.
 - (3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred a provider's case to the Medicaid fraud control unit, or

appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

- (e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.
- (f) *Effect of changes in overpayment amount.* Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:
 - (1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.
 - (2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.
- (g) *Effect of partial collection by State.* A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.
- (h) *Effect of administrative or judicial appeals.* Any appeal rights extended to a provider do not extend the date of discovery.

Title 42 U.S. Code of Federal Regulations section 438 Subpart H – Additional Program Integrity Safeguards, states in part:

Section 438.602 State responsibilities.

- (a) Monitoring contractor compliance. Consistent with § 438.66, the State must monitor the MCO's, PIHP's, PAHP's, PCCM's or PCCM entity's compliance, as applicable, with §§ 438.604, 438.606, 438.608, 438.610, 438.230, and 438.808.
- (b) Screening and enrollment and revalidation of providers.
 - (1) The State must screen and enroll, and periodically revalidate, all network providers of MCOs, PIHPs, and PAHPs, in accordance with the requirements of part 455, subparts B and E of this chapter. This requirement extends to PCCMs and PCCM entities to the extent the primary care case manager is not otherwise enrolled with the State to provide services to FFS beneficiaries. This provision does not require the network provider to render services to FFS beneficiaries.
 - (2) MCOs, PIHPs, and PAHPs may execute network provider agreements pending the outcome of the process in paragraph (b)(1) of this section of up to 120 days, but must terminate a network provider immediately upon notification from the State that the network provider cannot be enrolled, or the expiration of one 120 day period without enrollment of the provider, and notify affected enrollees.
- (c) Ownership and control information. The State must review the ownership and control disclosures submitted by the MCO, PIHP, PAHP, PCCM or PCCM entity, and any subcontractors as required in § 438.608(c).
- (d) Federal database checks. Consistent with the requirements at § 455.436 of this chapter, the State must confirm the identity and determine the exclusion status of the MCO, PIHP, PAHP, PCCM or PCCM entity, any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee of the MCO, PIHP, PAHP, PCCM or PCCM entity through routine checks of Federal databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), and any other databases as the State or Secretary may prescribe. These databases must be consulted upon contracting and no less frequently than monthly thereafter. If the State finds a party that is excluded, it must promptly notify the MCO, PIHP, PAHP, PCCM, or PCCM entity and take action consistent with § 438.610(c).

Title 42 U.S. Code of Federal Regulations section 455 Subpart B – Disclosure of Information by Providers and Fiscal Agents, states in part:

Section 455.104 Disclosure by Medicaid providers and fiscal agents: Information on ownership and control.

- (a) Who must provide disclosures. The Medicaid agency must obtain disclosures from disclosing entities, fiscal agents, and managed care entities.
- (b) What disclosures must be provided. The Medicaid agency must require that disclosing entities, fiscal agents, and managed care entities provide the following disclosures:
 - (1)
 - (i) The name and address of any person (individual or corporation) with an ownership or control interest in the disclosing entity, fiscal agent, or managed care entity. The address for corporate entities must include as applicable primary business address, every business location, and P.O. Box address.
 - (ii) Date of birth and Social Security Number (in the case of an individual).
 - (iii) Other tax identification number (in the case of a corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) or in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a 5 percent or more interest.
 - (2) Whether the person (individual or corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a 5 percent or more interest is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling.
 - (3) The name of any other disclosing entity (or fiscal agent or managed care entity) in which an owner of the disclosing entity (or fiscal agent or managed care entity) has an ownership or control interest.

(4) The name, address, date of birth, and Social Security Number of any managing employee of the disclosing entity (or fiscal agent or managed care entity).

(c) When the disclosures must be provided -

(1) Disclosures from providers or disclosing entities. Disclosure from any provider or disclosing entity is due at any of the following times:

(i) Upon the provider or disclosing entity submitting the provider application.

(ii) Upon the provider or disclosing entity executing the provider agreement.

(iii) Upon request of the Medicaid agency during the re-validation of enrollment process under § 455.414.

(iv) Within 35 days after any change in ownership of the disclosing entity.

(2) Disclosures from fiscal agents. Disclosures from fiscal agents are due at any of the following times:

(i) Upon the fiscal agent submitting the proposal in accordance with the State's procurement process.

(ii) Upon the fiscal agent executing the contract with the State.

(iii) Upon renewal or extension of the contract.

(iv) Within 35 days after any change in ownership of the fiscal agent.

(3) Disclosures from managed care entities. Disclosures from managed care entities (MCOs, PIHPs, PAHPs, and HIOs), except PCCMs are due at any of the following times:

(i) Upon the managed care entity submitting the proposal in accordance with the State's procurement process.

(ii) Upon the managed care entity executing the contract with the State.

(iii) Upon renewal or extension of the contract.

(iv) Within 35 days after any change in ownership of the managed care entity.

- (4) Disclosures from PCCMs. PCCMs will comply with disclosure requirements under paragraph (c)(1) of this section.
- (d) To whom must the disclosures be provided. All disclosures must be provided to the Medicaid agency.
- (e) Consequences for failure to provide required disclosures. Federal financial participation (FFP) is not available in payments made to a disclosing entity that fails to disclose ownership or control information as required by this section

Title 42 *U.S. Code of Federal Regulations* section 455 Subpart E – Provider Screening and Enrollment, states in part:

Section 455.410 Enrollment and screening of providers

- (a) The State Medicaid agency must require all enrolled providers to be screened under to this subpart.
- (b) The State Medicaid agency must require all ordering or referring physicians or other professionals providing services under the State plan or under a waiver of the plan to be enrolled as participating providers.
- (c) The State Medicaid agency may rely on the results of the provider screening performed by any of the following:
 - (1) Medicare contractors.
 - (2) Medicaid agencies or Children's Health Insurance Programs of other States.

Section 455.412 Verification of provider licenses

The State Medicaid agency must -

- (a) Have a method for verifying that any provider purporting to be licensed in accordance with the laws of any State is licensed by such State.
- (b) Confirm that the provider's license has not expired and that there are no current limitations on the provider's license.

Section 455.414 Revalidation of enrollment

The State Medicaid agency must revalidate the enrollment of all providers regardless of provider type at least every 5 years.

Section 455.436 Federal database checks

The State Medicaid agency must do all of the following:

- (a) Confirm the identity and determine the exclusion status of providers and any person with an ownership or control interest or who is an agent or managing employee of the provider through routine checks of Federal databases.
- (b) Check the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the Excluded Parties List System (EPLS), and any such other databases as the Secretary may prescribe.
- (c)
 - (1) Consult appropriate databases to confirm identity upon enrollment and reenrollment; and
 - (2) Check the LEIE and EPLS no less frequently than monthly.

Section 455.450 Screening levels for Medicaid providers.

A State Medicaid agency must screen all initial applications, including applications for a new practice location, and any applications received in response to a re-enrollment or revalidation of enrollment request based on a categorical risk level of "limited," "moderate," or "high." If a provider could fit within more than one risk level described in this section, the highest level of screening is applicable.

- (a) Screening for providers designated as limited categorical risk. When the State Medicaid agency designates a provider as a limited categorical risk, the State Medicaid agency must do all of the following:
 - (1) Verify that a provider meets any applicable Federal regulations, or State requirements for the provider type prior to making an enrollment determination.
 - (2) Conduct license verifications, including State licensure verifications in States other than where the provider is enrolling, in accordance with § 455.412.
 - (3) Conduct database checks on a pre- and post-enrollment basis to ensure that providers continue to meet the enrollment criteria for their provider type, in accordance with § 455.436.

- (b) Screening for providers designated as moderate categorical risk. When the State Medicaid agency designates a provider as a “moderate” categorical risk, a State Medicaid agency must do both of the following:
 - (1) Perform the “limited” screening requirements described in paragraph (a) of this section.
 - (2) Conduct on-site visits in accordance with § 455.432.
- (c) Screening for providers designated as high categorical risk. When the State Medicaid agency designates a provider as a “high” categorical risk, a State Medicaid agency must do both of the following:
 - (1) Perform the “limited” and “moderate” screening requirements described in paragraphs (a) and (b) of this section.
 - (2)
 - (i) Conduct a criminal background check; and
 - (ii) Require the submission of a set of fingerprints in accordance with § 455.434.
- (d) Denial or termination of enrollment. A provider, or any person with 5 percent or greater direct or indirect ownership in the provider, who is required by the State Medicaid agency or CMS to submit a set of fingerprints and fails to do so may have its -
 - (1) Application denied under § 455.434; or
 - (2) Enrollment terminated under § 455.416.
- (e) Adjustment of risk level. The State agency must adjust the categorical risk level from “limited” or “moderate” to “high” when any of the following occurs:
 - (1) The State Medicaid agency imposes a payment suspension on a provider based on credible allegation of fraud, waste or abuse, the provider has an existing Medicaid overpayment, or the provider has been excluded by the OIG or another State's Medicaid program within the previous 10 years.
 - (2) The State Medicaid agency or CMS in the previous 6 months lifted a temporary moratorium for the particular provider type and a provider that was prevented from enrolling based on the moratorium applies for enrollment as a provider at any time within 6 months from the date the moratorium was lifted.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Washington Administrative Code AC 182-502-0005 Core provider agreement (CPA), states:

- (1) The agency only pays claims submitted by or on behalf of a health care professional, health care entity, supplier or contractor of service that has an approved core provider agreement (CPA) with the agency, is a performing provider on an approved CPA with the agency, or has an approved agreement with the agency as a nonbilling provider in accordance with WAC 182-502-0006.
- (2) Performing providers of services to a medical assistance client must be enrolled under the billing providers' CPA.
- (3) Any ordering, prescribing, or referring providers must be enrolled in the agency's claims payment system in order for any services or supplies ordered, prescribed, or referred by them to be paid. The national provider identifier (NPI) of any referring, prescribing, or ordering provider must be included on the claim form. Refer to WAC 182-502-0006 for enrollment as a nonbilling provider.
- (4) For services provided out-of-state, refer to WAC 182-501-0180, 182-501-0182, and 182-501-0184.
- (5) The agency does not pay for services provided to clients during the CPA application process or application for nonbilling provider process, regardless of whether the agency later approves or denies the application, except as provided in subsection (6) of this section or WAC 182-502-0006(5).
- (6) Enrollment of a provider applicant is effective on the date the agency approves the provider application.
 - (a) A provider applicant may ask for an effective date earlier than the agency's approval of the provider application by submitting a written request to the agency's chief medical officer. The request must specify the requested effective date and include an explanation justifying the earlier effective date. The chief medical officer will not authorize an effective date that is:
 - (i) Earlier than the effective date of any required license or certification; or
 - (ii) More than three hundred sixty-five days prior to the agency's approval of the provider application.
 - (b) The chief medical officer or designee may approve exceptions as follows:
 - (i) Emergency services;
 - (ii) Agency-approved out-of-state services;

- (iii) Medicaid provider entities that are subject to survey and certification by CMS or the state survey agency;
 - (iv) Retroactive client eligibility; or
 - (v) Other critical agency need as determined by the agency's chief medical officer or designee.
- (c) For federally qualified health centers (FQHCs), see WAC 182-548-1200. For rural health clinics (RHCs), see WAC 182-549-1200.
- (d) Exceptions granted under this subsection (6) do not supersede or otherwise change the agency's timely billing requirements under WAC 182-502-0150.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-048 The Health Care Authority did not have adequate internal controls over and did not comply with managed care financial audit requirements.

CFDA Number and Title:	93.767 Children’s Health Insurance Program 93.767 COVID-19 Children’s Health Insurance Program 93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers 93.778 Medical Assistance Program 93.778 COVID-19 – Medical Assistance Program
Federal Grantor Name:	Department of Health and Human Services
Federal Award/Contract Number:	1905WA5MAP; 1905WA5ADM; 2005WA5MAP; 2005WA5ADM; 2005WAINCT; 2005WAIMPL; 2105WAINCT; 2105WAIMPL; 2105WA5MAP; 2105WA5ADM; 1905WA5021; 2105WA5021
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions – Managed Care Financial Audit
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority) administers both Medicaid and the Children’s Health Insurance Program (CHIP). Medicaid is a jointly funded state and federal partnership providing coverage for about 2.1 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington’s largest public assistance program and usually accounts for about one third of the state’s federal expenditures. CHIP provides health coverage for more than 50,000 children in families with incomes too high to qualify for Medicaid. During fiscal year 2021, the Medicaid program spent over \$15.3 billion in federal and state funds, and CHIP spent more than \$384 million in federal and state funds.

Managed Care Organizations (MCO) contract with the Authority under a comprehensive risk contract to provide prepaid health care services to eligible enrollees under their managed care programs. In fiscal year 2021, the Authority contracted with five MCOs.

Federal regulations require contracts between states and MCOs include a requirement that MCOs annually submit an audited financial report to the state. These audits must be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards.

At least once every three years, the Authority must conduct or contract for an independent audit of the accuracy, truthfulness, and completeness of the encounter and financial data submitted by each MCO. The Authority must also post these audit results on its website. These requirements went into effect for contract years starting after July 1, 2017.

In fiscal year 2021, the Authority paid over \$8.6 billion to MCOs for Medicaid and CHIP services.

Federal regulations require recipients to establish and follow internal controls that ensure compliance with program requirements. These controls include understanding program requirements and monitoring the effectiveness of established controls.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with managed care financial audit requirements.

Audited financial reports

The Authority did not include this requirement in its MCO contracts, and it did not have internal controls in place to ensure it complied with the requirement to collect financial reports.

The Authority did not obtain any audited financial reports from the MCOs.

Periodic audits

The Authority did not establish internal controls to ensure it complied with the periodic audit requirement of MCO encounter and financial data.

To meet the periodic audit requirements, the Authority would have needed to complete MCO audits of both the encounter and financial data by December 31, 2020. The Authority did not complete these audits by the deadline.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The audited financial reports and periodic audits were new requirements that became applicable for the MCO contracts beginning January 2018. The Authority did not have policies or procedures on collecting audited financial reports or on how and when to perform periodic audits. While the Authority was in the process of implementing procedures for meeting these requirements, the implementation was delayed because of staff turnover in the leadership of the unit in charge.

Effect of Condition

By not collecting the audited financial reports and conducting periodic audits, the Authority increases its risk of relying on inaccurate or incomplete information. This could lead to an increased risk of making improper payments and reduced public transparency. The Authority could also be subject to sanction by the federal grantor for not meeting Medicaid requirements.

Recommendations

We recommend the Authority:

- Implement policies and procedures over obtaining audited financial reports
- Implement policies and procedures over conducting required periodic audits
- Update its contract language to include the requirement for MCOs to submit required reports
- Establish a process to ensure it collects audited financial reports annually
- Establish a process to conduct audits of encounter and financial data at least once every three years

Authority's Response

The authority concurs with the recommendations and has taken the following steps:

- *Amended managed care contracts to require annual submission of audited financial reports. The amended contract language directs managed care organizations when and where to submit audited financial reports. Failure to submit reports is sanctionable.*
- *Conducted an encounter data validation audit and began a financial report validation audit. Processes have been established to ensure that audits will be conducted no less than once every three years.*

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective actions during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The

auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 42 *U.S. Code of Federal Regulations* Part 483, *Requirements for States and Long Term Care Facilities* establishes the following applicable requirements:

Section 483.3 Standard Contract Requirements states in part:

- (m) *Audited financial reports.* The contract must require MCOs, PIHPs, and PAHPs to submit audited financial reports specific to the Medicaid contract on an annual basis. The audit must be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards.

Section 483.600 Statutory basis, basic rule, and applicability states in part:

- (c) *Applicability.* States will not be held out compliance with the following requirements of this subpart prior to the dates noted below so long as they comply with the corresponding standard(s) in 42 CFR part 438 contained in the CFR, parts 430 to 481, edition revised as of October 1, 2015:
 - (1) States must comply with §§ 438.602(a), 438.602(c) through (h), 438.604, 438.606, 438.608(a), and 438.608(c) and (d), no later than the rating period for contracts starting on or after July 1, 2017.

Section 483.602 State Responsibilities states in part:

- (e) *Periodic audits.* The State must periodically, but no less frequently than once every 3 years, conduct, or contract for the conduct of, an independent audit of the accuracy, truthfulness, and completeness of the encounter and financial data submitted by, or on behalf of, each MCO, PIHP or PAHP.
- (g) *Transparency.* The State must post on its Web site, as required in § 438.10(c)(3), the following documents and reports:
 - (1) The MCO, PIHP, PAHP, or PCCM entity contract.
 - (2) The data at § 438.604(a)(5).
 - (3) The name and title of individuals included in § 438.604(a)(6).
 - (4) The results of any audits under paragraph (e) of this section.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-049 The Department of Social and Health Services, Developmental Disabilities Administration, did not have adequate internal controls over and did not comply with requirements to ensure Medicaid payments to supported living providers were allowable and adequately supported.

CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers 93.777 COVID-19 – State Survey and Certification of Health Care Providers and Suppliers 93.778 Medical Assistance Program 93.778 COVID-19 – Medical Assistance Program
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award:	1905WA5MAP; 1905WA5ADM; 2005WA5MAP; 2005WA5ADM; 2005WAINCT; 2005WAIMPL; 2105WAINCT; 2105WAIMPL; 2105WA5MAP; 2105WA5ADM
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	\$251,573,081

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 2.1 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and usually accounts for about one-third of the state's federal expenditures. The program spent about \$15.3 billion in federal and state funds during fiscal year 2021.

The Department of Social and Health Services' (Department) Developmental Disabilities Administration administers the Home and Community-Based Services (HCBS) program for people with developmental disabilities. The HCBS is a waiver program that permits states to provide an array of community-based services to help Medicaid clients live in the community and

avoid institutionalization. States have broad discretion to design waiver programs, but they must be approved by the Centers for Medicare and Medicaid Services (CMS).

Supported living services support Medicaid clients to live in their own homes, generally with one to three other people, and receive instruction and support delivered by contracted service agencies (providers). Supported living clients pay their own rent, food and other personal expenses. Supported living is an option under the HCBS Core and Community Protection waivers. In fiscal year 2021, the state Medicaid program paid about \$601 million in federal and state funds to supported living agencies that provided care to about 4,000 Medicaid clients.

Client assessment, Person-Centered Service Plan, and tiered rate

The Department uses a rate assessment tool to evaluate client support needs to live in the community. With this assessment, the Department develops a Person-Centered Service Plan (PCSP) to determine the support and instruction a client is expected to receive. The economies of scale are applied to the assessed level of care generated by the rate assessment tool to produce a daily rate in one of nine tiers that is paid to the supported living agency. The tiered rate is comprised of two components: payment for direct client services (known as instruction and support services, ISS) and administrative (known as non-ISS). A tiered rate methodology is used to allow providers more flexibility in delivering services to clients. A daily tiered rate is loaded into the Department's payment system, and providers claim payment for each day they provide services to the clients. The supported living agency is contractually obligated to fulfill the client's support needs outlined in the PCSP.

Cost report and settlements

Providers are required to prepare and submit a cost report at the end of each calendar year, with each cost report covering the last six months of one fiscal year and the first six months of the next fiscal year. Providers must attest to the accuracy of the reported information. The Department uses the cost report information to:

- Provide program cost data to regional managers and residential providers;
- Determine settlements with supported living providers;
- Provide accountability and transparency for the use of public funds.

In the HCBS waiver, the Department states it reconciles purchased support services with provided support services for the calendar year. Using the cost report, the Department calculates settlements to determine if the provider received more reimbursement for ISS care than what it paid to its employees who provided the client care. Department policy states that when staff reviews a cost report to determine if a settlement is required, the following will be verified:

- a. All sections of the cost report are complete;
- b. The information in Residential Rates for Developmental Disabilities (RRDD) matches the ProviderOne payment report;

- c. The report conforms with generally accepted accounting principles;
- d. The report meets the requirements of the provider's contract; and
- e. Expenses are accurately reported.

If the provider does not spend all ISS reimbursement funds on costs to provide direct care to clients, then it is required to pay the Department back the difference. In the HCBS waiver, the Department states that there is no settlement for administrative or indirect client support costs.

Cost report payroll verifications

The Department conducts payroll verifications of the cost report for selected providers to determine the accuracy and reasonableness of the self-attested expenditures reported. Before verifying payroll, the Department requires the provider to submit supporting documentation, including detailed payroll cost support for two to three months of the calendar year. Department staff review the provider's detailed support, which shows that it only used ISS funds received from the Department to provide ISS care. The Department's ISS Payroll Verification Process guide outlines the payroll verification process and the documents providers must maintain to support expenditures recorded on their cost reports. The guide states:

- The payroll summary must include detail for employees who performed direct support.
- The payroll data must be by employee with job titles.
- The providers are responsible for demonstrating how their records tie to the amounts reported on the cost reports.
- If payroll summaries do not match amounts providers reported on the cost reports, then the Department will review additional months up to the entire calendar year.

Provider documentation requirements

According to Department policy, providers are required to maintain detailed payroll records to verify the cost of services provided to clients. Upon request, the providers must provide job descriptions for employees who are allocated to both ISS and non-ISS duties. Providers must retain detailed monthly or quarterly payroll and supporting records that support the amounts on their cost reports.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure payments to supported living providers were allowable.

The finding numbers were 2020-051, 2019-054, 2018-058, 2017-044, 2016-041, 2016-045, 2015-049, 2015-052, 2014-041, 2014-042, 2013-036, 2013-038 and 2012-039.

After the fiscal year 2019 audit, the grantor, the Center for Medicaid and CHIP Services (CMS), issued a management decision letter in which it requested “the state provide documentation that shows an adequate payment review process was implemented that occurs more frequently than once a year,” and it requested the state repay the questioned costs identified in the finding. After the fiscal year 2020 audit, CMS requested that the state provide documentation that justifies its position on current adequate internal controls regarding Medicaid payments to supported living providers, and it requested the state also repay the questioned costs from that finding.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure Medicaid payments to supported living providers were allowable and adequately supported.

July 1 to December 31, 2020

Cost reports and settlements – completed during audit period

The Department reconciled and settled all of the 132 cost reports it received during this period. Of these reports, 78 were completed during the audit period, but they did not receive a payroll verification. For calendar year 2020, the Department did not require documentation to support the self-attested provider costs. Because of the Department’s insufficient monitoring activity, we determined the cost report reconciliation and settlement process was insufficient for ensuring payments made to providers for ISS care were for allowable activities and met cost principles.

Cost report payroll verifications

During the audit period, the Department verified payroll for 54 providers for calendar year 2020. We randomly selected 11 of these providers to review and found:

- Two of the 11 providers (18 percent) did not provide adequately detailed documentation to support the cost report amounts.
- Two of the 11 providers (18 percent) that the Department had identified as not having adequate documentation to support the cost report amounts. The Department adjusted the annual settlement calculation for both providers and neither resulted in provider repayment. Even though the Department identified these providers as not having adequate documentation to support their self-attested expenditures, staff did not conduct further review to ensure the remaining expenditures on their cost reports were allowable.

We also identified additional issues in the cost report review process that Department staff had performed:

- The cost report payroll verifications only cover 6.8 to 10.2 percent of all months of payments in calendar year 2020. This is insufficient coverage in our judgment.
- Ten of the providers (91 percent) included overtime and seven of the providers (64 percent) included bonus payments in their ISS payroll expenditures. Department policy allows overtime and bonus payroll expenditures to be included as support for cost reports, but these are not factors considered in the tiered rate calculation. We do not believe this is appropriate because considering overtime and bonus dollars to be the same as regular pay dollars does not accurately reflect the services being provided to clients.

We do not consider these reviews effective for ensuring providers' self-attested expenditures on the cost reports were allowable and supported.

January 1 to June 30, 2021

Because cost reports and payroll verifications are prepared on a calendar year basis, the Department had not collected the reports and verified payroll for 2021 by the end of the audit period. The Department did not perform any other systematic review of these expenditures; therefore, we determined the Department did not have sufficient controls over this requirement during this period.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

Management believed that when the Department switched to using a tiered rate system, the level of monitoring it was conducting was sufficient for meeting federal requirements. However, the grantor has since informed the Department that it must implement an adequate payment review process that occurs more than once a year, but management has chosen not to do so.

Cost reports and settlements

The Department does not require providers to submit supporting documentation with their cost reports. Instead, the Department allows self-attested payroll expenditures as adequate support for the cost report settlements.

Cost report payroll verifications

Management said the Department made adjustments to the provider settlements summary when ISS expenditures did not have adequate supporting documentation. These adjustments did not result in provider repayments, and the Department determined no additional review was necessary. Additionally, while there was indication of supervisory reviews, they were ineffective because they did not consistently detect incorrect payroll verification.

Effect of Condition and Questioned Costs

Without establishing an adequate payment review process, the Department had little assurance that it used program funds only for allowable purposes and payments to providers were adequately supported.

We are questioning:

Payments made from July 1, 2020, through December 31, 2020

Cost reports and settlements

- \$168,337,796 in ISS payments made to 78 providers for which the Department did not verify payroll. The federal share of these questioned costs is \$94,605,841.

Cost report payroll verification

- \$324,909 in ISS payments for four providers that did not have adequate documentation to support payroll expenditures on the payroll verifications we tested. We used a nonstatistical sampling method and are reporting likely questioned costs of \$1,595,006. The federal share of these questioned costs is \$182,599 known and \$896,393 likely.

Payments made from January 1, 2021, through June 30, 2021

We are questioning all \$278,976,230 in supported living payments during this period. The federal share of these questioned costs is \$156,784,641.

Summary of questioned costs

The table below summarizes, by audit area, the known questioned costs and likely improper payments:

Audit Area	Known Questioned Costs (State and Federal)	Known Questioned Costs (Federal Portion Only)	Likely Improper Payments (State and Federal)	Likely Improper Payments (Federal Portion Only)
Costs reports reconciled, but no payroll verification performed	\$168,337,796	\$94,605,841	\$168,337,796	\$94,605,841
Cost reports with payroll verification conducted	\$324,909	\$182,599	\$1,595,006	\$896,393
Expenditures with no cost reports	\$278,976,230	\$156,784,641	\$278,976,230	\$156,784,641
Totals	\$447,638,935	\$251,573,081	\$448,909,032	\$252,286,875

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Department:

- Implement an adequate payment review process that occurs more frequently than once a year to ensure federal funds paid to providers are used only for allowable purposes and are adequately supported
- Add detailed cost report payroll verification procedures to its policy
- Consult with its grantor about whether the questioned costs identified in the audit should be repaid

Department's Response

While the Department partially concurs with the finding and \$182,599 in questioned costs, we also respectfully dispute the remaining questioned costs (\$251,390,482) identified in the finding.

The State Auditor's Office (SAO) has questioned large portions of the Department's reimbursements for instruction and support services provided to supported living clients. This includes questioning all reimbursements from the second half of fiscal year 2021, and all costs from the first half of the fiscal year that are associated with the 78 providers who did not undergo a payroll verification review. The Department strongly disagrees that all of these costs should be

questioned. The Department had numerous internal controls in place during the fiscal year. These controls are detailed later in this response and together they provide sufficient assurance that the services paid for were provided.

It is noteworthy that the SAO did not question all the costs from the first half of the fiscal year (July 1, 2020, through December 31, 2020) that were associated with the 54 providers who were subject to the Department's payroll verification review. In fact, the SAO apparently, and appropriately, considered the Department's payroll verification process an internal control that is generally sufficient to ensure payments to supported living providers are allowable. For the 54 providers for whom the payroll review was performed, the questioned costs are comparatively small and based upon what the SAO considered to be deficiencies in specific verifications rather than an issue with the payroll verification process in general.

For the second half of the fiscal year (January 1, 2021, through June 30, 2021) the Department had the same internal control in place. That is, the Department's verifications were performed upon provider payroll from the second half of the year in exactly the same way that they were performed on payroll from the first half of the fiscal year. As the Department had the same internal control in place in both halves of the fiscal year, one would expect to see roughly similar questioned costs (relating to providers who received a payroll verification). Instead, the SAO questioned all of the costs from the second half of the fiscal year. The SAO appears therefore to have concluded that this internal control was non-existent for the second half of the year. This is neither true nor accurate. As stated above, the same internal control was in place, a control that the SAO appears to consider generally sufficient.

The reason that the SAO did not take into account this control for the second half of the year is due to the timing of their audit cycle, rather than any question regarding the sufficiency of the control. The Department reconciles payments on a calendar year basis. This is set forth in policy and is approved by CMS as part of its waiver approval process. The SAO audits on a fiscal year basis and does not consider the control activities that fall outside of their audit period. As the SAO does not take into account the payroll verification reviews that applied to the second half of the fiscal year, the Department considers the SAO's audit incomplete. This incompleteness results in the contradictory conclusion that payments over which the Department had sufficient controls were completely unallowable.

With regard to the questioned costs pertaining to the 54 providers who received a payroll verification (as in the table below), the Department did detect the costs in question.

<i>Audit Area</i>	<i>Known Questioned Costs (Federal Portion Only)</i>
<i>54 Cost reports with payroll verification conducted (7/1/20-12/31/20)</i>	<i>\$182,599</i>
<i>78 Costs reports reconciled, but no payroll verification performed (7/1/20-12/31/20)</i>	<i>\$94,605,841</i>
<i>Expenditures with no cost reports (1/1/21-6/30/21 – Cost Reports not submitted till end of calendar year)</i>	<i>\$156,784,641</i>
<i>Totals</i>	<i>\$251,573,081</i>

The Department has many significant oversight and monitoring strategies, including the payroll verification process. These oversight and monitoring strategies are as follows:

- ***Medicaid Service Verifications***

The Developmental Disabilities Administration (DDA) Quality Compliance Coordinator (QCC) team carries out Medicaid Service Verifications each month for a random sample of 79 clients who receive Medicaid services. This includes clients receiving supported living services. Clients or their legal representatives receive a service verification survey which asks if they received the services identified in their plan. If a client or their representative responds “no” to this or any other question, a member of the QCC team follows up with a phone call to determine next steps.

- ***Segregation of duties***

Service planning and service authorization are separate duties. Case managers are responsible for service planning. Resource managers are responsible for the rate assessment. There are also separate oversight processes for each of these duties. Oversight of service planning is performed by supervisors. Oversight of the rate approval process is performed by Resource Manager Supervisors and the DDA headquarters Community Residential Services Program Manager.

- ***Verification and approval process***

Resource managers complete the rate assessment. The rate assessment process applies multiple efficiencies to achieve cost effectiveness. Oversight of the rate approval process is performed by Resource Manager Supervisors and the DDA headquarters Community Residential Services Program Manager. A rate sheet (called “Exhibit C” in the contract) is generated, and the provider confirms and signs it as part of their contract. The rates are uploaded into the Health Care Authority’s ProviderOne payment system, allowing the provider to claim the authorized rate. Rates assessed as tier nine and single-person

households require an exception to policy, which is reviewed and approved by managerial staff.

- **Allowable Costs Payment Reconciliation**

Twice per year the Department reconciles the provider's payments for services provided to individual clients. There is a six-month review of payments for the first half of the calendar year and then a twelve-month review at the end of the calendar year. The final payments and cost settlement are adjusted for all variances in costs as determined by the reviews.

- **Rate, cost report, settlement, and reconciliation processes**

Supported living uses a tiered rate reimbursement methodology. The tiered rate is a daily rate for an individual client. It is based upon the client's assessed needs and economies of scale. The tier level and rate amount are calculated by algorithms established in rule. The systems involved include the Comprehensive Assessment, Review & Evaluation (CARE) tool, Residential Rates for Developmental Disabilities (RRDD), and Provider One. AL TSA and DDA staff monitor the systems and rates for accuracy. The tier methodology was reviewed and approved by CMS.

The cost report is a financial report prepared by the contracted provider that identifies the costs related to community residential habilitative services and supports provided in the calendar year. Allowable costs are detailed in DDA policy 6.04. DDA rate analysts and agency providers both receive annual training on the cost report process and accuracy in the recording of all the financial information involved. When the cost report is submitted to the Department, the provider attests to its accuracy and completeness. DDA rate analysts review the cost report, checking for accuracy and completion in accordance with generally accepted accounting rules, and DDA polices 6.02 and 6.04.

The initial review includes a checklist of instructions the analyst follows to ensure the cost report is reasonable, allowable, and completed accurately. The review includes a reconciliation of payments. The reconciliation process verifies the provider claimed the correct number of days of service and rate for every client in their contract. Reconciliation is done by comparing payments in the DDA RRDD database to those claimed in the Health Care Authority ProviderOne database. Variances are corrected in ProviderOne and on the cost report settlement when they are determined and verified by both the rate section and DDA field staff.

The cost report is not used to set rates. The cost report is used to calculate a financial settlement that compares payment revenue to actual expenses. When instruction and support services (ISS) payment revenue is more than the ISS expenses, a settlement is

generated. The provider returns the amount owed (per the settlement) to the Department's Office of Financial Recovery (OFR).

- **Payroll verification process**

A sample of providers is required to submit payroll records that support the instruction and support services (ISS) expenses claimed on the cost report. In FY21 roughly 40% of providers were included in the sample. The samples are selected in mid-March, and the review process begins in mid-April after the cost reports are submitted. Providers are given two weeks to provide payroll records. DDA's rate analyst compares the provider payroll records to the ISS expenses reported on the cost report to verify that their payroll supports their reported ISS expenses. If inaccuracies are identified, the analyst may request additional information, or that corrections be made to the documentation submitted.

- **Quality Assurance Review**

DDA's Residential Quality Assurance unit has one employee who provides technical assistance for certified community residential settings. With the transition from the legacy ISS hour-driven rate system to the person-centered assessment driven tiered rate system, a formalized and more holistic quality assurance oversight process was developed. It was implemented in July 2019. This new QA oversight approach includes routine reviews to ensure selected supports listed in clients' person-centered service plans (PCSPs) align with the supports provided.

The PCSP is the state's primary instruction to the provider for the provision of contracted services. The quality assurance staff conducts virtual reviews of the quality and quantity of service in relation to individuals' assessed needs across ten domains of the CARE tool (the tool which contains the algorithm that drives the tiered rate).

Reviews were historically conducted for approximately two providers per month. Reviews include a sample of clients across multiple homes and different service levels. Due to the COVID-19 pandemic, in FY21 no providers were reviewed.

The quality assurance staff provides recommendations if the providers' practices should be revised. This increases security and helps achieve better compliance with WAC 388-101D requirements.

The quality assurance staff provides thorough, written feedback following the review, and requests a written plan of correction from the provider. The quality assurance staff monitors to ensure all providers submit the written plan.

- **Duplicate Payment Report**

On a monthly basis the Department checks for overlapping service claims made by more than one provider for the same client – that is, payments made to a provider on the same day that there is another claim for Medicaid funding (such as a claim for services provided by a hospital). When such claims are detected the Department contacts providers to gather further information and to provide guidance. Claims and authorizations are adjusted, as necessary.

Additionally, in the ProviderOne system there is an automated system check which denies payments for multiple identical (or near identical) claims for the same client on the same day. If patterns are detected, the Department will contact providers to gather information and provide guidance.

- **Residential Care Services (RCS) certification process and DDA follow up**

RCS evaluates providers' compliance with Chapter 388-101 and 388- 101(D) WAC, and the DDA contract at minimum of every two years. RCS also monitors for evidence of working toward person-centered service plan goals and investigates complaints of provider practice and RCW 74.34 violations. Citations issued by RCS require providers to respond with plans of correction.

DDA regional staff and headquarters quality assurance staff monitor provider compliance and provide technical assistance to providers in developing plans of correction and maintaining compliance with requirements. Regional staff verify providers' compliance with their plans of correction. This is documented in the Residential Agency Tracking database on the SharePoint site.

Quality assurance staff report on citation trends monthly. Quality assurance staff review the most frequent citations quarterly, and implement systemic interventions such as training, provider messaging, and developing provider tools and resources.

- **Contract monitoring**

Headquarters quality assurance staff and regional resource managers and quality assurance staff monitor providers' performance in relation to their contract to ensure compliance.

Resource managers' contract monitoring activities are documented in the Residential Agency Tracking Database. These activities include visits to clients' homes. The number of monitoring visits is determined by various factors including the number of incident reports and technical assistance requests from the provider.

Case managers (CRMs) visit clients' homes when performing the annual DDA assessment. CRMs monitor to ensure that clients are receiving services according to their person-centered service plan and that clients' health and welfare needs are addressed. This monitoring frequency depends upon the need of the client but must occur at least every six months. The monitoring typically includes a conversation with the client and/or their legal representative.

During monitoring of services, the frequency of services and the amount of each service are reviewed to ensure the client's assessed needs are addressed. This monitoring is recorded in CARE under the "monitor plan" tab. A question on DDA's Quality Compliance Coordinator annual review checks that CRMs completed plan monitoring. This annual QCC review includes a sample of client files. For waiver and Community First Choice clients, the sample size is set to have a confidence level of 95% and an error rate of + or - 5%. For Roads to Community Living clients, the sample size is 100%.

The Residential Quality Assurance Program Manager conducts a quarterly survey to obtain information about clients' inclusion in the community. The survey is based on a random selection of 350 clients and includes clients in the supported living program.

Every six months the Residential Quality Assurance Program Manager requests current Individual Instruction and Support Plans (IISPs) and information on progress toward IISP goals for the clients identified in the above survey. This is to review the IISPs for compliance with WAC and DDA policy 5.08 (Individual Instruction and Support Plan and Risk Summary), as well as to ensure progress is being tracked for habilitative goals.

Based on the information provided above, the Department asserts that the questioned costs for this audit should amount to no more than \$182,599. The Department considers it unfortunate that the SAO did not choose a more collaborative approach aimed at assisting the Department in its quality improvement efforts. The Department has made significant changes to its processes and is interested in partnering with SAO to resolve disagreements.

The Department strongly believes that its current oversight and monitoring adequately confirms that services received by clients meet the certification standards for supported living agencies. The Department continues its efforts to bring quality services to clients who receive habilitative residential supports.

The Department has followed all requirements, including reconciling the settlement amounts that were issued to agencies in the cost report settlement process. The Department intends to send a request to CMS that the questioned costs imposed by the SAO be rescinded. The Department will be sending this request to the following divisions within CMS: Financial Policy, Program Integrity, Medicare, and Clinical Standards and Quality.

Auditor's Remarks

Broadly, one of the goals of the single audit is one of fiscal accountability – to assure the federal government that state programs follow the relevant regulations in spending public money, and that they can provide evidence they did so. Both the Department and the federal government have long been aware of the issues identified in this audit, and the federal government has concurred with previous audit findings. As in the previous nine years' audits, this year's audit found the Department did not comply with requirements to ensure Medicaid payments to supported living providers were allowable and adequately supported. For the last two years, the federal government also said the state's process for reviewing those payments was inadequate and has requested documentation to justify the Department's position. Because of its concerns, the federal government requested the state repay \$114 million and \$285 million of federal funds over the last two years.

This audit finding is a result of procedures performed to determine if the Department is compliant with federal requirements over Activities Allowed/Unallowed and Allowable Costs/Cost Principles. We considered the Department's asserted internal controls during the audit and found them to be inadequate to meet these requirements. We did not state that we believe none of the services occurred. We reported the Department did not adequately review documentation from providers or perform other procedures to determine that federal funds were only used for allowable purposes and were adequately supported, and therefore, we are required to question costs.

The Department's response includes that *“the tier methodology was reviewed and approved by CMS.”* CMS approval of provider payment methodology has no effect on the compliance requirement to ensure payments to providers are spent on allowable activities and meet cost principles. The Department received a management decision letter from CMS dated October 22, 2021 that addressed the prior year finding the Department received for this same issue (2020-051). In this letter, CMS stated:

CMS request that the state provide documentation that justifies their position on current adequate internal controls regarding Medicaid payments to supported living providers. Additionally, the state should refund the questioned costs of \$284,918,428 FFP on the next CMS 64 report.

We confirmed the Department received this letter. Therefore, the Department should be aware this guidance from CMS is in conflict with the Department's assertion that CMS approval of the tiered rate methodology relieves them of the requirement to ensure payments are used only for allowable purposes and are adequately supported.

Internal control is a perpetual process, effected by those charged with governance, management, and other employees, designed to provide reasonable assurance regarding the achievement of the entity's objectives relating to operations, reporting, and compliance. At the beginning of the audit, we requested the Department provide in writing, the key internal controls it has in place to ensure

compliance with federal requirements. We extensively reviewed each control the Department identified and determined only the cost report payroll verification process could ensure payments are used only for allowable purposes and are adequately supported. In our judgment, a review of an annual cost report does not provide the Department with reasonable assurance that federal Medicaid funds paid for ISS services were only spent for ISS services.

Even when internal controls are determined to be insufficient, we are required to test the Department's compliance with federal requirements. We examined the cost reports and tested to the requirements outlined in the Department's policy 6.04 that states providers must maintain supporting records for the amounts reported on the cost report. The Department response stated:

DDA rate analysts review the cost report, checking for accuracy and completion in accordance with generally accepted accounting rules, and DDA policies 6.02 and 6.04.

During the cost report settlement process, it is not possible to check for accuracy and completion without having supporting documentation to compare to the cost report. The Department performs the reconciliation to determine whether the provider was paid the correct daily rate, which does not ensure payments were spent on allowable activities. For the settlement process, the Department provided no evidence that the rate analysts review supporting documentation to confirm accuracy or completeness of provider self-attested expenditures. We found there is no review of these supporting records when the Department conducts the annual cost report reconciliation and settlement.

The only time the Department reviews provider supporting documentation is during the payroll verification. In its response the Department stated:

The cost report is not used to set rates. The cost report is used to calculate a financial settlement that compares payment revenue to actual expenses.

The Department cannot compare payment revenue to actual expenses when no documentation is received to verify the amount of actual expenses. In state fiscal year 2021, the Department completed audits for 54 out of 132 providers and, for the samples we tested, the Department requested and reviewed detailed level payroll expenditures. Our testing identified expenditures that were not adequately supported, resulting in questioned cost. In the instances where the Department identified expenditures without adequate support there was no provider repayment. To determine if the provider is required to repay the self-attested expenditures that were not adequately supported, the Department adjusts the settlement calculation. There is a flaw in this process because the Department is relying on the provider's self-attested expenditure total in the settlement amount, which the Department just determined were not adequately supported, to determine if repayment is necessary. The Department has determined that the provider self-attested expenditures are not adequately supported yet they are still utilizing an unreliable self-attested amount to determine if repayment is required.

The Department cited a number of oversight and monitoring activities it performs related to Supported Living agencies. While these are useful processes and may help ensure clients receive proper services, they are not focused on ensuring payments made to providers are for allowable activities or meet cost principles.

In response to the finding 2019-054, CMS informed the Department that yearly review of the cost reports was not sufficient. Even if the cost reports covering the second half of the audit period were received within the audit period, the Department would be noncompliant with federal law.

During each audit, we evaluate the changes made by the Department to determine if supported living payments are allowable and adequately supported. We will continue to review the Department's asserted controls over allowable activities and cost principles to determine its adequacy.

We reaffirm our finding and will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 42 *U.S. Code of Federal Regulations* Part 433, *State Fiscal Administration*, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers

Section 433.300 Basis.

This subpart implements -

- (a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.
- (b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.

Section 433.316 When discovery of overpayment occurs and its significance.

- (a) *General rule.* The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an

overpayment before a refund of the Federal share of an overpayment must be made to CMS.

- (b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.
- (c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -
 - (1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;
 - (2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the Medicaid agency; or
 - (3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.
- (d) *Overpayments resulting from fraud.*
 - (1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.
 - (2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.
 - (3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred a provider's case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as

required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.

- (e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.
- (f) *Effect of changes in overpayment amount.* Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:
 - (1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.
 - (2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.
- (g) *Effect of partial collection by State.* A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.
- (h) *Effect of administrative or judicial appeals.* Any appeal rights extended to a provider do not extend the date of discovery.

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.1 Definitions, states in part:

Improper payment means:

3) any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other *legally applicable* requirements.

(vii) Incorrect amounts are overpayments or underpayments that are made to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and duplicate payments). An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Note 1 to paragraph (1)(i) of this definition. Applicable discounts are only those discounts where it is both advantageous and within the agency's control to claim them.

(viii) When an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment should also be considered an improper payment. When establishing documentation requirements for payments, agencies should ensure that all documentation requirements are necessary and should refrain from imposing additional burdensome documentation requirements.

(ix) Interest or other fees that may result from an underpayment by an agency are not considered an improper payment if the interest was paid correctly. These payments are generally separate transactions and may be necessary under certain statutory, contractual, administrative, or other legally applicable requirements.

(iv) A “questioned cost” (as defined in this section) should not be considered an improper payment until the transaction has been completely reviewed and is confirmed to be improper.

(v) The term “payment” in this definition means any disbursement or transfer of Federal funds (including a commitment for future payment, such as

cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.

(vi) The term “payment” includes disbursements made pursuant to prime contracts awarded under the Federal Acquisition Regulation and Federal awards subject to this part that are expended by recipients.

(2) See definition of improper payment in OMB Circular A-123 appendix C, part I A (1) “What is an improper payment?” Questioned costs, including those identified in audits, are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A-123 appendix C.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is

material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

- (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Home and Community-Based Services Waiver, states in part:

Cost Reports:

Cost reports reconcile purchased support services with provided support services for the calendar year. Cost reports are desk audited to determine accuracy and the reasonableness of reported costs. Reported revenue received is reconciled to ProviderOne payment information to determine settlement amounts as described in DDA Policy 6.04.

Settlements are calculated by the Department staff to determine settlements per contract(s) in cases where providers' contract(s) received more reimbursement for direct support costs than was paid out.

Developmental Disabilities Administration Policy 6.02 - Rates and Other Covered Costs for Supported Living, Group Training Homes, and Group Homes, issued 01/2020, states in part:

C. Rates are payments for costs that are necessary, customary, and related to the provision of residential program instruction and support as described in chapters 388-101 and 388-101D WAC and the residential services contract.

24. Provision of Services

- a. The service provider must provide residential services assigned to the service provider in the client's person-centered service plan.
- c. The service provider must maintain a system that shows instruction and support service funds have been used to provide instruction and support services. All instruction and support services staff compensation, employer paid taxes, and benefits within each calendar year are annually reconciled to the ISS contracted rate through the cost reporting system. See DDA Policy 6.04.

Developmental Disabilities Administration Policy 6.04, Billing, Payment, and Cost Reporting for Supported Living, Group Training Homes, and Group Homes, issued 12/2019, states in part:

D. Cost Report Components

1. Instruction and Support Services

- a. If a provider reports ISS expenses beyond what is ordinary and necessary, the Department may ask the provider to explain the reported costs.
- c. Service providers must provide to DSHS upon request job descriptions for employees who are allocated in the cost report working both ISS and non-ISS duties. Payroll costs charged to ISS for cost reporting purposes must be verifiable in the service provider's records.
- e. Providers must report on their annual cost report the monthly or quarterly payroll expenses for staff that perform ISS duties (and non-ISS for those who perform both ISS & non-ISS duties). The employer must retain the detailed monthly or quarterly payroll and supporting records that support the monthly or quarterly amounts reported on the cost report as DDA may request these records.
- f. Allowable ISS Costs include:
 1. Compensation paid for ISS staff salaries, wages, stipends, training costs and other compensation for staff that are designated as ISS, and prorated for those staff whose time is split between ISS and administrative functions;

DSHS ISS Payroll Verification guidance, states in part:

Process

- Compare the Provider's final Cost Report data to the payroll documentation they submitted for ISS verification.
- Provider's reported ISS costs on schedule B should equal expenses verified by employee payroll records.
- Payroll records that do not match the 20XX Cost Report will result in an email being sent regarding the mismatch.
- Providers whose schedule B reported ISS costs exceed a 2% variance from their submitted documentation will be asked to explain the variance and provide additional documentation to support their schedule B submission.

- Providers that cannot adequately explain variances will be brought to the attention of the Reimbursement Program Manager (Lead). Actions may include but are not limited to: requesting a revised cost report, provider cost report training, and/or automatically being included in the following year's review.

Types of Supporting Documentation the Provider Must and Optionally Submit

- Description of the payroll system they use:
 - QuickBooks
 - Payroll service (ADP, Paychecks, etc.)
 - Manual
 - Other information deemed appropriate
- Payroll summary must detail for employees who performed direct support - i.e., the percent each employee performed direct support
- Payroll data must be by employee with job titles
- Provider is responsible for demonstrating how their records tie to the amounts reported on the cost report

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-050 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to ensure it performed procedures to safeguard against unnecessary utilization of care and services for the Medicaid program.

CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers 93.778 Medical Assistance Program 93.778 COVID-19 – Medical Assistance Program
Federal Grantor Name:	Department of Health and Human Services
Federal Award/Contract Number:	1905WA5MAP; 1905WA5ADM; 2005WA5MAP; 2005WA5ADM; 2005WAINCT; 2005WAIMPL; 2105WAINCT; 2105WAIMPL; 2105WA5MAP; 2105WA5ADM
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component	Special Tests and Provisions – Utilization Control and Program Integrity
Known Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 2.1 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and usually accounts for about one-third of the state's federal expenditures. The program spent over \$15.3 billion in federal and state program funds during fiscal year 2021.

Managed Care Organizations (MCO) contract with the Health Care Authority (Authority) under a comprehensive risk contract to provide prepaid healthcare services to eligible enrollees under their managed care programs. In fiscal year 2021, the Authority paid more than \$8.6 billion to MCOs for Medicaid services.

Under federal regulations, Medicaid state plans must include methods and procedures to safeguard against unnecessary utilization of care and services. The regulations require states to implement a statewide surveillance and utilization control program that:

- Safeguards against unnecessary or inappropriate use of Medicaid services and against excess payments;
- Assesses the quality of those services;
- Provides for the control of the utilization of all services provided under the plan; and
- Provides for the control of the utilization of inpatient services.

Multiple state agencies in Washington manage aspects of the Medicaid program. The agencies include the Authority, Department of Social and Health Services, Department of Health, Office of the Attorney General, and Department of Children, Youth, and Families. The Centers for Medicare and Medicaid Services (CMS) considers the Authority to be Washington's official Medicaid agency. Federal regulations require the Medicaid agency:

- (1) Monitor the statewide utilization control program;
- (2) Take all necessary corrective action to ensure the effectiveness of the program;
- (3) Establish methods and procedures to implement this section;
- (4) Keep copies of these methods and procedures on file; and
- (5) Give copies of these methods and procedures to all staff involved in carrying out the utilization control program.

Federal regulations also require the Medicaid agency have procedures for the ongoing evaluation, on a sample basis, of the need for, quality and timeliness of Medicaid services.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the last three audits, we reported the Authority did not establish adequate internal controls over and did not comply with utilization control and program integrity requirements. The prior finding numbers were 2020-047, 2020-048, 2019-052, 2019-053, and 2018-047.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with requirements to ensure it performed procedures to safeguard against unnecessary utilization of care and services for the Medicaid program.

Washington's Medicaid state plan does not include any methods and procedures to safeguard against unnecessary utilization of care and services. The Authority also did not implement and monitor a statewide surveillance and utilization control program.

The Authority has procedures for the ongoing evaluation of the need for, quality and timeliness of Medicaid services. However, payments to MCOs are not included in this evaluation. The Authority also does not monitor the procedures that MCOs and other state agencies perform.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

In the past few years, the Authority has reorganized its Program Integrity unit several times. This unit is responsible for safeguarding against unnecessary utilization of care and services for the Medicaid program. In fiscal year 2021, the unit was working on establishing policies and procedures; however, the unit did not finalize them until the end of the audit period. In conversations with management, it was not clear they understood the Authority was responsible for implementing and monitoring the statewide utilization control program, which includes overseeing and monitoring the activities of other state agencies.

Effect of Condition

By not establishing methods and procedures to safeguard against unnecessary utilization of care and services, there is an increased risk of unnecessary or inappropriate use of Medicaid services and payments.

Furthermore, the Authority did not meet federal program integrity requirements and could be subject to federal sanctions because it has not established a statewide surveillance and utilization program and does not describe its safeguarding methods and procedures in the Medicaid state plan.

Recommendations

We recommend the Authority:

- Update the Medicaid state plan with the methods and procedures it uses to safeguard against unnecessary utilization of care and services
- Implement and monitor a statewide surveillance and utilization control program
- Implement adequate internal controls to ensure it complies with utilization control and program integrity requirements

Authority's Response

The Authority does not concur that it needs to update its Medicaid state plan. The current plan includes methods and procedures used to safeguard against unnecessary utilization of care and services.

The Authority agrees that it needs to update and monitor its statewide surveillance and utilization control program. Additionally, the Authority is implementing a new fraud and abuse detection system which will include automated Surveillance and Utilization Review System (SURS) alerts.

The Authority agrees that adequate internal controls are necessary to ensure compliance with utilization control and program integrity requirements. The Authority will memorialize its current processes and procedures related to utilization control requirements.

Auditor's Remarks

We reaffirm our opinion that the Medicaid state plan does not contain the required elements in 42 CFR Subchapter C *Medical Assistance Programs* Part 456. We will follow up on the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 42 CFR Subchapter C *Medical Assistance Programs* Part 456, Utilization Control, states in part:

Section 456.1 Basis and purpose of part.

- (a) This part prescribes requirements concerning control of the utilization of Medicaid services including -
 - (1) A statewide program of control of the utilization of all Medicaid services;
- (b) The requirements in this part are based on the following sections of the Act. Table 1 shows the relationship between these sections of the Act and the requirements in this part.
 - (1) Methods and procedures to safeguard against unnecessary utilization of care and services. Section 1902(a)(30) requires that the State plan provide methods and procedures to safeguard against unnecessary utilization of care and services.

Section 456.2 State plan requirements.

- (a) A State plan must provide that the requirements of this part are met.
- (b) These requirements may be met by the agency by:
 - (1) Assuming direct responsibility for assuring that the requirements of this part are met; or

- (2) Deeming of medical and utilization review requirements if the agency contracts with a QIO to perform that review, which in the case of inpatient acute care review will also serve as the initial determination for QIO medical necessity and appropriateness review for patients who are dually entitled to benefits under Medicare and Medicaid.

Section 456.3 Statewide surveillance and utilization control program.

The Medicaid agency must implement a statewide surveillance and utilization control program that -

- (a) Safeguards against unnecessary or inappropriate use of Medicaid services and against excess payments;
- (b) Assesses the quality of those services;
- (c) Provides for the control of the utilization of all services provided under the plan in accordance with subpart B of this part; and
- (d) Provides for the control of the utilization of inpatient services in accordance with subparts C through I of this part.

Section 456.4 Responsibility for monitoring the utilization control program.

(a) The agency must -

- (1) Monitor the statewide utilization control program;
- (2) Take all necessary corrective action to ensure the effectiveness of the program;
- (3) Establish methods and procedures to implement this section;
- (4) Keep copies of these methods and procedures on file; and
- (5) Give copies of these methods and procedures to all staff involved in carrying out the utilization control program.

Section 456.5 Evaluation criteria.

The agency must establish and use written criteria for evaluating the appropriateness and quality of Medicaid services. This section does not apply to services in hospitals and mental hospitals. For these facilities, see the following sections: §§ 456.122 and 456.132 of subpart C; and § 456.232 of subpart D.

Title 42 CFR Subchapter C *Medical Assistance Programs* Part 456, Utilization Control, Subpart B, Utilization Control: All Medicaid Services states in part:

Section 456.21 Scope.

This subpart prescribes utilization control requirements applicable to all services provided under a State plan.

Section 456.22 Sample basis evaluation of services.

To promote the most effective and appropriate use of available services and facilities the Medicaid agency must have procedures for the on-going evaluation, on a sample basis, of the need for and the quality and timeliness of Medicaid services.

Section 456.23 Post-payment review process.

The agency must have a post-payment review process that -

(a) Allows State personnel to develop and review -

(1) Beneficiary utilization profiles;

(2) Provider service profiles; and

(3) Exceptions criteria; and

(b) Identifies exceptions so that the agency can correct misutilization practices of beneficiaries and providers.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-051 **The Health Care Authority did not have adequate internal controls over and did not comply with requirements to ensure it performed periodic audits of cost report data for rate setting, hospital billings and other financial and statistical records for inpatient hospital services.**

CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers 93.778 Medical Assistance Program 93.778 COVID-19 – Medical Assistance Program
Federal Grantor Name:	Department of Health and Human Services
Federal Award/Contract Number:	1905WA5MAP; 1905WA5ADM; 2005WA5MAP; 2005WA5ADM; 2005WAINCT; 2005WAIMPL; 2105WAINCT; 2105WAIMPL; 2105WA5MAP; 2105WA5ADM
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component	Special Tests and Provisions – Inpatient Hospital and Long-Term Care Facility Audits
Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 2.1 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington’s largest public assistance program and usually accounts for about one-third of the state’s federal expenditures. The program spent over \$15.3 billion in federal and state funds during fiscal year 2021.

In fiscal year 2021, the state Medicaid program paid about \$325 million to hospitals for inpatient services.

The Health Care Authority (Authority), the state Medicaid agency, pays for inpatient services to hospitals by using rates that are economic, efficient, and in accordance with the state plan. The

federal grantor requires the Authority to perform periodic audits of the financial and statistical records of participating providers as established in the state plan.

The Medicaid State Plan, Attachment 4.19, lists the financial audit requirements for establishing payment rates for inpatient hospital services. The plan states that cost report data used for rate setting, hospital billings, and other financial and statistical records will be periodically audited.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the most recent audit, we reported the Authority did not have adequate internal controls over and did not comply with requirements to ensure it periodically audited cost report data for inpatient hospital services. The prior finding number was 2020-049.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with requirements to ensure it performed periodic audits of cost report data for rate setting, hospital billings, and other financial and statistical records for inpatient hospital services.

Although the Authority did perform reconciliations of amounts paid to hospitals for inpatient services based on the amounts the facilities reported, it did not perform periodic audits of cost report data used for rate setting and hospital billings and other financial and statistical records as required in the state plan.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

The Authority did not establish policies and procedures to ensure it performed periodic audits of cost report data, hospital billings, and other financial and statistical records for inpatient hospital services.

Effect of Condition

By not ensuring that it performs periodic audits of cost report data, hospital billings, and other financial and statistical records, the Authority increases the risk that it could improperly pay for inpatient hospital services.

Recommendation

We recommend the Authority establish and implement adequate internal controls to ensure it meets federal inpatient hospital audit requirements.

Authority's Response

The Authority has implemented internal controls to ensure compliance with federal requirements over inpatient hospital and long-term care facility audits. In May 2021, the Authority implemented a procedure to determine when audits of cost reports are deemed necessary. Effective February 2022, the State Plan was amended to reflect that while audits may be performed by the Authority as it deems necessary, there is not a requirement to do so.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will follow up on the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (b) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 42 *U.S. Code of Federal Regulations* (CFR) Part 447, *Payments for Services* establishes the following applicable requirements:

Section 447.253 Other requirements states in part:

- (g) Audit requirements. The Medicaid agency must provide for periodic audits of the financial and statistical records of participating providers

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Medicaid State Plan, Attachment 4.19-A Part I Methods and Standards for Establishing Payment Rates for Inpatient Hospital Services, page 60 states in part:

3. Financial Audit Requirements Cost report data used for rate setting will be periodically audited.

In addition, hospital billings and other financial and statistical records will be periodically audited by the agency.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-052 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to report recoveries of fraudulent overpayments on the CMS-64 report.

CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers 93.778 Medical Assistance Program 93.778 COVID-19 – Medical Assistance Program
Federal Grantor Name:	U. S. Department of Health and Human Services
Federal Award/Contract Number:	1905WA5MAP; 1905WA5ADM; 2005WA5MAP; 2005WA5ADM; 2005WAINCT; 2005WAIMPL; 2105WAINCT; 2105WAIMPL; 2105WA5MAP; 2105WA5ADM
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions – Medicaid Fraud Control Unit (MFCU)
Known Questioned Cost Amount:	\$78,774

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 2.1 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and usually accounts for about one-third of the state's federal expenditures. The program spent over \$15.3 billion in federal and state funds during fiscal year 2021.

The Health Care Authority (Authority) is required to refer suspected fraud or other criminal violations to the Medicaid Fraud Control Division (MFCD) for investigation and prosecution. The Authority reports any overpayment recoveries resulting from MFCD actions on the CMS-64 report.

The CMS-64 report is the quarterly statement of Medicaid Program expenditures that agencies use to report the actual program benefit costs and administrative expenses to the Centers for Medicare

& Medicaid Services (CMS). CMS uses this information to compute the federal financial participation (FFP) for the state's Medicaid Program costs.

When MFCD completes an investigation, it sends the settlement over to the Authority for management review and signature. After a final judgement is made on an overpayment resulting from fraud, the State has 30 days to refund the entire federal share. Once the Authority receives the settlement, a Journal Voucher (JV) is created to move the federal portion of the settlement over to state-only funding, which creates a credit on the CMS-64 report.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the most recent audit, we reported the Authority did not have adequate internal controls over and did not comply with requirements to report MCFD overpayment recoveries on the CMS-64 report. The prior finding number was 2020-050.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with requirements to report recoveries of fraudulent overpayments on the CMS-64 report.

Our audit found the Authority did not create a JV to move the entire federal portion of the fraud settlement over to state-only funding or report the entire overpayment on the CMS-64 report as a credit. Instead the Authority only created JVs of the payments as they were made to the State. Additionally, the Authority did not have policies and procedures in place that described the process staff should follow for creating the JV or for reporting the MFCD overpayments on the CMS-64 report.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

Management did not implement sufficient internal controls to ensure the Authority returned recoveries of fraudulent overpayments to the grantor in a timely manner.

Effect of Condition and Questioned Costs

For fiscal year 2021, the Authority received a settlement agreement totaling \$161,050 in fraudulent overpayments. The federal portion of this amount was \$79,915. The Authority created JVs and reported \$1,141 of the \$79,915 federal portion on the CMS-64 report dated June 30, 2021. A JV for the entire federal portion should have been processed and reported on the March 31, 2021

CMS-64 report. We are questioning the costs of \$78,774 that the Authority did not report on the CMS-64 report or return to CMS, as federal regulations require.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Authority:

- Establish a formal process to ensure it properly reports recoveries of fraudulent overpayments on the quarterly CMS-64 report
- Consult with the federal grantor about whether or not the questioned costs identified in the finding should be repaid

Authority's Response

The Authority concurs with the finding. We would like to point out a small correction to the amount identified as questioned costs. The Authority has returned a total of \$1,365 in federal funds rather than the \$1,141 identified by the auditor. \$1,216 was returned in federal fiscal year 2021, and \$149 was returned in federal fiscal year 2022. This is a slight reduction of \$224 to the questioned cost amount that should total \$78,550.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will follow up on the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.1 Definitions, states in part:

Improper payment means:

- 4) Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other *legally applicable* requirements.
- (x) Incorrect amounts are overpayments or underpayments that are made to eligible recipients (including inappropriate denials of payment or service,

any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and duplicate payments). An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Note 1 to paragraph (1)(i) of this definition. Applicable discounts are only those discounts where it is both advantageous and within the agency's control to claim them.

- (xi) When an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment should also be considered an improper payment. When establishing documentation requirements for payments, agencies should ensure that all documentation requirements are necessary and should refrain from imposing additional burdensome documentation requirements.
 - (xii) Interest or other fees that may result from an underpayment by an agency are not considered an improper payment if the interest was paid correctly. These payments are generally separate transactions and may be necessary under certain statutory, contractual, administrative, or other legally applicable requirements.
 - (iv) A “questioned cost” (as defined in this section) should not be considered an improper payment until the transaction has been completely reviewed and is confirmed to be improper.
 - (v) The term “payment” in this definition means any disbursement or transfer of Federal funds (including a commitment for future payment, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.
 - (vi) The term “payment” includes disbursements made pursuant to prime contracts awarded under the Federal Acquisition Regulation and Federal awards subject to this part that are expended by recipients.
- (2) See definition of improper payment in OMB Circular A-123 appendix C, part I A (1) “What is an improper payment?” Questioned costs, including those identified in audits, are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A-123 appendix C.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

Title 42 U.S. Code of Federal Regulations Part 433, State Fiscal Administration, Subpart F – Refunding of Federal Share of Medicaid Overpayments to Providers states in part:

Section 433.300 Basis.

This subpart implements -

- (a) Section 1903(d)(2)(A) of the Act, which directs that quarterly Federal payments to the States under title XIX (Medicaid) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.
- (b) Section 1903(d)(2)(C) and (D) of the Act, which provides that a State has 1 year from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made; and that adjustment will be made at the end of the 1-year period, whether or not recovery is made, unless the State is unable to recover from a provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectable.
- (c) Section 1903(d)(3) of the Act, which provides that the Secretary will consider the pro rata Federal share of the net amount recovered by a State during any quarter to be an overpayment.

Section 433.312 Basic requirements for refunds.

(a) *Basic rules.*

- (1) Except as provided in paragraph (b) of this section, the State Medicaid agency has 1 year from the date of discovery of an overpayment to a provider to recover or seek to recover the overpayment before the Federal share must be refunded to CMS.
 - (2) The State Medicaid agency must refund the Federal share of overpayments at the end of the 1-year period following discovery in accordance with the requirements of this subpart, whether or not the State has recovered the overpayment from the provider.
- (b) *Exception.* The agency is not required to refund the Federal share of an overpayment made to a provider when the State is unable to recover the overpayment amount because the provider has been determined bankrupt or out of business in accordance with § 433.318.

Section 433.316 When discovery of overpayment occurs and its significance.

- (a) *General rule.* The date on which an overpayment is discovered is the beginning date of the 1-year period allowed for a State to recover or seek to recover an overpayment before a refund of the Federal share of an overpayment must be made to CMS.
- (b) *Requirements for notification.* Unless a State official or fiscal agent of the State chooses to initiate a formal recoupment action against a provider without first giving written notification of its intent, a State Medicaid agency official or other State official must notify the provider in writing of any overpayment it discovers in accordance with State agency policies and procedures and must take reasonable actions to attempt to recover the overpayment in accordance with State law and procedures.
- (c) *Overpayments resulting from situations other than fraud.* An overpayment resulting from a situation other than fraud is discovered on the earliest of - -
 - (1) The date on which any Medicaid agency official or other State official first notifies a provider in writing of an overpayment and specifies a dollar amount that is subject to recovery;
 - (2) The date on which a provider initially acknowledges a specific overpaid amount in writing to the Medicaid agency; or
 - (3) The date on which any State official or fiscal agent of the State initiates a formal action to recoup a specific overpaid amount from a provider without having first notified the provider in writing.
- (d) *Overpayments resulting from fraud.*
 - (1) An overpayment that results from fraud is discovered on the date of the final written notice (as defined in § 433.304 of this subchapter) of the State's overpayment determination.
 - (2) When the State is unable to recover a debt which represents an overpayment (or any portion thereof) resulting from fraud within 1 year of discovery because no final determination of the amount of the overpayment has been made under an administrative or judicial process (as applicable), including as a result of a judgment being under appeal, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or any portion thereof) until 30 days after the date on which a final judgment (including, if applicable, a final determination on an appeal) is made.

- (3) The Medicaid agency may treat an overpayment made to a Medicaid provider as resulting from fraud under subsection (d) of this section only if it has referred a provider's case to the Medicaid fraud control unit, or appropriate law enforcement agency in States with no certified Medicaid fraud control unit, as required by § 455.15, § 455.21, or § 455.23 of this chapter, and the Medicaid fraud control unit or appropriate law enforcement agency has provided the Medicaid agency with written notification of acceptance of the case; or if the Medicaid fraud control unit or appropriate law enforcement agency has filed a civil or criminal action against a provider and has notified the State Medicaid agency.
- (e) *Overpayments identified through Federal reviews.* If a Federal review at any time indicates that a State has failed to identify an overpayment or a State has identified an overpayment but has failed to either send written notice of the overpayment to the provider that specified a dollar amount subject to recovery or initiate a formal recoupment from the provider without having first notified the provider in writing, CMS will consider the overpayment as discovered on the date that the Federal official first notifies the State in writing of the overpayment and specifies a dollar amount subject to recovery.
- (f) *Effect of changes in overpayment amount.* Any adjustment in the amount of an overpayment during the 1-year period following discovery (made in accordance with the approved State plan, Federal law and regulations governing Medicaid, and the appeals resolution process specified in State administrative policies and procedures) has the following effect on the 1-year recovery period:
- (1) A downward adjustment in the amount of an overpayment subject to recovery that occurs after discovery does not change the original 1-year recovery period for the outstanding balance.
 - (2) An upward adjustment in the amount of an overpayment subject to recovery that occurs during the 1-year period following discovery does not change the 1-year recovery period for the original overpayment amount. A new 1-year period begins for the incremental amount only, beginning with the date of the State's written notification to the provider regarding the upward adjustment.
- (g) *Effect of partial collection by State.* A partial collection of an overpayment amount by the State from a provider during the 1-year period following discovery does not change the 1-year recovery period for the balance of the original overpayment amount due to CMS.
- (h) *Effect of administrative or judicial appeals.* Any appeal rights extended to a provider do not extend

Section 433.320 Procedures for Refunds to CMS.

(a) Basic requirements.

- (1) The agency must refund the Federal share of overpayments that are subject to recovery to CMS through a credit on its Quarterly Statement of Expenditures (Form CMS-64).
- (2) The agency must credit CMS with the Federal share of overpayments subject to recovery on the earlier of -
 - (i) The Form CMS-64 submission due to CMS for the quarter in which the State recovers the overpayment from the provider; or
 - (ii) The Form CMS-64 due to CMS for the quarter in which the 1-year period following discovery, established in accordance with § 433.316, ends.
- (3) A credit on the Form CMS-64 must be made whether or not the overpayment has been recovered by the State from the provider.
- (4) If the State does not refund the Federal share of such overpayment as indicated in paragraph (a)(2) of this section, the State will be liable for interest on the amount equal to the Federal share of the non-recovered, non-refunded overpayment amount. Interest during this period will be at the Current Value of Funds Rate (CVFR), and will accrue beginning on the day after the end of the 1-year period following discovery until the last day of the quarter for which the State submits a CMS-64 report refunding the Federal share of the overpayment.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation

exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-053 The Department of Social and Health Services, Aging and Long-Term Support Administration, did not have adequate internal controls to ensure it complied with nursing home survey statement of deficiencies and plan of corrections timelines.

CFDA Number and Title: 93.775 State Medicaid Fraud Control Units
93.777 State Survey and Certification of Health Care Providers and Suppliers
93.777 COVID-19 – State Survey and Certification of Health Care Providers and Suppliers
93.778 Medical Assistance Program
93.778 COVID-19 – Medical Assistance Program

Federal Grantor Name: U.S. Department of Health and Human Services

Federal Award Number: 1905WA5MAP; 1905WA5ADM; 2005WA5MAP; 2005WA5ADM; 2005WAINCT; 2005WAIMPL; 2105WAINCT; 2105WAIMPL; 2105WA5MAP; 2105WA5ADM

Pass-through Entity Name: None

Pass-through Award/Contract Number: None

Applicable Compliance Component: Special Tests and Provisions – Provider Health and Safety Standards

Known Questioned Cost Amount: None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 2.1 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington’s largest public assistance program and usually accounts for about one-third of the State’s federal expenditures. The program spent about \$15.3 billion in federal and state funds during fiscal year 2021.

Residential Care Services, under the Department of Social and Health Services’ Aging and Long-Term Support Administration, is the State’s nursing home survey agency. A nursing home facility is an institution with the primary purpose of providing 24-hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, room, board and laundry to people who receive care and services under Medicaid.

The survey for certifying a nursing facility is a resident-centered inspection that gathers information about the facility's quality of service to determine whether the facility complies with state and federal requirements. The survey focuses on the nursing home's administration and patient services. The survey also assesses compliance with federal health, safety and quality standards designed to ensure patients receive safe and quality care.

The Centers for Medicare and Medicaid Services require the state to complete standard surveys for nursing facilities. If a survey uncovers deficiencies, the Department must deliver a statement of deficiency (SOD) to the facility within 10 working days of the survey date. The facility must then submit a plan of correction (POC) for all compliance issues that occurred. The Department then determines if the POC for each individual compliance issue is acceptable. If the nursing facility does not correct the issue within 60 calendar days of receiving the SOD, the facility risks forfeiting its Medicaid certification. Staff members monitor the receipt of POCs and inform team coordinators when POCs are ready for review.

In addition to federal requirements, the Department has established its own policies and procedures requiring that it review a POC within five working days of receiving it. The Department uses the Electronic Plan of Correction System to monitor and track these requirements. They ensure they meet the timelines by running a weekly SOD report. The report is sent to field managers for review to ensure that SODs and POCs are sent within the appropriate timelines.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In prior audits we reported the Department did not have adequate internal controls to ensure it complied with federal requirements for completing nursing home recertification surveys in a timely manner. The prior finding number was 2020-054.

Description of Condition

The Department did not have adequate internal controls to ensure it complied with nursing home survey SOD and POC timelines.

The Department complied with its own policies and procedures regarding sending SODs and POCs within certain timelines. However, the internal control used to track federal requirements for SODs and POCs was either not followed or not adequately documented.

We used a non-statistical sampling method to randomly select 11 of the 49 weekly nursing home unit SOD reports that occurred during the audit period. During our review, we could not verify nine (82 percent) weekly SOD reports were processed and reviewed by the Field Manager as required.

We consider this internal control deficiency to be a material weakness.

Cause of Condition

During the audit period, the Department used an outdated management bulletin procedure. Processes and procedures had changed over the years in some regions and not all regions were able to verify that the Weekly SOD reports were processed and reviewed.

Effect of Condition

By not establishing and following adequate internal controls, the Department is at a higher risk of not meeting federal Medicaid requirements and its own policies and could be subject to sanction by the grantor.

Recommendation

We recommend the Department improve its monitoring to ensure all Regions follow established policies and procedures.

Department's Response

The Department partially agrees with the finding.

The Department agrees we were not in compliance with Management Bulletin 15-081 which stated an AA3 will provide the SOD report to the Field Manager (FM) and the FM will review for any SODs that were not sent out within ten working days.

However, we do not agree our internal controls are not adequate, as proven by the fact there were zero exceptions identified during compliance testing. The Electronic Plan of Correction (ePOC) application for nursing homes was implemented at RCS in April 2017. The ePOC application automated the distribution of the federal SOD via a secure website created by the Centers for Medicare and Medicaid Services. The implementation of ePOC eliminated the need for the AA3 to provide the SOD report to the FM because ePOC automatically sends e-mail notifications daily to the Regional Administrator, FM, and AA3, notifying them if it has been nine days past the exit date in ASPEN and a SOD has not been sent to the nursing facility.

Field Managers will continue to follow up on all ePOC e-mail notifications to ensure compliance with SOD and POC deadlines. Management Bulletin 15-081 will be rescinded by June 30, 2022, as it is no longer applicable.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will follow up on the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

Title 42 U.S. Code of Federal Regulations, Subpart E *Survey and Certification of Long-Term Care Facilities* Section 488.308 Survey frequency, states in part:

- (a) *Basic Period.* The survey agency must conduct a standard survey of each SNF and NF not later than 15 months after the last day of the previous standard survey
- (b) *Statewide average interval.*
 1. The statewide average interval between standard surveys must be 12 months or less, computed in accordance with paragraph (d) of this section
- (d) *Computation of statewide average interval.* The statewide average interval is computed at the end of each Federal fiscal year by comparing the last day of the most recent

standard survey for each participating facility to the last day of each facility's previous standard survey.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

The Centers for Medicare and Medicaid Services, State Operations Manual, Chapter 2 – The Certification Process, states in part:

2138G – Schedule for Recertification

The SA completes a recertification survey an average of every 12 months and at least once every 15 months (see Section 2141)

2728 – Statement of Deficiencies and Plan of Correction, Form-2567

The SA mails the provider/supplier a copy of form CMS-2567 within 10 working days after the survey. If there are deficiencies, the SA allows the provider/supplier 10 calendar days to complete and return the POC. Requirements pertaining to the submittal of the POC can be found in subsection B.

The Department of Social and Health Services, Residential Care Services Division *Standard Operating Procedure: Enforcement Chapter 7B3, states in part:*

Background

The Department will review the ePOC with 5 working days of receipt and will verify that it is acceptable. The NH may specify in the ePOC that they are not in agreement with the findings within the SOD report but this does not alter the NH's responsibility to submit an acceptable ePOC.

Off-site POC Review

The Surveyor will:

1. Review the ePOC within five (5) working days of receipt and confirm that the POC for each deficiency includes:
 - a. How the NH will correct the deficiency for each numbered resident;
 - b. How the NH will protect residents from similar situations
 - c. Measures the NH will take or the systems it will change to ensure that the problem does not recur;
 - d. How the NH plans to monitor its ongoing performance to sustain compliance;
 - e. Dates corrective action will be completed; and
 - f. Title of person responsible for correction

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-054 The Department of Social and Health Services, Aging and Long-Term Support Administration, did not have adequate internal controls over and did not comply with requirements to ensure timely investigation of complaints of client abuse and neglect at Medicaid residential facilities.

CFDA Number and Title:	93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers 93.778 Medical Assistance Program 93.778 COVID-19 – Medical Assistance Program
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	1905WA5MAP; 1905WA5ADM; 2005WA5MAP; 2005WA5ADM; 2005WAINCT; 2005WAIMPL; 2105WAINCT; 2105WAIMPL; 2105WA5MAP; 2105WA5ADM;
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions – Provider Health and Safety Standards
Known Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 2.1 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington’s largest public assistance program and usually accounts for about one-third of the state’s federal expenditures. The program spent over \$15.3 billion in federal and state funds during fiscal year 2021.

The Centers for Medicare and Medicaid Services (CMS), which administers the program at the federal level, allows states to provide long-term care services to Medicaid clients that require daily nursing services. Medicaid coverage for nursing homes and intermediate care facilities for intellectually disabled clients is only authorized when services are provided in a residential facility licensed and certified by the state survey agency. The state survey agency is also responsible for investigating complaints and allegations of abuse, neglect or misappropriation.

Residential Care Services, under the Department of Social and Health Services’s Aging and Long-Term Support Administration (Department), is the state’s long-term care facility survey agency. Residential Care Services manages the Complaint Resolution Unit (Unit), which is the frontline response system for providing the intake and assignment functions for complaints from staff, residents, families and the public.

The Unit receives two types of complaints, also known as reports: 1) complaints from Department staff, the public, government agencies, or law enforcement and 2) reports from facilities. People can submit complaints to the Unit by phone, mail, email, fax or online. The Unit responds to complaints received on holidays and after hours on the next business day. The Unit uses the Tracking Incidents of Vulnerable Adults (TIVA) case management system to input, prioritize and track complaints. A program specialist performs an initial review of complaints before entering them into TIVA. Clinical triage nurses determine the final priority assignment of all nursing home and intermediate care facility complaints.

The following table lists the five different priority levels for new complaints and the respective response times. During the COVID-19 pandemic, CMS guidance allowed states to work only on complaints with Immediate Jeopardy and Nonimmediate Jeopardy-High Priority levels.

Priority levels	Required response times
Immediate Jeopardy	Initiate investigation within 2 working days of receipt
Nonimmediate Jeopardy-High	Initiate investigation within 10 working days of prioritization
Nonimmediate Jeopardy-Medium	Initiate investigation within 20 working days of prioritization
Nonimmediate Jeopardy-Low	Initiate investigation within 45 working days of prioritization
Quality Review	Field Manager Review

The CMS *State Operations Manual* requires each complaint to be triaged by someone who is professionally qualified to evaluate the nature of the problem based on their experience and knowledge of current clinical standards of practice and federal requirements. Unit intake staff review, research, and prioritize complaints to ensure the level of response corresponds to the severity of the allegation. If necessary, the Unit assigns complaints to the Department’s field unit offices within two working days of knowledge of the complaint. Field staff investigate the complaints and follow up on them within the specified time frame as determined by the severity of the concerns noted.

In fiscal year 2021, the Department received 46,231 complaints. Of these, 14,597 were related to nursing homes and 1,155 were related to intermediate care facilities for intellectually disabled people. The following table shows the number of Immediate Jeopardy and Nonimmediate Jeopardy-High Priority complaints for both providers.

Provider Type	Immediate Jeopardy Complaints Received	Nonimmediate Jeopardy-High Priority Complaints Received
Nursing Home	1,433	3,765
Intermediate Care Facility for the Intellectually Disabled	17	187
Combined Total	1,450	3,952

Federal regulations require recipients to establish and follow internal controls that ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls over and did not comply with requirements to ensure timely investigation of complaints of client abuse and neglect at Medicaid residential facilities.

We evaluated all Immediate Jeopardy and Nonimmediate Jeopardy-High Priority TIVA complaints that occurred during fiscal year 2021 to ensure they met the required timelines for initiating an investigation. We found the Department did not initiate investigations timely for 42 of the Immediate Jeopardy complaints (2.9 percent) and 207 of the Nonimmediate Jeopardy-High Priority complaints (5.2 percent). For Immediate Jeopardy complaints, the Department initiated investigations between 4 to 72 days after receipt. For Nonimmediate Jeopardy-High Priority complaints, the Department initiated investigations between 12 to 131 days after receipt.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Department had limited staffing resources and received a large increase of COVID-19-related complaints. As a result, staff was unable to follow up on all complaints by the required response times.

Effect of Condition

When the Department does not prioritize and investigate complaints timely, vulnerable residents at nursing homes and intermediate care facilities are at a higher risk of abuse, neglect and financial exploitation.

Recommendation

We recommend the Department strengthen its internal controls to ensure it investigates complaints timely, as federal regulations require.

Department's Response

The Department partially agrees with the finding.

We agree that not all complaint investigations were initiated within the required timeframes. However, we do not agree that it is due to inadequate internal controls. Residential Care Services (RCS) has effectively used our current internal controls since FY2017, when we received the SAO Stewardship Award related to this audit area.

Compliance with required timeframes declined due to the increase of 3,195 complaints from the previous fiscal year that were assigned for investigation and the staff vacancy rate. The effects of the COVID-19 pandemic including exposure, illness, and staff resignation due to vaccination mandates, increased staff vacancy to the rate of 24%.

In general, a 2-day response is related to an allegation of a life-threatening situation that has caused, or is at risk of causing, substantial harm of such consequence that urgent intervention is necessary. The Department categorized all COVID-19 complaints related to the pandemic a 2-day response in TIVA for tracking purposes, which further impacted workload.

Residential Care Services will continue to use our current internal controls, in addition to hiring and training new staff to fill the vacant positions. This will ensure compliance with investigation timeframes.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. We will follow up on the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), section 516, Audit findings, establishes reporting requirements for audit findings.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (b) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follow:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

The Centers for Medicare and Medicaid Services, *State Operations Manual* Chapter 5 – Complaint Procedures, states in part:

Section 5010 –General Intake Process

A complaint is an allegation of noncompliance with Federal and/or State requirements. If the SA determines that the allegation(s) falls within the authority of the SA, the SA determines the severity and urgency of the allegations, so that appropriate and timely action can be pursued. Each SA is expected to have written policies and procedures to ensure that the appropriate response is taken for each complaint. This structure needs to include response timelines and a process to document actions taken by the SA in response to complaints. If a State’s time frames for the investigation of a complaint/incident are more stringent than the Federal time frames, the intake is prioritized using the State’s timeframes. The SA is expected to be able to share the logic and rationale that was utilized in prioritizing the complaint for investigation. The SA response must be designed to protect the health and safety of all residents, patients, and clients.

Section 5070 –Priority Assignment for Nursing Homes, Deemed and Non-Deemed Non-Long Term Care Providers/ Suppliers, and EMTALA

An assessment of each complaint or incident intake must be made by an individual who is professionally qualified to evaluate the nature of the problem based upon his/her knowledge of Federal requirements and his/her knowledge of current clinical standards of practice. In situations where a determination is made that immediate jeopardy may be present and ongoing, the SA is required to start the on-site investigation within two working days of receipt of the complaint or incident report in the case of a deemed provider or supplier, within two working days of RO authorization for investigation. For all non-immediate jeopardy situations, the complaint/incident is prioritized within two working days of its receipt, unless there are extenuating circumstances that impede the collection of relevant information.

The Department of Social and Health Services, Residential Care Services Division *Standard Operating Procedure: Complaint Resolution Unit* Chapter 4A20, states in part:

Procedure

- A. CRU staff will prioritize complaint intakes using the following guidelines:
 1. **2 working days (Immediate Jeopardy)** – A situation in which the provider’s noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident. Immediate corrective action is necessary

2. **10 working days (Non Immediate Jeopardy-High)** – The alleged noncompliance may have caused harm that negatively impacts the individual’s mental, physical and/or psychosocial status and are of such consequence to the person’s well-being, the SA conducts a rapid response. Usually, specific rather than general information (such as, descriptive identifiers, individual names, date/time/location of occurrence, description of harm, etc.) factors into the assignment of this level of priority.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-055 The Health Care Authority improperly charged \$100,000 to the Block Grants for Prevention and Treatment of Substance Abuse.

CFDA Number and Title:	93.959 Block Grants for Prevention and Treatment of Substance Abuse
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2B08TI010056-19, 1B08TI083138-01, 6B08Ti083486-01M002, 1B08TI083519-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs/Cost Principles
Known Questioned Cost Amount:	\$100,000

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the Block Grants for Prevention and Treatment of Substance Abuse. The Authority provides federal funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and support services. The Authority spent more than \$48.7 million in grant funds during fiscal year 2021.

The Authority is responsible for ensuring it uses grant money only for costs that are allowable, related to the grant's purpose and incurred during the grant period, as specified in the grant's terms and conditions. At the beginning of the federal fiscal year, and whenever the Authority receives a new federal grant, it establishes new cost objectives and allocation codes to ensure it charges expenditures to the proper grant. Before paying an invoice, program managers are responsible for reviewing supporting documentation to determine if the services were allowable for that grant. Fiscal managers are responsible for ensuring that payments are coded to the correct time period.

Description of Condition

We found the Authority had adequate internal controls to ensure material compliance with requirements over payments to providers. However, we found the Authority improperly charged \$100,000 to the Block Grants for Prevention and Treatment of Substance Abuse.

We used a statistical sampling method to randomly select and examine 57 of 694 payments to providers and contractors. We examined the supporting documentation for each payment to ensure it was allowable and for a service that took place during the period of performance. We found the Authority made one payment for a service that was provided after the period of performance for the grant.

Federal regulations require the auditor to issue a finding when the known or estimated questioned costs identified in a Single Audit exceed \$25,000. As stated in the Effect of Condition and Questioned Costs section below, we are issuing this finding because the known questioned costs exceed that threshold.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Staff followed procedures for approving the reimbursement. However, multiple reviews did not detect that the payment did not meet the period of allowability for the grant.

Effect of Condition and Questioned Costs

The Authority improperly charged the grant for a \$100,000 payment to a provider. Based on this unallowable payment, we estimate the likely questioned costs for this grant to be \$438,889.

Our sampling methodology meets statistical sampling criteria under generally accepted auditing standards in AU-C 530.05. It is important to note that the sampling technique we used is intended to support our audit conclusions by determining if expenditures complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a high level of assurance, with a 95 percent confidence of whether exceptions exceeded our materiality threshold. Our audit report and finding reflects this conclusion. However, the likely improper payment projections are a point estimate and only represent our “best estimate of total questioned costs” as required by 2 CFR 200.516(3).

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Authority:

- Ensure payments to providers and contractors meet the period of allowability
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Authority's Response

We concur with this finding. HCA will ensure payments to providers and contracts meet the period of availability. We will also consult with the grantor regarding the questioned costs.

Auditor's Remarks

We thank the Authority for its cooperation and assistance during the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-056 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to ensure it met the earmarking requirement for the Block Grants for Prevention and Treatment of Substance Abuse.

CFDA Number and Title:	93.959 Block Grants for Prevention and Treatment of Substance Abuse
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2B08TI010056-19; 2B08TI010056-19S1
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Earmarking
Known Questioned Cost Amount:	\$684,129

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the Block Grants for Prevention and Treatment of Substance Abuse. The Authority provides federal funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and support services. In fiscal year 2021, the Authority spent more than \$48.7 million in federal program funds.

Federal regulations require the Authority to spend no more than 5 percent of the federal program funds on administrative costs of the grant. Federal regulations also require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with requirements to ensure it met the earmarking requirement for the Block Grants for Prevention and Treatment of Substance Abuse.

To monitor the administrative earmarking requirement, the Authority has staff run monthly reports from its accounting system to determine if it is on track to meet the 5 percent administrative cost maximum by the time the grant closes. Upon closing a grant, the Authority also runs a final report

to ensure it met the requirement. However, we found that during the audit period, the Authority closed the federal fiscal year 2019 grant while having exceeded the 5 percent administrative cost maximum.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Throughout the year, staff ran the required monthly reports and noted the Authority was not meeting the requirement. However, management did not take action to correct the noncompliance throughout the year or before closing the federal fiscal year 2019 grant. The Authority stated the reason it did not reconcile grant expenditures to the accounting records in a timely manner was due to staff vacancies, workload and training.

Effect of Condition and Questioned Costs

The Authority was awarded \$37,790,646 for the federal fiscal year 2019 grant. Therefore, it was allowed to spend up to \$1,889,523 on administrative costs. However, it spent \$2,573,652, which exceeded the administrative cost maximum by \$684,129. As a result, we are questioning the \$684,129 in unallowable administrative costs.

By not establishing adequate internal controls, the Authority cannot ensure it meets the administrative earmarking requirement. By not complying with federal requirements, the Authority risks having to repay federal funds or having future federal funds withheld.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Authority:

- Improve internal controls to ensure it does not exceed the maximum allowable amount for administrative costs at the end of the award period
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid.

Authority's Response

We believe there are two different issues here. We do concur that accounting adjustments that are part of the reconciliation process were not made to the state's records to align expenditures with

the final federal report in a timely fashion. This was due to staff vacancies, workload, and training. Staff are aware of what can be reported and the corrections that are needed to the accounting records as part of reconciling the award. We do not agree that the SF-425 was reported with a 6.8% administration to SAMHSA, therefore we do not agree with the questioned costs associated with this finding. The final SF-425 was reported fully expended with an administration charge of 5% as explained to SAO. The referenced 6.8% indicated the amount of expenditures that were ineligible and needed to be moved out of the award. The expenditures were moved but not in a timely fashion.

Auditor's Remarks

At the time the Authority submitted its final SF-425 report, the administrative costs that were identified as charged to the grant exceeded the allowed maximum by \$684,129. In addition, the expenditures in question were still charged to the grant in the accounting system as of the end of the audit period, which was six months after the final report was submitted. As stated above, we recommend the Authority consult with the federal grantor to discuss whether the questioned cost reported in the finding need to be repaid.

We reaffirm our finding and will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 45 *U.S. Code of Federal Regulations* Part 96.135 Restrictions on expenditure of grant, states in part:

(b) The State shall limit expenditures on the following:

(1) The State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 Improper Payments states:

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or

service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.

(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).

(g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

(a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:

- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
- (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report

known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a

violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-057 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to ensure payments made under the Block Grants for Prevention and Treatment of Substance Abuse program met the period of performance.

CFDA Number and Title:	93.959, Block grants for Prevention and Treatment of Substance Abuse
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2B08TI010056-19; 2B08TI010056-19S1
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Period of Performance
Known Questioned Cost Amount:	\$54,385

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the Block Grants for Prevention and Treatment of Substance Abuse. The Authority provides federal funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and support services. The Authority spent more than \$48.7 million in grant funds during fiscal year 2021.

The Authority can use grant funds only for costs that are incurred during the period of performance, as specified in the grant's terms and conditions. The Authority has 90 days after the last day of the period of performance to liquidate grant expenditures and close the grant. At this point, all expenditures are final, and the Authority should no longer have any activity related to the grant in its accounting system.

At the beginning of each federal fiscal year and whenever the Authority receives a new federal grant, it establishes new cost objectives and allocation codes to ensure expenditures are charged to the proper grants. When the Authority receives reimbursement requests, program managers are responsible for reviewing supporting documentation to determine if the services billed meet the period of performance requirements under the grant. Fiscal managers are also responsible for ensuring that payments are coded to the correct time period.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Authority did not have adequate internal controls to ensure payments made under the Block Grants for Prevention and Treatment of Substance Abuse program met the period of performance requirements. The prior finding number was 2020-059.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with requirements to ensure payments made under the Block Grants for Prevention and Treatment of Substance Abuse program met the period of performance.

The federal fiscal year 2019 grant closed during our audit period. We judgmentally selected 15 of 900 payments the Authority made with program funds during the 90-day grant liquidation period, and examined the supporting documentation for each payment to ensure the expenditure took place during the period of performance. We found three payments (20 percent) that the Authority made during the liquidation period were for services and purchases that had occurred after the period of performance.

We also determined the Authority continued to add and reduce expenditures charged to the grant after the liquidation period ended, through the remaining six months of the audit period and into the next state fiscal year. During this period, we noted the Authority made the following adjustments to the three program expenditure categories:

	Expenditures Added	Expenditures Removed	Net Change
Prevention	\$437,670	\$(789,951)	\$(352,281)
Treatment	\$95,667	\$(211,848)	\$(116,181)
Administrative	\$262,637	\$(2,510)	\$260,127
Total	\$795,974	\$(1,004,309)	\$(208,335)

We noted the administrative cost was the largest net addition to the grant expenditures and that the costs being added and reduced were not the same expenditures. Since the expenditures reduced and added were not the same, the composition of the grant expenditure population changed after the grant closed and the Authority had submitted a final report to the grantor.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

The Authority did not establish an effective review and approval process to ensure the payments it made with program funds met period of performance requirements. Management allowed program staff to continue adjusting the grant accounting records despite the liquidation period ending and the award closing.

Effect of Condition and Questioned Costs

By not having adequate internal controls in place, the Authority is at a higher risk of making improper payments.

The Authority reduced the federal fiscal year 2019 grant expenditures by \$208,335 during the remaining six months of the audit period and after the grant had closed. This reduction was the result of an additional \$795,974 charged to, and \$1,004,309 in different expenditures reversed from the grant. Therefore, the expenditures for the federal fiscal year 2019 grant that we tested for period of performance requirements had changed after the grant closed. As a result, we are unable to conclude with confidence that we reviewed all of the Authority's federal fiscal year 2019 grant expenditures for period of performance compliance.

We also identified \$54,385 in questioned costs that the Authority paid during the liquidation period even though they occurred outside the program's period of performance.

We question costs when we find an agency has not complied with grant regulations or when it does not have adequate documentation to support its expenditures.

Recommendations

We recommend the Authority:

Improve its internal controls to ensure account coding is correctly applied to each transaction to ensure payments are charged to the correct grant in compliance with period of performance requirements

- Improve its internal controls to ensure staff do not continue to charge costs to a grant after it has closed
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Authority's Response

The Authority concurs with the finding and has worked to improve internal controls for the period of performance compliance requirements. The Authority has established a new process for review of payments and grant closure during FY22. Communication to all management, contract

managers, and contract specialists has been disseminated. Notification of change to policy and contract terms was sent to all contractors. Contracts are being updated to include specific billing timeline language in accordance with the new policy as they are amended and newly established.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 42 *United States Code* 300x-62, *Availability to States of grant payments* establishes the following applicable requirements:

Any amounts paid to a State for a fiscal year under section 300x or 300x-21 of this title shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid.

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.53 *Improper Payments* states:

- (a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- (b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Section 200.303 *Internal controls*, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued

by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.403 Factors affecting Allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards.

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also §200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Section 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, §§200.300 Statutory and national policy requirements through 200.309 Period of performance.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
- (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.
 - (3) Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than \$25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.
 - (4) Known questioned costs that are greater than \$25,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program that is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program that is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than \$25,000, then the auditor must report this as an audit finding.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-058 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to ensure it filed reports required by the Federal Funding Accountability and Transparency Act.

CFDA Number and Title:	93.959, Block Grants for Prevention and Treatment of Substance Abuse
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	1B08TI083138-01; 1B08TI083519-01; 6B08TI083486-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component	Reporting
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the Block Grants for Prevention and Treatment of Substance Abuse. The Authority subawards federal funds to counties, tribes and nonprofit organizations to develop prevention programs and provide treatment and support services. In fiscal year 2021, the Authority spent more than \$48.7 million in federal program funds, approximately \$29.4 million of which it paid to subrecipients.

Under the Federal Funding Accountability and Transparency Act (Act), the Authority is required to collect and report information on each subaward of federal funds more than \$25,000 in the Federal Funding Accountability and Transparency Subaward Reporting System (FSRS). For federal awards issued on or after November 12, 2020, the monetary threshold for reporting increased to \$30,000. The Authority must report subawards by the end of the month following the month in which it made the subaward (or subaward amendment). The intent of the Act is to empower citizens with the ability to hold the federal government accountable for spending decisions and, as a result, reduce wasteful government spending.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with requirements to ensure it filed reports required by the Act.

During the audit period, the Authority was required to report approximately \$78.7 million of program funds that it awarded to nine subrecipients through 16 new and amended subawards. We found the Authority did not report any of these subawards in FSRs as required.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

This issue was not reported as a finding in the prior audit.

Cause of Condition

The Authority did not have a process in place that would cross multiple divisions to submit FFATA reports to the federal government. In addition, management did not monitor to ensure the Authority submitted the required reports.

Effect of Condition

Failing to submit the required reports diminishes the federal government's ability to ensure accountability and transparency of federal spending.

Recommendations

We recommend the Authority:

- Establish effective internal controls to ensure it submits required reports
- Establish policies and procedures for filing required reports
- Provide training for employees who oversee reporting and who verify the submission and accuracy of the reports
- Ensure management monitors reporting of this information so future reports are submitted completely and timely

Authority's Response

We concur with the finding and recommendations. HCA is working across divisions to ensure future FFATA reports will be submitted.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major

program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

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Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a

violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

Title 2 *U.S. Code of Federal Regulations (CFR) Part 170, Reporting Subaward and Executive Compensation Information*, states in part:

Appendix A to Part 170 – Award Term

I. Reporting Subawards and Executive Compensation

a. Reporting of first-tier subawards.

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

Notice of Substance Abuse Prevention and Treatment Bock Grant Federal Grant Award, Grant Number 1B08TI083138-01, states in part:

Standard Terms and Conditions

SABG FY 2020 Award Terms and Reporting Requirements

1) FFATA Reporting Requirement

Please note the standard terms for FFATA Reporting Requirement has changed.

Standard Terms:

7) Federal Financial Accountability and Transparency Act (FFATA)

Reporting Subawards and Executive Compensation, 2 CFR, Appendix A to Part 170

a. Reporting of first tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-059 The Health Care Authority did not have adequate internal controls over and did not comply with the reporting requirements for the Block Grants for Prevention and Treatment of Substance Abuse.

CFDA Number and Title:	93.959 Block Grants for Prevention and Treatment of Substance Abuse
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award Number:	2B08TI010056-19 3B08TI010056-19S1
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the Block Grants for Prevention and Treatment of Substance Abuse. The Authority provides federal funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and support services. The Authority spent more than \$48.7 million in grant funds during fiscal year 2021.

The Authority is required to submit a SF-425 federal financial report to the federal grantor within 90 days of a grant award closing. This report includes information like the federal grant number, the recipient organization, grant period, reporting period end date, basis of accounting, and a summary of expenditures and program income related to the grant during the award period.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Authority did not have adequate internal controls over and did not comply with the reporting requirements for the Block Grants for Prevention and Treatment of Substance Abuse. The prior finding number was 2020-062.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with the reporting requirements for the Block Grants for Prevention and Treatment of Substance Abuse.

Financial information reported on the SF-425 should be obtained and supported by the Authority's accounting records. During the audit period, the Authority continued to charge costs to the grant, which had already closed. This required accounting adjustments, which the Authority did not complete in a timely manner. During the audit period, the federal fiscal year 2019 award closed and was reported on the SF-425 by the December 29, 2020, due date. We examined the report and found that the Authority's accounting records did not support the expenditures reported. Because of this, we could not determine whether the Authority accurately prepared the report.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

Authority management said that the grant is large and complex, which makes it difficult for staff to balance the grant and ensure that the accounting records are accurate and complete by the reporting due date.

Effect of Condition

Because the Authority did not establish adequate internal controls and ensure its accounting records were accurate and complete, it underreported grant expenditures by \$2.7 million at the time of reporting.

Through the remainder of the audit period, the Authority also continued to make accounting adjustments to expenditures applied to federal fiscal year 2019 after the report was submitted.

Inaccurate reports could affect future funding from the federal grantor.

Recommendation

We recommend the Authority improve its internal controls to ensure the accounting records properly support reports and that expenditures are finalized in the accounting system before submitting the report.

Authority's Response

We concur with the finding and recommendations. HCA is working across divisions to ensure future FFATA reports will be submitted.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of

Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Section 200.328 Financial reporting, states in part:

Unless otherwise approved by OMB, the Federal awarding agency must solicit only the OMB-approved government wide data elements for collection of financial information (at time of publication the Federal Financial Report or such future, OMB-approved, government wide data elements available from the OMB-designated standards lead. This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its Codification of Statements on Auditing Standards, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-060 **The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Block Grants for Prevention and Treatment of Substance Abuse program received required risk assessments.**

CFDA Number and Title:	93.959, Block Grants for Prevention and Treatment of Substance Abuse
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	1B08TI083138-01; B08TI010056; B08TI010056-19
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the Block Grants for Prevention and Treatment of Substance Abuse (SABG). The Authority subawards federal funds to counties, tribes and nonprofit organizations to develop prevention programs and provide treatment and support services. The Authority spent more than \$48.7 million in grant funds during fiscal year 2021, approximately \$29.4 million of which it paid to subrecipients.

The Authority serves as a pass-through agency for SABG funding. Pass-through entities are required to monitor the activities of subrecipients in order to ensure they are properly using the funds. To determine the appropriate level of monitoring, federal regulations require the Authority to evaluate each subrecipient's risk of noncompliance with federal statutes and regulations and the terms and conditions of the subaward.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In a prior audit, we reported the Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the SABG program received required risk assessments. The prior finding number was 2020-064.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the SABG program received required risk assessments.

The Authority did not establish an effective monitoring process to ensure subrecipients of the SABG program received required risk assessments. Five different units in the Authority are responsible for performing risk assessments for the program subrecipients: Prevention, Treatment, Recovery, Managed Care and Tribal Affairs. The Authority did not have a uniform process to ensure all subrecipients received risk assessments. The Authority issued three new subawards during the state fiscal year, but did not perform risk assessments for any of them.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

Each unit is responsible for performing risk assessments for the subawards it monitors, but management has not provided sufficient oversight to ensure the Authority meets this requirement. During the audit period, the Authority established a multidivisional work group for subrecipient monitoring, but did not implement an effective risk assessment process.

Effect of Condition

Without performing risk assessments of its subrecipients for the SABG program, the Authority cannot determine the appropriate amount of monitoring required for each subrecipient. It also makes the Authority less likely to detect noncompliance with grant terms and conditions and federal regulations.

Recommendations

We recommend the Authority:

- Establish internal controls to ensure it performs risk assessments for each subaward it issues
- Ensure it uses the results of the risk assessments to determine how much and what type of subrecipient monitoring to perform, as required by federal law

Authority's Response

The Authority concurs with the finding. The multi-divisional subrecipient monitoring workgroup has developed and approved an effective risk assessment process and staff training was conducted during the fall of 2021 and will continue for new staff.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will follow up on the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit

finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

- (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 45 U.S. Code of Federal Regulations (CFR) Part 75, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards* establishes the following applicable requirements:

Section 75.352, Requirements for pass-through entities, states in part:

All pass-through entities must:

- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
 - (1) The subrecipient's prior experience with the same or similar subawards;
 - (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with subpart F, and the extent to which the same or similar subaward has been audited as a major program;
 - (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
 - (4) The extent and results of HHS awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a HHS awarding agency).

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington
July 1, 2020 through June 30, 2021

2021-061 **The Health Care Authority did not have adequate internal controls over and did not comply with federal subrecipient monitoring requirements for the Block Grants for Prevention and Treatment of Substance Abuse program.**

CFDA Number and Title:	93.959 Block Grants for Prevention and Treatment of Substance Abuse
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	2B08TI010056-19; 3B08TI010056-19S1; 1B08TI083138-01; 6B08TI0313138-01M003; 6B08TI0313138-01M004; 6B08TI083486-01M002; 6B08TI083486-01M003
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the Block Grants for Prevention and Treatment of Substance Abuse. The Authority subawards federal funds to counties, tribes and nonprofit organizations to develop prevention programs and provide treatment and support services. In fiscal year 2021, the Authority spent more than \$48.7 million in federal program funds, approximately \$29.4 million of which it paid to subrecipients. When the Authority awards federal funds to subrecipients, federal regulations require it to monitor subrecipients based on a risk assessment to ensure:

- Federal funds are used for authorized purposes in compliance with federal laws, regulations, and the terms and conditions of the subaward;
- Performance goals are achieved; and
- When applicable, the subrecipient took action in response to pass-through monitoring findings.

Monitoring may include annual or biennial onsite visits; desk reviews; reviewing financial, performance and special reports; and other activities as necessary based on subrecipient risk assessments.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

In the prior audit, we reported the Authority did not have adequate internal controls over and did not comply with federal subrecipient monitoring requirements. The prior finding number was 2020-065.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal subrecipient monitoring requirements for the Block Grants for Prevention and Treatment of Substance Abuse program.

The Authority did not establish an effective monitoring process to ensure subrecipients of the Block Grants for Prevention and Treatment of Substance Abuse program received proper monitoring.

Five different units in the Authority are responsible for performing monitoring activities for the program subrecipients: Prevention, Treatment, Recovery, Managed Care, and Tribal Affairs. The Authority had 103 subrecipients during the fiscal year, and it did not have a uniform process to ensure all subrecipients received required monitoring.

We found the Tribal Affairs, Recovery, and Managed Care units did not have sufficient internal controls in place to ensure they properly monitored subrecipients. Specifically:

- The Tribal Affairs unit was responsible for monitoring 29 subrecipients (28 percent). While monitoring activities occurred, management oversight was insufficient for ensuring staff performed all required monitoring.
- The Recovery unit was responsible for monitoring 20 subrecipients (19 percent). The unit was not scheduled to perform fiscal monitoring during this audit period, but we determined the unit did not correct the internal control deficiencies identified in the prior audit.
- The Managed Care unit was responsible for monitoring eight subrecipients (8 percent). The unit did not perform required fiscal monitoring for any of its subrecipients during the audit period, and management oversight was insufficient for ensuring staff performed all required monitoring.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance.

Cause of Condition

The Authority does not have a centralized process to ensure units are monitoring each of their subrecipients. Each unit is responsible for monitoring the subrecipients they oversee, but management did not provide sufficient oversight to ensure all units performed adequate monitoring. During the audit period, the Authority established a multidivisional work group for subrecipient monitoring. However, the Authority has not implemented an effective monitoring process for the program.

Effect of Condition

We determined 79 of the Authority's 103 subrecipients during the audit period required fiscal monitoring. We randomly selected and examined 13 subrecipients and found three (23 percent) were not properly monitored—two from the Managed Care and one from the Tribal Affairs units. Specifically, the two Managed Care subrecipients received no fiscal monitoring, and the Tribal Affairs subrecipient received an incomplete fiscal monitoring visit.

Without establishing adequate internal controls and monitoring procedures, the Authority cannot ensure units are performing the appropriate amount of monitoring to ensure subrecipients are complying with federal regulations and the terms and conditions of their subawards.

Recommendation

We recommend the Authority establish centralized procedures and management oversight to ensure units throughout the agency perform federally required subrecipient monitoring.

Authority's Response

The Authority performed many activities to ensure adequate monitoring across multiple units. While the Authority agrees there is not a uniform process to monitor all sub-recipient desk or site visits across all units; it is important to note that the units responsible for monitoring activities have processes that are reflective of their respective contracts and contractor. Therefore, while ensuring that monitoring is consistently completed in whole, uniformity across units is not appropriate for implementation based on contracts. Noteworthy, the majority [77%] of the sample had sufficient documentation and the Authority did provide monitoring activities on the remaining 23% although some items were not fully included. Lastly, the Authority will use information found during this review to improve monitoring practices and procedures.

Auditor's Remarks

We thank the Authority for its cooperation and assistance throughout the audit. We will review the status of the Authority's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 *U.S. Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.
 - (2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor’s determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

Title 45 U.S. Code of Federal Regulations Part 75, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards* establishes the following applicable requirements:

Section 75.352 Requirements for pass-through entities, states in part:

All pass-through entities must:

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by § 75.521.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

- (1) Providing subrecipients with training and technical assistance on program-related matters; and
- (2) Performing on-site reviews of the subrecipient's program operations;
- (3) Arranging for agreed-upon-procedures engagements as described in 75.425.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Material noncompliance. In the absence of a definition of material noncompliance in the governmental audit requirement, a failure to follow compliance requirements or a violation of prohibitions included in the applicable compliance requirements that results in noncompliance that is quantitatively or qualitatively material, either individually or when aggregated with other noncompliance, to the affected government program.

SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington July 1, 2020 through June 30, 2021

2021-062 The Employment Security Department did not have adequate internal controls to ensure it submitted accurate weekly reports for the Presidential Declared Disaster Assistance to Individuals and Households program.

CFDA Number and Title:	97.050 COVID-19 Presidential Declared Disaster Assistance to Individuals and Households – Other Needs Assistance – Supplemental Payments for Lost Wages
Federal Grantor Name:	U.S. Department of Homeland Security
Federal Award/Contract Number:	4481DRWASPLW
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Known Questioned Cost Amount:	None

Background

In 2020, the U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA), was authorized to provide \$44 billion from the Disaster Relief Fund to provide grants to states to administer lost wages assistance to those affected by COVID-19-related unemployment or wage reductions. The federal program provides funding in the event of a presidentially declared natural disaster. In order to receive supplemental assistance, states are required to submit an administrative plan describing the partnership with FEMA to deliver assistance to eligible people.

In Washington state, the Employment Security Department (Department) administers unemployment insurance to people experiencing periods of involuntary unemployment. FEMA authorized the Department to provide a \$300 weekly benefit to eligible people until the federal award period of performance end date of December 27, 2020.

Under the program, FEMA requires recipients to submit weekly program status reports to provide information on lost wages assistance benefits, including:

- The number and dollar amount of applications approved weekly by the state employment agency
- The number of people eligible to receive assistance, broken out by the eight programs identified in Section 4(d)(i) of the August 8, 2020, presidential memorandum titled

Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019

- The amount of assistance disbursed weekly
- The number of appeals received

Recipients of FEMA financial assistance are also required to follow the applicable provisions of the *Uniform Guidance Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

During fiscal year 2021, the Department paid more than \$725 million in lost wages assistance benefits.

Federal regulations require recipients to establish and follow internal controls to ensure compliance with program requirements. These controls include understanding grant requirements and monitoring the effectiveness of established controls.

Description of Condition

The Department did not have adequate internal controls to ensure it submitted accurate weekly reports for the Presidential Declared Disaster Assistance to Individuals and Households program.

During fiscal year 2021, the Department was required to submit 40 weekly program status reports, beginning with the week ending on August 1, 2020. The Department developed queries to generate claimant data from its Unemployment Tax and Benefits (UTAB) system to populate the weekly program status reports. An employee from the agency's unemployment insurance program prepared the status reports and submitted them to the federal grantor.

We found the Department did not have an effective process in place to verify the accuracy and completeness of the reports before the responsible employee submitted them to the federal grantor. Department management said it performed an informal review of the reports after the employee submitted them to the federal grantor. However, management did not document these reviews, which were only a high-level overview that did not include matching reported data to source documentation.

We consider this internal control deficiency to be a significant deficiency.

This issue was not reported as a finding in the prior audit.

Cause of Condition

Department management believed its informal review was sufficient because claimant data was being pulled from UTAB through an automated process and the employee preparing the report was knowledgeable.

Effect of Condition

By not establishing adequate internal controls to ensure the weekly reports were complete and accurate, the Department was at an increased risk of inaccurately reporting data to the federal grantor.

Recommendation

We recommend the Department implement an effective management review process before submitting weekly reports to the federal grantor for the Presidential Declared Disaster Assistance to Individuals and Households program.

Department's Response

We thank SAO for their work to improve our processes over the Presidential Declared Disaster Assistance to Individuals and Households program. While we agree the recommendation would improve controls, this report is no longer required as the grant is in its closeout phase. Therefore, we consider this issue resolved.

Auditor's Remarks

While we acknowledge that the program is undergoing the closeout process, additional weekly program status reports were required by the federal grantor after the end of the audit period. We reaffirm our recommendation that the Department establish an effective review process for reports that were not examined as part of this audit.

We will review the status of the Department's corrective action during our next audit.

Applicable Laws and Regulations

Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) establishes the following applicable requirements:

Section 200.303 Internal controls, states in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued

by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Section 200.329 Monitoring and reporting program performance, states in part:

- (b) Reporting program performance. The Federal awarding agency must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information. As appropriate and in accordance with above mentioned information collections, the Federal awarding agency must require the recipient to relate financial data and accomplishments to performance goals and objectives of the Federal award. Also in accordance with above mentioned common information collections, and when required by the terms and conditions of the Federal award, recipients must provide cost information to demonstrate cost effective practices (e.g. through unit cost data). In some instances (e.g., discretionary research awards), this will be limited to the *establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).*
- (c) Performance report requirement waiver. The Federal awarding agency may waive any performance report required by this part if not needed.

Section 200.516 Audit findings, states in part:

- (a) *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:
 - (1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor’s determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 935, Compliance Audits, paragraph 11 as follows:

For purposes of adapting GAAS to a compliance audit, the following terms have the meanings attributed as follows:

Deficiency in internal control over compliance. A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing, or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met. A deficiency in operation exists when a properly designed control does not operate as designed or the person performing the control does not possess the necessary authority or competence to perform the control effectively.

Material weakness in internal control over compliance. A deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis. In this section, a reasonable possibility exists when the likelihood of an event occurring is either reasonably possible or probable as defined as follows:

Reasonably possible. The chance of the future event or events occurring is more than remote but less than likely.

Probable. The future event or events are likely to occur.

Significant deficiency in internal control over compliance. A deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

The U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA) *Lost Wages Supplemental Payment Assistance Guidelines*, state in part:

Lost Wages Reporting Requirements

Weekly Reporting Requirement

States and territories that received a grant award for supplemental lost wages payments were required to provide FEMA a Lost Wages Benefits Payment Weekly Report that included the total, weekly dollar amount of actual lost wages benefit payments made to eligible claimants, by program,

the number of appeals for the underlying benefits received by claimants, and any pending claims. The state/territory used the Lost Wages Weekly Report Template for the weekly submission.

- The template asked states/territories to provide the cumulative number of open appeals, and the number of new appeals for the one-week reporting period.
- The template asked states/territories to provide the cumulative number of open appeals, and the number of new appeals for the one-week reporting period.
- The template also asked states/territories to provide the cumulative number of pending LWA claims. Claims must have been filed or in process prior to the end of the period of assistance (December 27, 2020).
- The number of open and new appeals, as well as pending claims should have been reported as the total number of weeks represented by the appeals and claims and must be related to LWA and only for the weeks ending August 1, 2020 to September 5, 2020. As an example, if a pending claim for an individual would cover all six (6) weeks of funding, that should be counted as 6 claims.

FEMA award terms and conditions state in part:

Reporting

Recipients are required to submit various financial and programmatic reports in accordance with The State of Washington State Administrative Plan as a condition of award acceptance.

Programmatic Performance Reporting Requirements

Weekly program status reports are required in addition to final reports as required by 2 C.F.R. Part 200.328. Program status reports must include:

- The number and dollar amount of applications approved weekly,
- The number of individuals eligible to receive assistance under this award, broken out by the programs identified in Section 4(d)(i) of the August 8, 2020 Presidential memorandum;
- The amount of assistance disbursed weekly, and
- The number of appeals received.

The recipient must also comply with all reporting requirements in the State Administrative Plan.