SCHEDULE OF FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

State of Washington
July 1, 2019 through June 30, 2020

2020-003 The Office of Superintendent of Public Instruction did not have adequate internal controls over and did not comply with suspension and debarment requirements for Child Nutrition Cluster program.

CFDA Number and Title:	10.553 School Breakfast Program (SBP) 10.553 COVID-19 School Breakfast Program (SBP) 10.555 National School Lunch Program (NSLP) 10.555 COVID-19 National School Lunch Program (NSLP) 10.556 Special Milk Program for Children (SMP) 10.556 COVID-19 Special Milk Program for Children (SMP) 10.559 Summer Food Service Program for Children (SFSP) 10.559 COVID-19 Summer Food Service Program for Children (SFSP)
Federal Grantor Name:	U.S. Department of Agriculture
Federal Award/Contract Number:	197WAWA3N1099 207WAWA3N1099
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Suspension and Debarment
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 $316 million in federal funds, including non-cash assistance, on eligible child nutrition meals during fiscal year 2020. Most of the assistance was passed through 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 verify that all subrecipients of federal funds are not suspended or debarred using one of three approved methods. The Office's verification procedure is to add a clause or condition to each subaward or contract in which the signer attests they are 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 the prior audit, we reported the Office did not have adequate internal controls over and was not compliant with suspension and debarment requirements for Child Nutrition Cluster program subrecipients. The prior finding number was 2019-004.

Description of Condition

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

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

The Office implemented the new Permanent Agreement in December 2019. The Office halted using the new agreement because of USDA's concerns about the Civil Rights Assurance statement in the Permanent Agreement. To date, the Office continues to wait for USDA clarification.

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

Cause of Condition

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

Effect of Condition

We used a statistical sampling method to randomly select and examine 58 of a total population of 451 subrecipients or contractors. For the selected subrecipients and contractors, we examined the subaward and contract records to confirm that a suspension and debarment clause was included in agreement. We determined the Office did not require 12 subrecipients (21 percent) to certify that they were not suspended or debarred before receiving federal funds.

We confirmed that the subrecipients and contractors 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 a contract with suspended or debarred entities. If payments were made to entities who 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.

In response to the prior year's audit finding the Office:

- *Developed and implemented a new Child Nutrition Programs Agreement template in December 2019. The template includes information and attestation to suspension and debarment requirements.*
- *Updated internal process for review and approval of program applications.*

In September 2020, at the request of the US Department of Agriculture, implementation of the new agreement template was paused to address the civil rights assurance statement in the agreement. As soon as clarification and definitive guidance is received from the federal grantor, the Office will resume the implementation of the new agreement.

The conditions noted in this finding were previously reported in findings 2019-004.

Auditor's Remarks

We appreciate the Office's commitment to resolving this matter. We will follow-up with the Office in 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 200.516 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 Regulation, part 180, states in part:

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

A covered transactions is a nonprocurement or procurement transactions 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.

2020-004 The Office of Superintendent of Public Instruction did not have adequate internal controls over and did not comply with requirements to properly account for USDA-donated foods.

CFDA Number and Title:	10.553 School Breakfast Program (SBP) 10.553 COVID-19 School Breakfast Program (SBP) 10.555 National School Lunch Program (NSLP) 10.555 COVID-19 National School Lunch Program (NSLP) 10.556 Special Milk Program for Children (SMP) 10.556 COVID-19 Special Milk Program for Children (SMP) 10.559 Summer Food Service Program for Children (SFSP) 10.559 COVID-19 Summer Food Service Program for Children (SFSP)
Federal Grantor Name:	U.S. Department of Agriculture
Federal Award/Contract Number:	197WAWA3N1099 207WAWA3N1099
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions – Accountability for USDA-Donated Foods
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 $316 million, including non-cash assistance, in federal

funds on eligible child nutrition meals during fiscal year 2020. Most of the assistance was passed through to school food authorities (SFA) and other sponsors as subawards.

The United States 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 that an appropriate accounting be maintained for USDA-donated foods, an annual physical inventory be taken and the physical inventory be reconciled with inventory records.

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 was not compliant with requirements to properly account for USDA-donated foods. The prior finding number was 2019-005.

Description of Condition

The Office did not have adequate internal controls over and did not comply with requirements to properly account for USDA-donated foods.

The Office performed an annual physical inventory for all four 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.
- The Office did not perform a proper reconciliation between physical inventory and the Office's inventory records.
- The Office did not keep supporting records for inventory losses.

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

Cause of Condition

The corrective action plan the Office developed in response to the prior audit finding included establishing and implementing internal policies and procedures regarding the reconciliation process for donated foods and ensuring physical inventories are reconciled with inventory records.

However, the policies and procedures were not implemented until August 2020, which occurred after the audit period had ended.

Effect of Condition

We conducted an inventory reconciliation using the Office's State Fiscal Year 2019 physical ending inventory records, USDA food order records, distribution records, and the Office's State Fiscal Year 2020 physical ending inventory records. We found that out of 256 food items maintained by the four warehouses, 199 had discrepancies. The Office could not explain the differences.

Without proper reconciliation between physical inventories, inventory records, and the federal government's distribution report, the Office cannot ensure inventory discrepancies are identified and that loss of donated foods is properly accounted for.

Recommendations

We recommend the Office:

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

Office's Response

OSPI concurs with this finding. We will implement internal policies and procedures for the reconciliation process of USDA-Donated Foods. These policies and procedures will include internal controls to ensure reconciliation of inventory records to physical inventory.

Auditor's Remarks

We appreciate the Office's commitment to resolving this matter. We will follow-up with the Office in 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 200.516 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.

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

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 restitution 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.

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

§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 that storage facilities comply with all 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 by a 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 food inventories 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 food 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 amount 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 value of donated foods at its storage facilities. The amount of such insurance must be at least equal to the average monthly value of donated food inventories at such facilities in the previous fiscal year. The distributing agency must also ensure that the following entities obtain insurance to protect the value of their donated food inventories, in the same amount required of 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 facilities 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 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 Entity 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 for 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.

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 restitution 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.

§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.

§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, and 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.

2020-005 The Department of Health did not have adequate internal controls over and did not comply with cash management requirements for the Special Supplemental Nutrition Program for Women, Infants, and Children grant.

CFDA Number and Title:	10.557 Special Supplemental Nutrition Program for Women, Infants and Children
Federal Grantor Name:	U.S. Department of Agriculture, Food and Nutrition Service
Federal Award Number:	19WAWA7W1003; 19WAWA7W1006; 207WAWA7W1003; 207WAWA7W1006
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Cash Management
Known Questioned Cost Amount:	None

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, 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

The primary purpose of the Cash Management Improvement Act (CMIA) agreement is to ensure states request federal funds when they are needed so that no interest is gained or lost by either the federal or state governments. The agreement specifies the funding technique the Department should use when requesting federal funds.

For program administrative costs and payments to providers, the Department shall draw funds semi-monthly, according to the state payroll schedule. For daily food benefit payments, the Department shall draw funds, which are calculated on the amounts net of rebates from manufacturers, twice weekly.

The Department spent about $93 million in federal grant funds during fiscal year 2020. Of this amount, it paid about $46.5 million in food benefits to WIC clients, and $46 million in administrative costs and payments to providers.

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 was not compliant with cash management requirements. The prior finding numbers were 2019-006 and 2018-006.

Description of Condition

The Department of Health did not have adequate internal controls over and did not comply with cash management requirements for the WIC grant.

Staff responsible for performing cash draws had access to a draw schedule indicating when draws were to be performed based on their respective CMIA agreement. However, staff did not retain documentation to show their use of the draw schedule from July 2019 until February 2020. Management did not effectively monitor to ensure draws were completed in a timely manner.

Beginning in March 2020, staff began retaining documentation showing that draws were performed in line with the draw schedule to ensure they were completed in accordance with the CMIA agreement.

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

Cause of Condition

During fiscal year 2020, the Department was short-staffed due to vacancy and reallocation of staff to the Incident Management Team in response to the COVID-19 pandemic. This, as well as staff vacations during holidays, resulted in the non-compliance.

Effect of Condition

When the Department drew federal funds, it ensured the amounts drawn were correct based on actual payments. However, the Department did not monitor its federal drawdown

frequency to ensure it complied with the CMIA. We used a statistical sampling method to randomly select and examine 14 of the 90 bi-weekly draws and all the 27 semi-monthly draws the Department performed during the year. We found:

- Two of the 14 sampled bi-weekly draws were the only draws performed for their respective weeks.
- Three of the 27 semi-monthly draws we examined were not drawn on the state payroll schedule, as required. We also determined that the Department made no semi-monthly draws in July 2019 and August 2019.

Violations of the CMIA can result in the grantor denying the state payment or credit for the resulting federal interest liability or other sanctions. Delaying federal draw-down requests also results in state funds being advanced longer than necessary and lost interest revenue for the state.

Recommendation

We recommend the Department improve its monitoring to ensure staff perform cash draws in accordance with the state's CMIA agreement.

Department's Response

The Department only partially concurs with this finding.

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 were not in compliance with the federally approved Cash Management Improvement Act (CMIA). The Department agrees that we can increase our monitoring and internal controls and has implemented tracking controls to document our timely performance of cash draws.

However, we do not agree that the Department was out of compliance with the intent of the CMIA and the approved Treasury State Agreement (TSA). The purpose of the CMIA is to ensure the timely disbursement of federal funds. During all of 2020, the Department has been heavily involved in the response to the Covid-19 pandemic. As the auditor mentioned above, staff responsible for performing the WIC draws were required to transfer from their normal duties to work other duties within the response. The Department still ensured that draws were made in a manner that would guarantee that neither the state nor the federal grantor were required to pay interest earnings. All draws were made on costs that were already incurred and in line with the approved funding technique in the TSA.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter. We will follow up with the Department in 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 200.516 Audit findings, states in part:

(c) *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 31 Code of Federal Regulations part 205.29 What are the State oversight and compliance responsibilities?, states in part:

(d) If a State repeatedly or deliberately fails to request funds in accordance with the procedures established for its funding techniques, as set forth in § 205.11, § 205.12, or a Treasury-State agreement, we may deny the State payment or credit for the resulting Federal interest liability, notwithstanding any other provision of this part.

(e) If a State materially fails to comply with this subpart A, we may, in addition to the action described in paragraph (d) of this section, take one or more of the following actions, as appropriate under the circumstances:

(1) Deny the reimbursement of all or a part of the State's interest calculation cost claim;

(2) Send notification of the non-compliance to the affected Federal Program Agency for appropriate action, including, where appropriate, a determination regarding the impact of non-compliance on program funding;

(3) Request a Federal Program Agency or the General Accounting Office to conduct an audit of the State to determine interest owed to the Federal government, and to implement procedures to recover such interest;

(4) Initiate a debt collection process to recover claims owed to the United States; or

(5) Take other remedies legally available.

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 Cash Management Improvement Act (CMIA) of 2020, states in part:

6.2 Description of Funding Techniques, 6.2.1: The following are terms under which standard funding techniques shall be implemented for all transfers of funds to which the funding technique is applied in section 6.3.2 of this Agreement.

Actual Clearance, ZBA – ACH

The State shall request funds such that they are deposited by ACH in a State account on the settlement date of payments issued by the State. The request shall be made in accordance with the appropriate Federal agency cut-off time specified in Exhibit I. The amount of the request shall be for the amount of funds that clear the State's account on the settlement date. This funding technique is interest neutral.

6.2.4 The following are terms under which State unique funding techniques shall be implemented for all transfers of funds to which the funding technique is applied in section 6.3.2 of this Agreement.

Modified Direct Program Costs -Admin, Payroll, Payments to Providers (ACH Drawdown on Payroll Cycle)

The State shall request funds for all direct administrative costs and/or payroll costs, and/or payments made to providers and to support providers. The request shall be made in accordance with the appropriate Federal agency cut-off time specified in Exhibit I. The amount of the funds requested shall be based on the amount of expenditures recorded for direct administrative costs and/or payroll costs and/or payments made to providers or to support providers since the last request for funds. The State payroll cycle is payday twice a month. Draws made day before payday are for deposit on payday. The draw request will be made in accordance with cut-off time in Exhibit 1. The amount of the funds requested shall be based on the amount of expenditures recorded for direct administrative costs and/or payroll costs and/or payments made to providers or to support providers since the last request for funds. This funding technique is interest neutral.

6.3.2 Programs

10.557 Special Supplemental Nutrition Program for Women, Infants, and Children

Recipient: 303---Department of Health---DOH

% of Funds Agency Receives: 66.00

Component: Direct program/benefit payments for food voucher redemption through United Community Bank, which acts as the state's fiscal agent in the program. The state's drawdowns are based on the actual expenditures and are made twice weekly into ASAP for ACH payment to State Treasury. Rebates offset the direct program/benefit payments. This is a zero balance account.

Technique: Actual Clearance, ZBA-ACH

Average Day of Clearance: 0 Days

Recipient: 303---Department of Health---DOH

% of Funds Agency Receives: 34.00

Component: Administrative costs including payroll-Semi-monthly Federal draw requests performed one to three days prior to state's semi-monthly paydays for reimbursement of salary, benefits, contractual and related expenditures.

Technique: Actual Clearance, ZBA - ACH

Average Day of Clearance: 0 Days

2020-006 The Department of Social and Health Services did not have adequate internal controls over and did not comply with some Public Assistance Cost Allocation Plan requirements.

CFDA Number and Title:	10.561 State Administrative Matching Grants for the Supplemental Nutrition Assistance Program 93.558 Temporary Assistance for Needy Families (TANF) 93.556 Refugee and Entrant Assistance-State Administered Programs 93.778 Medical Assistance Program
Federal Grantor Name:	USDA Food and Nutrition Services Administration for Children & Families
Federal Award Number:	201919S251447; 202020S251447; 5-1905WA5ADM; 5-2005WA5ADM; G-1901WARCMA; G-2001WARCMA; G1901WARSOC; G-2001WARSOC; G-1901WATANF; G-2001WATANF
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 to allocate costs for its field operations to the state and federally funded programs.

Department staff generally work on multiple programs throughout a workday, which makes maintaining a timesheet difficult and time consuming. RMTS simplifies how the Department allocates the cost of time and effort to state and federal programs. RMTS is a sampling tool that is used to generate statistically valid statewide estimates of various activities performed by Department employees. The Department uses a system called Barcode to allow 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 performed by Department staff, it first must identify 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 the sample includes all eligible employees. RMTS coordinators are responsible for updating the list of workers by the 19th day of each month. Sampled workers are responsible for the accurate and timely completion of the RMTS sample and must complete samples within two hours of receiving them. RMTS coordinators must complete samples on behalf of the worker in accordance with the PACAP if the worker is unavailable to do so. At the end of the month, the samples are compiled and results are entered into the cost allocation system.

During fiscal year 2020, the Department used RMTS to allocate about $114 million to the following federal programs: State Administrative Matching Grants for the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Refugee and Entrant Assistance-State Administered Programs, and the Medical Assistance 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.

Description of Condition

The Department did not have adequate internal controls over RMTS and did not comply with some PACAP requirements.

Monthly employee reconciliations for sample universe

An Operation Analyst is responsible for performing monthly employee reconciliations that compare current staff on the payroll to a list of employees who were included in the previous month's sample population to ensure that the sampling population is complete. We requested supporting records to show that the Operation Analyst completed monthly reconciliations. In one instance, the Department did not have records to show the monthly reconciliations were performed.

Monthly employee updates

We examined all 11 of the monthly reconciliations the Operation Analyst created and forwarded to the RMTS coordinators to update eligible staff in Barcode. For all 11 months, RMTS coordinators did not update all changes identified on the staff list in Barcode.

RMTS auditors that update worker samples on behalf of sampled worker

The PACAP requires RMTS auditors to audit 10 percent of the 1,500 samples generated each month.

We used a non-statistical sampling method to randomly select and examine 23 of the 233 RMTS samples corrected by the auditor. In two instances, the auditors completed the worker's sample with unsupported activities. This was not allowed by the PACAP.

RMTS coordinators completing samples on behalf of sampled worker

The PACAP requires RMTS coordinators to respond for sampled workers who are not on the job at the sample time or unable to respond to the sample moment after two hours. If the sampled worker was on the job and unable to respond after two hours, the coordinator is to review systems to determine worker'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 3,803 RMTS samples that the sampled worker did not respond to and were completed by coordinators. In three instances, the coordinators completed the worker's sample with no supporting evidence. This was not allowed by the PACAP.

RMTS results updated incorrectly in the Cost Allocation System

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 (base edit workbooks). This information is transmitted to the Office of Accounting Services (OAS), which enters the information into the automated Cost Allocation System.

We used a non-statistical sampling method to randomly select and examine five of the 12 base edit workbooks that were created during the fiscal year. In two instances, the monthly RMTS results were entered incorrectly, which led to program percentages being uploaded incorrectly into the Cost Allocation System.

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

The issue was reported as a finding in the prior audit, as finding 2019-008.

Cause of Condition

Regarding *monthly employee reconciliations* and *monthly employee updates*, the Department had not completed its corrective action plan for the prior audit finding.

RMTS auditors that update worker samples on behalf of sampled worker

Department management did not effectively monitor RMTS auditors who updated RMTS samples, which did not align with the PACAP.

RMTS coordinators completing samples on behalf of sampled worker

RMTS Coordinators were not adequately trained on the new PACAP criteria established by Department management.

RMTS results were updated correctly in the Cost Allocation System

Department management did not effectively monitor to ensure that RMTS results were updated correctly into the Cost Allocation System.

Effect of Condition

The Department's inadequate internal controls affected the integrity of its RMTS sample universe and also led to incorrect percentages being used for federal reimbursement. An erroneous sample could cause the costs charged by the Department for its headquarters and regional operations to federally funded programs to be unallowable according to the PACAP. When RMTS results are incorrectly entered into the base edit workbook, the Cost Allocation System will incorrectly allocate the cost of salaries and benefits to state and federal programs.

Recommendations

We recommend the Department:

- Ensure monthly staff reconciliations are performed every month
- Implement a review process to ensure RMTS coordinators properly update the staff list in Barcode
- Ensure that RMTS coordinators and auditors make changes to RMTS samples only if their review of systems shows support for the change
- Ensure that RMTS results were updated correctly into the Cost Allocation System

Department's Response

The Department concurs with the audit finding.

As part of our corrective action plan for the SFY 2019 audit finding (2019-008), the Department:

- *Implemented a process in January 2021 to ensure monthly staff reconciliations were performed. The Department also developed standard guidelines and procedures for updating the eligible staff list in Barcode.*

- *By February 28 2021, the Department will develop and implement a process 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.*

Upon discovery of the errors related to the RMTS results that were entered incorrectly into the base edit workbooks, the Department immediately updated the process for completing the workbooks to ensure the RMTS results are updated correctly into the Cost Allocation System going forward.

To further ensure the accuracy of the RMTS results, the Department will:

- *Update current guidance to provide additional examples to staff on types of activities that are appropriate for each selection.*
- *Ensure RMTS auditors review the Public Assistance Cost Allocation Plan and are aware of when it is appropriate to modify an RMTS sample during an audit.*
- *Complete a one-time review of a subset of RMTS samples to conduct root cause analysis and determine whether additional training, procedure changes or system changes are needed*

Due to the timing and frequency of the audits, we acknowledged in our SFY 2019 response that we would likely see the same findings for the SFY 2020 Statewide 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 half way 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 appreciate the Department's commitment to resolving these matters. We will follow-up on the Department's corrective actions in 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 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.

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.

DSHS RMTS Program Instructions, Pg. 42-52, 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.

2020-007 The Department of Commerce did not have adequate internal controls over and did not comply with subrecipient monitoring requirements for the Crime Victims Assistance program.

CFDA Number and Title:	16.575, Crime Victims Assistance
Federal Grantor Name:	U.S. Department of Justice
Federal Award/Contract Number:	2018-V2-GX-0046; 2017-VA-GX-0061; 2016-VA-GX-0044
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient monitoring
Questioned Cost Amount:	None

Background

The Department of Commerce (Department) administers the Crime Victims Assistance program (program). The Department subawards federal funds to subrecipients that assist victims of crime in Washington. During state fiscal year 2020, the Department spent $51.1 million in federal funds for the program and passed through $49.1 million of that to subrecipients.

Subrecipients submit monthly reimbursement requests to the Department, using a standardized form. The form itemizes spending by activity, such as salaries and benefits, contract payments and goods and services. For the payments of goods and services, subrecipients must include a list of vendors and items that were purchased. The Department performs desk monitoring of the subrecipient requests before it issues payments. This monitoring focuses only on reimbursement requests for goods and services.

Federal regulations allow subrecipients to charge certain facility and administrative costs to the grant. These costs can be charged as indirect costs because they are incurred for a common or joint purpose benefiting more than one activity. Indirect cost rates can be charged at:

- An approved federally recognized indirect cost rate negotiated between the subrecipient and the federal government or, if no such rate exists, either:
- A rate negotiated between the pass-through entity and the subrecipient; or

- A de minimis indirect cost rate of 10 percent of Modified Total Direct Costs (MTDC), which may be used only if the subrecipient has never received a negotiated indirect cost rate or the Department didn't previously negotiate a rate with the subrecipient.

The Department must identify if subrecipients had previously negotiated a rate with the federal government. If the de minimis rate is chosen, the Department is responsible for knowing whether subrecipients are eligible to use it.

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 subrecipient monitoring requirements for the Crime Victims Assistance program.

We examined the Department's monitoring of 23 subawards issued during the audit period to identify the percentage of federal funds the subrecipients received that were reviewed by the Department.

The Department reviewed $314,532 (14 percent) out of $2,215,282 of total payments made for the 23 subawards. The monitoring the Department performed included only reimbursement requests for goods and services. There was no documented evidence to show other activities, such as salaries and benefits and contracted services, were subject to fiscal monitoring. The Department said these activities are reviewed informally. However, staff are not required to keep records showing what they reviewed. In our judgment, this level of monitoring was insufficient to ensure the Department could reasonably detect unallowable or unsupported costs by the subrecipients.

Additionally, during the subaward process, the Department did not ask whether subrecipients had previously been authorized a Federally Negotiated Indirect Rate (FNIR).

During our review of the 23 selected subawards issued by the Department, we found the Department allowed subrecipients to choose either an FNIR or a de minimis rate without first verifying if the subrecipients were eligible for the de minimis rate.

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

The issue was reported as a finding in the prior audit as finding 2019-010.

Cause of Condition

The Department believed its monitoring practices were sufficient to detect unallowable or unsupported costs by subrecipients The Department previously performed more in-depth fiscal monitoring, but discontinued that process after determining it was more effective and sustainable to focus on the portion of goods and services.

During the subaward process, the Department did not know it should verify if subrecipients had ever negotiated an indirect cost rate with the federal government. Management did not establish a process in which they identify the federal subaward requirements that would allow the Department to ensure subawards complied.

Effect of Condition

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

Recommendations

We recommend the Department:

- Expand its fiscal monitoring of subrecipients to include reimbursement requests for all activities and not just those for goods and services

- Require program monitors to keep records to show what they review during fiscal monitoring

- Establish a process to inquire whether subrecipients have ever negotiated an FNIR with the federal government before allowing a subrecipient to request reimbursement using the de minimis indirect cost rate of 10 percent of MTDC

Department's Response

The Department concurs with this repeat finding. In response to the prior finding, the Department implemented all of the recommendations by July 1, 2020.

The Department established procedures to expand fiscal monitoring of its subrecipients during reimbursement, including requiring back up documentation for salaries, benefits, and subcontracted services. The procedure requires the submission of backup documentation for salaries, benefits and contracted services that clearly documents the exact costs, calculations, percentage charged to the grant and allocation method if costs are allocated across multiple fund sources. The backup should clearly link the actual expenditures to the amounts requested for reimbursement on the invoice. These new monitoring procedures were created in February 2020, and formally implemented beginning July 1, 2020 after staff and subrecipients were fully trained.

The Department also established procedure for documenting fiscal monitoring that occurs during in-person site visits. Fiscal monitoring during site visits includes the review of a sample of real-time timesheets to verify and confirm that salary and benefit charges on a previously submitted invoice have appropriate backup documentation on file. Staff also document any fiscal policies and procedures reviewed and any other fiscal monitoring activities are clearly documented in the site visit report. These new monitoring procedures were written in February 2020 and formally implemented beginning July 1, 2020 once staff were fully trained.

The Department updated the certification forms for MTDC eligibility to inquire whether subrecipients have ever negotiated an FNIR with the federal government. This update was formally implemented in February, 2020.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter and will follow-up on its corrective action in 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 200.331 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:

(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 §200.521 Management decision.

(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 §200.425 Audit services.

2 CFR 200.414 - Indirect (F&A) costs states in part:

f. Any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200 - States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b, may elect to charge

a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 200.403 Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

Section 200.516 Audit findings, states in part:

(d) *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.

2020-008 The Department of Social and Health Services did not have adequate internal controls over and did not comply with subrecipient monitoring requirements for the Crime Victims Assistance program.

CFDA Number and Title:	16.575, Crime Victims Assistance
Federal Grantor Name:	Department of Justice
Federal Award/Contract Number:	2018-V2-GX-0046
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	
Applicable Compliance Component:	Subrecipient Monitoring
Questioned Cost Amount:	None

Background

The Department of Social and Health Services (Department) assists in administering the Crime Victims Assistance program (program) through an Inter-local Agreement with the Department of Commerce. The Department subawards federal funds to subrecipients that provide assistance to victims of crime in Washington. During state fiscal year 2020, the Department spent $12.4 million in federal funds for the program and passed through $12.0 million of that to subrecipients.

Federal regulations allow subrecipients to charge certain facility and administrative costs to the grant. These costs can be charged as indirect costs because they are incurred for a common or joint purpose benefiting more than one activity. Indirect cost rates can be charged at:

- An approved federally recognized indirect cost rate (FNIR) negotiated between the subrecipient and the federal government or, if no such rate exists, either:
    - A rate negotiated between the pass-through entity and the subrecipient; or
    - A de minimis indirect cost rate of 10 percent of Modified Total Direct Costs (MTDC), which may be used only if the subrecipient has never received a negotiated indirect cost rate or the Department didn't previously negotiate a rate with the subrecipient.

The Department must clearly identify the indirect cost rate in the subaward. If the de minimis rate is chosen, the Department is responsible for knowing whether subrecipients are eligible to use it.

In the prior audit, we reported as a finding that the Department did not have adequate internal controls over and did not comply with subrecipient monitoring requirements. The prior finding number was 2019-009.

Description of Condition

The Department did not have adequate internal controls over and did not comply with subrecipient monitoring requirements for the Crime Victims Assistance program.

During the subaward process, the Department did not inquire if subrecipients had previously been authorized a Federally Negotiated Indirect Rate (FNIR).

We randomly selected and reviewed 11 of 55 subawards issued by the Department during the audit period. We found the subawards did not clearly identify that the indirect cost rate subrecipients were authorized to request for reimbursement.

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

Cause of Condition

The Department was unable to implement the recommendations issued in the prior audit, as six months into this audit period had already passed when the Department received the prior audit finding and recommendations. In that audit, we recommended the Department establish a process to inquire whether subrecipients have ever negotiated an FNIR with the federal government before allowing the subrecipient to request reimbursement using the de minimis indirect cost rate of 10% of MTDC. The subawards reviewed during this audit period were issued prior to our recommendations being made.

Effect of Condition

By not adequately determining if its subrecipients are eligible to elect to utilize the de minimis rate, the Department is at a higher risk of not detecting or preventing unallowable indirect costs from being charged to the federal grant.

Recommendations

We recommend the Department:

- Ensure it complies with federal requirements related to establishment of indirect cost rates for subawards
- Ensure that subawards clearly identify indirect cost rates

Department's Response

The Department concurs with the finding.

Due to the timing and frequency of audits, the Department is not made aware of a finding until six months after the state fiscal year concludes. It is not always feasible to correct audit issues within the next six months before a new audit cycle begins. This also means the previous year's audit

issues will still be outstanding during at least the first six months of the current audit period. For this reason, we anticipate receiving repeat findings for two or three years in a row.

As part of the Department's corrective action plan for the prior year's finding, the Department:

- *Modified the funding application form to require contractors to indicate whether they have ever negotiated a FNIR with the federal government.*
- *Modified the CVA federal contract templates to include the indirect cost rate.*

The Department implemented the aforementioned controls by June 30, 2020. Therefore, the Department and the State Auditor's Office will not see the full benefit of these corrective actions until the SFY 2021 audit.

Although the Department already implemented the SAO recommendation, it is worth noting the Office of Management and Budget (OMB) amended 2 CFR 200.414(f) on August 13, 2020 (the beginning of SFY 2021) to no longer require verification that subrecipients have ever negotiated an FNIR with the federal government before allowing a subrecipient to request reimbursements using the de minimis rate of 10%.

Auditor's Remarks

We appreciate the Department's commitment to resolving these matters. We will follow-up on the corrective actions in 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 200.331 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

xiii. Indirect cost rate for the Federal award (including if the de minimis rate is charged per 200.414 Indirect (F&A) costs).

(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 §200.521 Management decision.

2 CFR 200.414 - Indirect (F&A) costs states in part:

f. Any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200 - States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b, may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 200.403 Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

Section 200.516 Audit findings, states in part:

(e) *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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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.

2020-009 The Department of Commerce did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Crime Victims Assistance or the Low-Income Home Energy Assistance programs received required audits and findings were followed up on timely.

CFDA Numbers and Titles:	16.575, Crime Victims Assistance
	93.568, Low-Income Home Energy Assistance
Federal Grantor Names:	Department of Justice
	Health and Human Services
Federal Award Numbers:	2019-V2-GX-0034
	2018-V2-GX-0046
	2017-VA-GX-0061
	2016-VA-GX-0044
	G-2001 WALIEA
	G-1901 WALIEA
	G-18B1 WALIEA
	G-1801 WALIE4
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Known Questioned Cost Amount:	None

Background

The Department of Commerce (Department) administers the Crime Victim Assistance and Low-Income Home Energy Assistance programs. Both programs subaward federal funds to subrecipients that provide assistance in Washington. During state fiscal year 2020, the Department spent $51.2 million in federal funds for the Crime Victim Assistance Program and $62.9 million in federal funds for the Low-Income Home Energy Assistance Program. Of these amounts, the Department passed through $32 million to subrecipients of the Crime Victims Assistance Program and $56.4 million to subrecipients of the Low-Income Home Energy Assistance Program.

Federal regulations require the Department to monitor the activities of its subrecipients. This includes ensuring that its subrecipients that spend $750,000 or more in federal funds during a fiscal year obtain a single audit.

The audits must be completed and submitted to the Federal Audit Clearinghouse no later than nine months after the end of the subrecipient's fiscal year. The Department must also follow up and ensure its subrecipients takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the Department and must issue a management decision within six months of the audit report's acceptance by the Federal Audit Clearinghouse. These requirements help ensure grant money is used for authorized purposes and within the provisions of contracts or grant agreements.

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 ensure subrecipients of the Crime Victim Assistance or the Low-Income Home Energy Assistance programs received required audits and findings were followed up on timely.

During the subaward process, subrecipients are notified of the requirement to submit all single audit reports on time once completed. However, management did not adequately track when audits were due nor confirm that they were either performed or not required.

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

This matter was reported as a finding in the prior audit. The prior finding number was 2019-011.

Cause of Condition

The Department has written policies that describe the process it uses to verify whether each subrecipient required a single audit, monitor audit results, or ensure it issued timely management decisions when required. However, the Department did not follow these policies.

Effect of Condition

We randomly selected and examined records for 20 of the program's 186 subrecipients. We found nine instances (45 percent) when the Department did not monitor subrecipients to ensure their compliance with requirements for obtaining single audits. Of these nine,

four subrecipients never submitted an audit to the Department. The Department was required to determine if the subrecipients received any audit findings related to programs. The Department was also required to issue a management decision to any subrecipient with program-related findings and ensure the issue was corrected. Because it did not know whether subrecipients had findings, the Department did not determine if follow-up was required.

Without reviewing subrecipient audits in a timely manner, the Department cannot ensure it complies with federal law and issues management decisions in a timely manner. Not reviewing audit reports and issuing management decisions in a timely manner also affects the subrecipients, which might be relying on that management decision to determine how they will address the issues identified in their finding.

Recommendations

We recommend the Department:

- Adhere to established policies related to subrecipient audit monitoring
- Determine if subrecipients had program-related audit findings and issue management decisions as required by federal regulation

Department's Response

The Department concurs with this finding. In response to the prior finding, the Department implemented all of the recommendations by August, 2020. The Department updated established policies and procedures in place related to subrecipient audit monitoring. Per policy and procedure, reports are generated using our Contract Management System (CMS) to ensure required audits were received. These reports are ran quarterly. The policy prior to August 2020 was to run a report for contractors who did not submit audits or verification forms if an audit is not required after the required nine (9) months in an effort to collect the required information. The Department changed its policy and procedure to run the report prior to the nine (9) month requirement as a reminder and to ensure we collect the required documents within the required timeframe.

The Department has an established guideline in place related to following up on subrecipient audit findings. When inputting audits into CMS, the audit finding field is checked

"yes" or "no" based on the information in the single audits received. Per the guideline, quarterly, a Findings Report is ran based on the audit finding field checked "yes" and worked to ensure audit findings identified are followed-up and captured into CMS. The Department worked with staff inputting audits into CMS to ensure audits are properly read

and CMS fields are correctly checked to ensure the CMS reports are accurate and we can follow-up on subrecipient audit findings as required by federal regulation.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter and will follow-up on its corrective action in 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 200.331 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:

(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 §200.521 Management decision.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

Section 200.516 Audit findings, states in part:

(f) *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 200.521 Management Decisions, states in part:

(c) Pass-through entity. As provided in § 200.331 Requirements for pass-through entities, paragraph (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.

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.

2020-010 The Employment Security Department did not have adequate internal controls over and did not comply with requirements to ensure only eligible recipients received Unemployment Insurance benefits.

CFDA Number and Title:	17.225, Unemployment Insurance
	17.225, COVID-19 Unemployment Insurance
Federal Grantor Name:	U.S. Department of Labor
Federal Award Number:	UI-32633-19-55-A-53; UI-32736-19-55-A-53; UI-32736-19-55-A-53; UI-34092-20-55-A-53; UI-34198-20-55-A-53; UI-34748-20-55-A-53
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed / Unallowed
	Allowable Costs / Cost Principles
	Eligibility
Known Questioned Cost Amount:	$1,750

Background

The Unemployment Insurance program (UI) was created by the Social Security Act (SSA) and provides benefits under the Unemployment Compensation (UC) 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 Federal-State Extended Unemployment Compensation Act (EUCA) of 1970 provided for the Extended Benefits (EB) program. During periods of high unemployment, that program pays extended benefits for an additional (or extended) period to eligible unemployed workers who have exhausted their entitlement to UC programs.

The Employment Security Department (Department) administers the state's Unemployment Insurance program. During fiscal year 2020, the Department paid more than $7.5 billion in unemployment benefits to over 900,000 people.

The federal government and employers in the state primarily fund the program.

To initially be eligible to receive UI benefits, a claimant must:

- Have worked enough hours in the base year
- Have an allowable reason for being unemployed
- Be able and available for work

A claimant must also meet continued eligibility requirements to receive weekly benefit payments.

Claims made to the State for UI payments are vetted through a system review for the likelihood of improper or fraudulent payments.

In response to the COVID-19 pandemic, the U.S. Congress created new financial relief programs to be administered through states' unemployment systems. The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided relief to people who suffered financially because of the pandemic. CARES included the Pandemic Emergency Unemployment Compensation program, which extended the number of weeks a person could collect unemployment benefits and the Pandemic Unemployment Assistance program provided benefits to individuals who would not otherwise qualify for benefits under Unemployment Insurance, such as independent contractors and self-employed individuals and met certain COVID-19 eligibility requirements. CARES also included the Federal Pandemic Unemployment Compensation program, which also increased the amount of benefits a person may be eligible to receive $600 per week.

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 only eligible recipients received Unemployment Insurance benefits.

Specifically, we found:

- The specific element in the fraud scoring tool used was flawed and required fixes that were not implemented until May 14, 2020.
- Cross-matching with other data systems did not operate as designed during the fiscal year.
- The Department did not always verify a claimant's employment status before payment. Before March 8, 2020, a one-week waiting period allowed the Department an opportunity to verify a claimant's employment status.

We consider these internal control deficiencies to be a material control weakness, which led to material noncompliance with eligibility requirements. These issues were not reported as a finding in the prior audit.

Cause of Condition

After the surge in unemployment claims due to the pandemic and the implementation of the CARES Act, existing internal controls over claims were modified and/or eliminated at the direction of the U.S. Department of Labor and Washington's Governor's Office beginning March 8, 2020. Factors contributing to the material control weakness include:

- A significant increase in the volume of weekly claims being submitted, reaching a peak of 181,975 new claims for the week of March 22 to March 28, 2020
- Insufficient guidance to implement the provisions of the CARES Act. USDOL lagged in releasing numerous Unemployment Insurance Program Letters (UIPL) directing the operation of the program, including a significant amount of revised and updated guidance as well as retroactive guidance
- The implementation of a new Pandemic Unemployment Assistance Program, which extended unemployment benefits to individuals not traditionally eligible under the existing program structure. The federal PUA program did not require claimants to submit documentation to substantiate employment or self-employment wages.
- The Department had less of an opportunity to verify a claimant's employment status before payment because the Governor's Office waived the required one-week waiting period for benefit payments by issuing an emergency proclamation. Although this waiver complied with UIPL directives from the U.S. Department of Labor, it also increased the likelihood of improper payments.

Effect of Condition and Questioned Costs

The Department issued 13,922,296 UI benefit payments from April 1, 2020, to June 30, 2020, that cost $6,069,177,929. We randomly selected and examined 59 payments to determine whether the recipient was eligible for unemployment compensation. We found three instances, totaling $1,750, when the claimant was not eligible, yet UI benefits were still paid by the Department. We are questioning these costs.

Because a statistical sampling method was used to select the payments we examined, we estimate the total improper payments of federal funds to be $411,143,165.

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.

The Department provided us documentation on November 18, 2020 showing, as of June 30, 2020, it paid:

- 84,141 claims totaling $413,714,754 that were known to be fraudulent; and
- 38,434 claims totaling $188,008,529 that were suspected of being fraudulent.

In total, the Department identified 122,575 claims, totaling $601,723,283 that were known or suspected of being fraudulent. After evaluating the documentation, we agreed with the Department's conclusions that the $601,723,283 is the likely amount of federal questioned costs paid as of June, 30, 2020.

Of the estimated $601,723,283 of known or suspected fraudulent claims, the Department also gave us documentation showing it had recovered:

- 26,230 claims totaling $167,645,825 that it knew were fraudulent; and
- 12,339 claims totaling $83,106,183 that it had assessed were suspected of being fraudulent.

In total, the Department recovered $250,752,009 related to 38,569 claims. After evaluating the Department's documentation, we agreed with the Department's conclusions.

The Department is continuing its efforts to identify and investigate known and suspected fraudulent claims and to recover overpayments and unallowable payments.

Recommendations

We recommend the Department:

- Ensure it verifies claimant employment status before issuing UI payments
- Ensure its cross-matching with other State systems functions as intended
- Continue to seek recovery of improper payments and consult with the grantor to determine whether the questioned costs identified in the audit should be repaid
- Continue working with the U.S. Department of Labor and the U.S. Department of Justice to recover the remaining suspected fraudulent payments

Department's Response

The Department agrees there was a targeted imposter fraud, and over $600 million was paid to fraudulent accounts. However, there are several inaccurate statements within this finding. The

Department provided all of the information to the State Auditor's Office (SAO) so they could correct these statements, but SAO chose not to correct them. Below are the statements and the reasons why these statements are not accurate:

> *"The Department did not always verify a claimant's employment status before payment. Before March 8, 2020, a one week waiting period allowed the Department an opportunity to verify a claimant's employment status."*

For UI claims, claimants' qualification for UI is based on employer reports of wages paid and hours worked in employment, as imported from NGTS. So, claimants' employment information in support of eligibility is verified in every case. Verification of employment status for PUA claims was not required prior to payment, and PUA claims do not have a waiting week.

In addition, the CARES Act required the state to accept the claimant's self-attestation of their connection to the labor market, as well as their eligibility reason for PUA. The only item ESD could verify with documentation was a request for benefits above the minimum, which required wage documents. Without documentation, ESD was required to pay PUA at the minimum Disaster Unemployment Assistance (DUA) benefit amount.

The waiting week for UI claims has never been used to verify a claimant's employment status. The purpose of the waiting week is to prevent Washington state from paying out extremely small claims. It was initially started in the 1930s as an actuarial measure to maintain trust fund solvency while focusing efforts on the longer-term unemployed. Without it, the ESD would be forced to send checks for two or three days of unemployment when a claimant experiences short unemployment time frames. Another reason for the waiting week is to encourage claimants to immediately begin searching for new employment.

> *"The Department had less of an opportunity to verify a claimant's employment status before payment because the Governor's Office waived the required one week waiting period for benefit payments by issuing an emergency proclamation. Although this waiver complied with UIPL directives from the U.S. Department of Labor, it also increased the likelihood of improper payments."*

The waiting week is not used to verify employment status and has no impact on the amount of time it takes to process a claim. The federal PUA program requires ESD to pay the minimum benefit without verifying employment status. If the imposter fraud claims before May 14 were backdated to include the week initially waived, this increased the amount of fraud in dollars, but not the fact that the fraud occurred.

Waiving the waiting week did not increase the likelihood of improper payments. We do believe waiving the waiting week affected the dollar value of the fraudulent payments made by ESD.

> *"The Department issued 13,922,296 UI benefit payments from April 1, 2020, to June 30, 2020, that cost $6,069,177,929. We randomly selected and examined 59 payments to determine whether the recipient was eligible for unemployment compensation. We found three instances, totaling $1,750, when the claimant was not eligible, yet UI benefits were still paid by the Department. We are questioning these costs.*
>
> *Because a statistical sampling method was used to select the payments we examined, we estimate the total improper payments of federal funds to be $411,143,165."*

This finding is erroneous. Treating all improper benefit payments as questioned costs is unsupported in law and fact.

While ESD made certain improper payments, it is legally incorrect to assume they are "questioned costs" for noncompliance with grant regulations or for lack of documentation to support expenditures, within the meaning of 2 CFR 200.516(a)(3).

The cited rule, 2 CFR 200.516, requires the auditor to report as questioned costs "[m]aterial noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program." The SAO did not identify any federal statutes or regulations or terms and conditions of federal awards that ESD violated by making benefit payments that it turns out were improper payments. And, 2 CFR 200.84 does not support a different conclusion. That rule defines a "questioned cost" to include a cost questioned by the auditor because of an audit finding "which resulted from a violation or possible violation of a statute, regulation, or terms and conditions of a Federal award." The SAO did not identify a violation by ESD of a statute, regulation, or term or condition of federal awards by paying benefits to a person who is ultimately ineligible, but who appeared upon their application to be eligible. Doing so is not in and of itself noncompliance with federal requirements.

It is inevitable that certain benefit payments will be made to people who are ineligible. ESD's obligation under federal and state statutes and regulations and the terms and conditions of federal awards (i.e., here, the CARES program agreements), is to assess overpayments for improper payments and attempt to recover them by reasonable means.

- *RCW 50.20.190 requires individuals' repayment of UI overpayments, including for fraud, and authorizes deduction from further amounts payable to such individuals*
- *CARES Act, Sec. 2102(h) (PUA: incorporates DUA regulations at 20 CFR Part 625, especially 20 CFR 625.14, and requires individuals' repayment and states' offset from further amounts payable to such individuals, stating also: "the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the individual was not entitled");*

- *CARES Act, Sec. 2104(f)(2) and (3) (FPUC: requires individuals' repayment, and states' deductions from further amounts payable to such individuals);*
- *CARES Act, Sec. 2105(f) (waiting week: incorporates same fraud provisions as for PEUC);*
- *CARES Act, Sec. 2107(e)(2) and (3) (PEUC: requires individuals' repayment, and states' deductions from further amounts payable to such individuals)*
- *Agreement Implementing the Relief for Workers Affected by Coronavirus Act, signed on 3/27/20, between the State of WA and USDOL, provides: "Consistent with the requirements of the provisions identified in paragraph XIV [which include PUA, FPUC, the waiting week, and PEUC], and the related addenda, the Agency will take such action as reasonably may be necessary to recover for the account of the United States all benefit amounts erroneously paid and restore any lost or misapplied funds paid to the state for benefits or the administration of this Agreement." Sec. VIII.*

SAO did not identify any failure on ESD's part in its assessments of overpayments or attempts to recover improper payments by reasonable means.

Expending CARES Act unemployment funds for purposes other than payment of unemployment benefits (e.g., diverting them for support of a different program, etc.) would constitute noncompliance with the relevant laws and terms. But expending them as intended—for unemployment benefits, albeit erroneously, is not noncompliance for purposes of questioned costs, as long as ESD complies with the relevant provisions in the law and its agreement to pursue recoveries. By the logic of SAO's finding, any erroneous payment could be viewed as "questioned costs" supporting an audit finding and triggering a request to repay federal funds. This has not been the view historically in audits. And looking to recent news reports, this would mean by analogy that Californians would perhaps owe up to the federal share of $11 billion or more in improper payments and Nebraskans up to 66% of unemployment payments to the federal treasury, given their experience with imposter fraud.

See:https://www-nbcnews-com.cdn.ampproject.org/c/s/www.nbcnews.com/news/amp/ncna1257766.

Importantly, USDOL, which has audit authority over state workforce agencies, has not so asserted with respect to Washington or other states. Nor has the USDOL Office of Inspector General (OIG). Further, neither USDOL nor its OIG has claimed any improper payments during the pandemic are unallowed costs.

Rather, USDOL tracks improper payment rates and if those rates are higher than acceptable performance levels, this can lead to USDOL requiring corrective action plans designed to reduce future improper payment rates. The Payment Integrity Information Act (PIIA), requires programs to report an annual improper payment rate below 10 percent. The UI program established a performance measure for states to meet the 10% requirement. Accordingly, improper payments

of up to 10% of overall payments is considered an acceptable level of performance in the regular UI program. Failing to follow integrity standards can also lead to USDOL termination of pandemic program agreements or even its decertification of the state UI program. Indeed, if USDOL were to determine ESD "does not have an adequate system for administering these [pandemic] programs, it would… have authority to terminate its agreements… for operating PEUC, PUA, and FPUC, based upon the state's failure to ensure individuals receiving benefits are eligible for such benefits" UIPL 23-20, at 7. Again, USDOL has not so asserted, and even this remedy does not address repayment, but rather, cessation of future federal pandemic program payments.

Questioning costs or requiring repayment to the federal government of all improper payments is not the remedy, except with respect to the lost wages assistance (LWA) program—which is explicitly governed by different rules and terms.

For LWA, sums erroneously repaid to individuals and not recouped must be repaid to FEMA.

The State Administrative Plan for the Other Needs Assistance Supplemental Payments for Lost Wages, signed on 8/21/20, provides in Section III.E.1 (Recovery of Funds): "The Washington Employment Security Department is responsible for recovering assistance awards from the eligible individuals obtained fraudulently, expended for unauthorized items or services, expended for items for which assistance is received from other means, and awards made in error and for returning funds to FEMA in accordance with 2 C.F.R. § 200.345." It also provides in Section III.E.4: "The Washington Employment Security Department will reimburse FEMA for the Federal share of awards not recovered through quarterly financial adjustments within the 90 day close out liquidation period of grant award." And in Section III.E.5: "If Washington does not reimburse FEMA within the 90 day close out liquidation period, FEMA will issue Washington a Notice and Debt Letter (Bill for Collection)."

UIPL 27-20, Change 1 reiterates this: "The state is responsible for refunding to FEMA any unobligated balances that FEMA paid that are not authorized to be retained per 2 C.F.R. 200.343(d). Additionally, the state is also responsible for recovering assistance awards from claimants obtained fraudulently, expenses for unauthorized items or services, expenses for items for which assistance is received from other means, and awards made in error. (44 C.F.R. 206.120(f)(4 and 5)). Section III.E of the State Administrative Plan template provides additional guidance on the Recovery of Funds necessary procedures."

And FEMA FAQs, linked within UIPL 27-20, Change 2, support the same: "States, territories and the District of Columbia have an obligation to recover all improper payments, including assistance awards fraudulently obtained and awards made in error. (44 CFR § 206.120(f)(5)). Adjustments to state and territory liabilities arising from recovery of improper or fraudulent payments will be made as those funds are returned to FEMA. (See also 2 CFR § 200.344.)

The LWA program was not implemented until September, so none of the payments at issue in this audit are implicated. The different legal standards and terms for LWA are pointed out purely for sake of contrast, and to support that for UI and the CARES Act unemployment benefit programs, improper payments should not be treated as questioned costs.

We would also like to clarify the amount recovered, as reported in our response to the CAFR report, and was provided for this audit, but SAO also chose not to include:

> *ESD recovered a total of $356.4 million, but must complete investigations of suspected fraudulent claims in order to assign the recovered funds. So far, they have been able to assign $250.7 million to known or probable fraudulent claims. ESD continues its investigations into suspected fraudulent claims and to work with the federal Department of Justice to recover the remaining fraudulent payments.*

In summary, the unprecedented attack on ESD's system resulted in more than $600 million being paid on claims that appeared legitimate, but it turns out were not. The waiting week waiver—done to increase federal funds to Washington for claimants and for program administration and to speed economic recovery—did not cause the imposter fraud attack or prevent ESD's detection of it, but it did increase the amount of losses. ESD transparently shared information about the attack and its response. By prompt and extensive effort, ESD recovered much of the funds improperly paid, and those efforts continue. But there is no basis for a requirement that unrecovered federal funds be repaid. In addition to recovering funds, ESD took measures to prevent further losses. Had ESD not so acted, hundreds of millions to billions more could have been paid to imposters. Indeed, other states face similar attacks and experienced significant losses. ESD is a national leader in its imposter fraud response.

Auditor's Remarks

The Department cited part (a)(3) of the CFR 200.516 regulation as the basis for disagreeing about the auditor's responsibility to report the fraud amount as questioned costs. Section (a)(6) of that same regulation states the auditor must issue a finding if ***known*** or ***likely*** fraud is identified during the audit, which occurred in this case.

Additionally, CFR 200.53(b), in part, defines an improper payment to be, "any payment to an ineligible party". By definition, an improper payment is a questioned cost. CFR 200.516(a)(3) requires to the auditor to issue a finding when the known or likely questioned costs identified during the audit is $25,000 or more.

In this audit, we identified and reported $1,750 in known questioned costs and over $601 million in likely questioned costs based on information provided by the Department. This condition also requires the auditor to report a finding.

Historically, federal grantors have not requested state agencies repay the likely questioned costed reported in findings. The auditor's responsibility is to report to the grantor the results of the audit. The grantor alone then decides how, or whether, to take action based on the audit results.

Regarding the waiting week and its effect on the fraud, our finding makes clear the waiver of that week is one of the conditions that resulted in financial loss to the State. The Department acknowledges this in its response, stating "We do believe waiving the waiting week affected the dollar value of the fraudulent payments made by ESD."

The Office of the Washington State Auditor stands behind its work and re-affirms our finding. The Department is responsible for establishing effective internal controls to prevent improper payments and safeguard public funds. The loss of public funds that occurred during the audit period was significant and warrants the attention of the federal grantor and the public.

We will continue to audit the Department and verify any improvements to internal controls, as well as verify the amount of known and likely questioned costs related to the unemployment benefits program.

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 sample 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:

(g) *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; therefor, 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.

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.

Revised Code of Washington 43.88.160 Fiscal management – Powers and duties of officers and agencies, states in part:

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

WAC 192-110-005

Applying for unemployment benefits—General.

(1) **How do I apply for benefits?** You may apply for benefits by:

(a) Using the department's online services; or

(b) Calling the unemployment claims center; or

(c) If you have a physical or sensory disability, or are in unusual circumstances that make filing by telephone or internet difficult, the commissioner may authorize other methods of applying for benefits.

(2) **When can I apply?**

(a) You may apply online using the department's online services at any time.

(b) You may apply by telephone (excluding state holidays) during the days and hours designated by the department.

(3) **What information am I required to provide?** The minimum information needed to process your application is your:

(a) Legal name; and

(b) Social Security account number. You should also be prepared to provide the names, addresses, dates worked, and reasons for job separation for all of your employers during the past eighteen months. Other information may be required in individual circumstances.

(4) **Will I receive benefits immediately?** The first week you are eligible for benefits is your waiting week. You will not be paid for this week. However, you must file a claim for this week before we can pay you any benefits for future weeks.

Washington Administrative Code 192-110-020 How will the department verify my identity?, states:

When you apply for benefits, the information you provide must be sufficient for the department to confirm your identity to its satisfaction.

(1) If we can verify your identity with this information, we will file your application for benefits.

(2) If we cannot verify your identity, we will request additional verification.

(a) If the additional information provides satisfactory evidence of your identity, your claim will be effective based on the date you first applied for benefits, unless it is backdated as provided in WAC 192-110-095.

(b) If the additional information does not satisfy the department of your identity, we will deny your benefits.

2020-011 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 Number:	UI-32633-19-55-A-53; UI-32736-19-55-A-53; UI-32736-19-55-A-53; UI-34092-20-55-A-53; UI-34198-20-55-A-53; UI-34748-20-55-A-53
Pass-through Entity:	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.

The Employment Security Department (Department) administers the state's Unemployment Insurance program. During fiscal year 2020, the Department paid more than $7.5 billion dollars in unemployment insurance benefits to over 900,000 individuals.

Operation of the BAM program revolves around the requirement to draw a weekly sample of payments and denied claims, to be completed promptly, and with an in-depth investigation to determine the degree of accuracy in the administration of 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 case sampling for the BAM program. 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.

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 and denied claims.

The Department did not effectively recruit, develop and retain individuals to ensure it materially complied with BAM case review 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

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.

Once the COVID-19 pandemic began, management diverted some program staff to assist with other critical functions across the Department. This was not a critical factor leading to the Department's non-compliance because the federal Department of Labor waived many of the BAM requirements in the 4th quarter of the fiscal year.

Effect of Condition

The Department did not comply with the federally required timelines for completing its case sampling. Specifically, we found the Department completed 70 percent, not 95 percent, of sampled cases within 90 days of the week ending date of the batch.

This was materially noncompliant with BAM program timeliness requirements.

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 agrees with this finding and recommendation. The BAM program management has taken steps to increase staffing, improve recruitment, and develop innovative training methods to best prepare new investigators. Management will continue in these efforts until the reason for the finding no longer exists.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter and will follow-up on the corrective action in 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 200.516 Audit findings, states in part:

> (h) *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:

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> **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 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.

2020-012 The Employment Security Department did not have adequate internal controls over and did not comply with requirements to ensure quarterly performance reports for the Workforce Innovation and Opportunity grant were submitted completely and accurately.

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 Number:	AA-30772-17-55-A-53, AA-32219-18-55-A-53, AA-33263-19-55-A-53, AA-30772-17-55-A-53, AA-32219-18-55-A-53, AA-33263-19-55-A-53, AA-30772-17-55-A-53, AA-32219-18-55-A-53, AA-33263-19-55-A-53
Pass-through Entity:	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 reporting using a standardized Participant Individual Record Layout (PIRL). The Department must file the PIRL every quarter using the DOL's Workforce Integrated Performance System.

The 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. In addition, ETO tracks their progress while in the program and upon completion. The data captured in ETO is used to compile the data elements reported on the PIRL.

In state fiscal year 2020, the Department spent about $64.6 million in federal funds for the WIOA grant.

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 quarterly performance reports submitted for the WIOA Title I grant were complete and accurate.

The Department did not establish an effective review process to ensure data elements of PIRL quarterly reports were accurate and complete before the reports were submitted to DOL. The Department also did not have written data validation procedures for the PIRL report required by DOL.

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

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

Cause of Condition

Participant data is extracted from a large database and then transformed with customized code by a contracted vendor to produce the data used to create the PIRL reports. The Department did not complete a review to ensure the code produced by the vendor correctly pulled the data because they did not have sufficient staffing resources.

In January 2020, Department management discontinued an internal project named “Phoenix,” which was intended to address the deficiencies in the PIRL and ETO.

Effect of Condition

We verified the Department submitted all four quarterly PIRL reports to the DOL, as required during fiscal year 2020. 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	158,328	397,797	**39.80%**
2	152,886	391,444	**39.06%**
3	154,832	398,152	**38.89%**
4	170,929	403,537	**42.36%**

Data Element 904

Quarter	Blanks	Total	Percent
1	159,278	397,797	**40.04%**
2	153,712	391,444	**39.27%**
3	155,531	398,152	**39.06%**
4	171,461	403,537	**42.49%**

Data Element 905

Quarter	Blanks	Total	Percent
1	159,259	397,797	**40.04%**
2	153,706	391,444	**39.27%**
3	155,526	398,152	**39.06%**
4	171,457	403,537	**42.49%**

We could not determine the total population of WIOA participants for our 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.

Recommendations

We recommend the Department:

- Establish written validation procedures for the PIRL report as required by the DOL
- Establish a review process to ensure quarterly PIRL reports are submitted completely and accurately
- Ensure all required elements are completed for participants listed in the PIRL reports before being submitted to DOL

Department's Response

We agree with the finding that ESD did not have adequate internal controls in place. We also acknowledge the recommendations listed above.

These recommendations are already actively being addressed by the agency through the following items.

The Labor Market and Economic Analysis team, which includes System Performance, has taken steps to increase staffing, improve data validation and governance internal controls, updated SLAs and contracts with the existing vendor to redefine Severity 1 issues, and initiated agency-wide executive sponsored PIRL validation and Workforce Innovation Technology (WIT) (e.g. MIS system) replacement project efforts.

We will continue to focus on these items, and planned future improvement efforts, until the reason for the finding no longer exists.

Additional items for consideration:

- *We would like to note that the full data validation framework was not mentioned as part of the scope presented at the SAO entrance.*

- *Additionally, our understanding is that the scope of this audit was focused on the PIRL whereas the finding is focused on the full data validation framework.*

- *ETO is not the only source of data for the PIRL. As we advised SAO, the Next Generation Tax System (NGTS) and the State Wage Interchange System (SWIS) were the sources for wage data.*

- *The vendor provides the data extract from ETO in collaboration with a middleware vendor. This exchange is out of our control and the scripting is proprietary, which creates a significant constraint related to validation and mapping of the PIRL. We're actively managing and attempting to influence this constraint and will continue to do so until resolution is achieved.*

Auditor's Concluding Remarks

We informed the Department in our official entrance document that the PIRL report would be evaluated as part of the audit, including testing of internal controls over and compliance with the reporting requirements set forth in the Uniform Guidance Compliance Supplement. The final draft of the Compliance Supplement was published by the Office of Management and Budget (OMB) in August 2020, which occurred prior to our audit work.

The suggested audit procedures prescribed by the OMB (articulated in Part 3 the Compliance Supplement) for Reporting, which we followed, states:

> *"3. Select a sample of each of the following report types, and test for accuracy and completeness:*
>
> > *b. Performance and Special Reports*
> >
> > > *(2) Perform tests of the underlying data to verify that the data were accumulated and summarized in accordance with the required or stated criteria and methodology, including the accuracy and completeness of the reports."*

In the case of the PIRL report, the ETO serves as the source data used by the Department to prepare the PIRL before submitting it to the DOL. Therefore, we tested the accuracy and completeness of the ETO data contained in the PIRL report. We agree that NGTS and SWIS data is also used in creating the PIRL; however, the data elements that rely on these systems were incomplete. Therefore, there were no further tests of NGTS and SWIS that we could perform.

The Department is ultimately responsible for ensuring the accuracy and completeness of its PIRL reports, regardless of whether it contracts with a vendor to assist with the process.

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 200.329 Monitoring and reporting program performance.
>
> > (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, governmentwide 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 200.303 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:

(i) *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.

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

2020-013 The Employment Security Department did not have adequate internal controls over and did not comply with requirements to perform risk assessments or fiscal monitoring for subrecipients of the Workforce Innovation and Opportunity Act 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 Number:	AA-30772-17-55-A-53, AA-32219-18-55-A-53, AA-33263-19-55-A-53, AA-30772-17-55-A-53, AA-32219-18-55-A-53, AA-33263-19-55-A-53, AA-30772-17-55-A-53, AA-32219-18-55-A-53, AA-33263-19-55-A-53
Pass-through Entity:	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 individuals. The

Department spent $64.6 million in federal funds for the WIOA cluster in state fiscal year 2020. Of that amount, it paid about $61.6 million to the LWDBs.

To ensure federal funds are used only for allowable purposes and meet cost principles, the Department performs onsite monitoring of each LWDB every year. To determine the scope of each monitoring visit, the Department performs risk assessments of each LWDB before and during its onsite visits. The onsite monitoring includes a review of a selection of reimbursement requests submitted by the LWDB since the previous onsite monitoring visit.

When LWDB's request funds from the Department, they submit high-level supporting documentation, such as reports from an accounting system. Between monitoring visits, each LWDB spends federal funds from multiple subawards.

In prior audits we reported the Department did not have adequate internal controls over fiscal monitoring requirements to ensure WIOA program funds were being used only for allowable purposes. The prior finding number was 2019-012.

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 perform risk assessments or fiscal monitoring for subrecipients of the WIOA grant.

Risk assessments

Due to the pandemic and to comply with the Governor's Stay Home, Stay Healthy Order, the Department modified its risk assessment process to review only the documentation Local Workforce Development Boards (LWDBs) could safely provide. As a result, the Department only conducted one remote risk assessment for one of the local WBDs during the last quarter of the fiscal year. The Department did not receive any waivers from the federal government regarding risk assessment requirements.

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

Fiscal monitoring

Due to the pandemic and to comply with the Governor's Stay Home, Stay Healthy Order, the Department modified its risk assessment process to review only the documentation Local Workforce Development Boards (LWDBs) could safely provide. As a result, the Department only conducted one remote risk assessment for one of the local WBDs during the last quarter of the fiscal year. The Department did not require the LWDBs to submit additional supporting

documentation when requesting reimbursement to compensate for the lack of fiscal monitoring. The Department did not receive any waivers from the federal government regarding subrecipient monitoring requirements.

In our judgment, without conducting fiscal monitoring or examining more supporting documentation with reimbursement requests, the Department did not have adequate internal controls in place to ensure only allowable expenditures were reimbursed to LWDBs and that those expenditures were adequately supported.

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

Cause of Condition

As a result of the Governor's stay-at-home order, the Department could not go onsite and complete its monitoring visits, but did develop a process to perform monitoring visits remotely. The Department could not complete risk assessments for some LWDBs because their documentation was not available in an electronic format.

Effect of Condition

Risk assessments

During the audit period, the Department did not conduct three of 12 (25 percent) of the LWDB risk assessments. Specifically:

- Two LWDBs did not receive their required risk assessment
- One LWDB's risk assessment was started but not completed

Not completing risk assessments of subrecipients makes the Department less likely to detect noncompliance with grant terms and conditions, and federal regulations, by the subrecipients.

Fiscal monitoring

We randomly selected and reviewed the Department's monitoring of five out of 12 LWDBs during our audit period. We found one LWDB did not receive fiscal monitoring as part of its monitoring visit.

We followed up with the Department and was informed it also did not complete fiscal monitoring at three other LWDBs. These three other LWDBs were not included as part of our original sample. We identified four of eight (50 percent) of the LWDBs reviewed did not receive fiscal monitoring as part of the Department's annual monitoring visit.

By not performing 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.

Recommendations

We recommend the Department:

- Request a waiver from the grantor regarding subrecipient monitoring requirements if it cannot conduct risk assessments and fiscal monitoring in future audit periods.
- If a waiver is not obtained, adjust its fiscal monitoring procedures to ensure it obtains reasonable assurance that LWDBs are reimbursed only for allowable expenditures and that those expenditures are supported by adequate supporting documentation

Department's Response

We appreciate external reviews to enhance our subrecipient monitoring processes to further ensure programs are providing needed and valuable services to businesses and residents of Washington State.

When it became apparent the pandemic would last longer than 3-4 weeks, and normal monitoring activity could not resume, ESD did reach out to the Department of Labor (DOL) to seek a waiver. DOL responded they could not give ESD a waiver, but understood the Governor's Stay Home-Stay Healthy Order and encouraged ESD to find alternative approaches and do the best under the circumstances.

ESD worked with each Local Workforce Development Board (Local Board) remaining on the monitoring schedule to determine what documentation they could safely provide electronically without going into their offices. The Local Boards where ESD was unable to perform a comprehensive review due to limited documentation availability did receive a partial review and they were informed the following year's review (PY20) would be expanded to cover two years' worth of expenditures. As a result, every Local Board in Washington State received a monitoring review in PY19, though some were limited in scope.

Over the summer of 2020 ESD developed processes to allow remote and/or virtual subrecipient monitoring, including the development of secure file transfer protocol (SFT) sites to allow the transmittal of sensitive documents.

During the current year's subrecipient monitoring cycle (PY20), the four Local Boards which received a limited scope review in PY19 are being reviewed for the two year's work of expenditures. As a result, there are no gaps in monitoring from PY19 and PY20.

Auditor's Remarks

We appreciate the Department's commitment to resolving these matters. We will follow-up on the corrective actions in 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 200.302 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 Page 78Office of the Washington State Auditor 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 §§ 200.333 Retention requirements for records, 200.334 Requests for transfer of records, 200.335 Methods for collection, transmission and storage of information, 200.336 Access to records, and 200.337 Restrictions on public access to records):

(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.

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:

(j) *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

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 whether 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 – Audit

Requirements 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.)

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 sub award is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the sub award; and that sub award 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 other means.

(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.

2020-014 The 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
	20.219 Recreational Trails Program
	20.224 Federal Lands Access Program
Federal Grantor Name:	U.S. Department of Transportation
Federal Award Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.
Pass-through Entity:	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 $660 million on highway projects during fiscal year 2020. Of that amount, it passed through about $200 million to local agencies through subawards.

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 2020, the Department awarded about $221 million in new subawards to 140 local agencies for 421 construction projects across the state.

In June 2019, the Department established policies and procedures to address how risk assessments of subrecipients should be performed and documented. The Department delegated the responsibility to complete the risk assessment to the Local Programs Engineers assigned to the regional office that oversees the subrecipient. 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 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.

Management did not ensure the Department met the federal requirement to perform risk assessments of subrecipients. We examined 55 of the 421 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 10 of the projects (18 percent) did not undergo a risk assessment.

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

Cause of Condition

Management believed it was already meeting the requirements through its onsite monitoring process carried out by the regional offices. Although the Department did implement a formal risk assessment procedure in June 2019, some of the subawards issued during the audit period were for projects authorized for federal funding before its implementation and management did not ensure risk assessments were conducted for those subrecipient projects.

Effect of Condition

Not performing risk assessments of its subrecipients makes the Department less likely to detect noncompliance with grant terms and conditions, and federal regulations, by subrecipients. Without verifying that risk assessments are completed for each awarded project, the Department cannot ensure risk assessments are performed consistently and using the proper criteria to determine the appropriate amount of monitoring required for each subrecipient project.

Recommendations

We recommend the Department:

- Ensure the required risk assessments are performed and documented, which would allow management to evaluate the results and demonstrate compliance with federal requirements
- Improve its monitoring of region local programs engineering staff to ensure risk assessments are completed 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.

Considering similar findings from previous years, WSDOT implemented a new statewide risk assessment program in June 2019, requiring a written risk assessment on each phase of every project. For projects in progress as of June 2019, Local Program offices began completing assessments as projects moved into each new phase. The State Auditors recognized the Department's implementation of the new risk assessment program during their fieldwork and in their Cause of section of the report finding.

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.

The FY 2021 Single Audit should find the risk assessments for projects that begin a new phase during the fiscal year. However, we understand the State Auditor will also look for risk assessments at the time funds are obligated for a local agency project, or a reference to an earlier risk assessment at the time Local Programs authorized the new project phase. Local Programs meets with regional staff remotely and will work with them on how to improve monitoring of timely risk assessments. To further emphasize the importance of risk assessments, Local Programs is also working with regional management to modify position descriptions of regional local programs staff to include the timely completion of risk assessments.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter. We will follow-up with the Department in 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 200.331 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 (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:

(k) *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

.331-10 Requirements for Pass-Through Entities. Timing of Subrecipient Risk Assessments, states in part:

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.

The Department of Transportation's Local Programs Division Risk Assessment Procedure (implemented in June 2019), states in part:

> Procedure:
>
> 3. Risk assessments are to be completed by the phase of each project. If each phase of the project is funded by Local Programs an initial risk assessment should be completed. If there are no changes in risk assessment in any of the subsequent phases, this can be noted in the original and a new risk assessment form is not required.

2020-015 The Department of Transportation did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Highway Planning and Construction Cluster received required single audits.

CFDA Number and Title:	20.205 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 Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.
Pass-through Entity:	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 various highway construction projects. The Department spent about $660 million on highway projects during fiscal year 2020. Of that amount, it passed through about $200 million to local agencies as subawards.

Federal regulations require the Department to monitor the activities of its subrecipients. This includes verifying that its subrecipients that spend $750,000 or more in federal awards from all sources 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. These requirements help ensure federal award funds are used 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 or program-specific audit in accordance with 2 CFR Part 200.501 and to ensure that a copy of the audit report is transmitted promptly to the Department. It also uses a tracking system to identify amounts it passed through to subrecipients

as well as to document audit activity for the subrecipients, including the date(s) on which audit reports were due and ultimately received by the Department. The Department must follow up with each subrecipient to get the necessary information to obtain assurance as to whether a single audit is required.

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 subrecipients received required single audits, findings related to federal program awards were followed up on, and management decisions were issued. The prior finding number was 2019-017.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Highway Planning and Construction Cluster received required single audits.

We identified 160 subrecipients that received pass-through funding from the Department for its fiscal year 2018 (January 1 – December 31, 2018). Any required audits for these local governments would be due by September 30, 2019, which falls within our audit period.

Subrecipients not monitored by the Department

The Department did not monitor its subrecipients that received less than $750,000 in pass-through funds from the Department to ensure the subrecipients received an audit or did not require one. This resulted in 100 subrecipients (59 percent) not being monitored to ensure required single audits were performed.

We reviewed the Federal Audit Clearinghouse for fiscal year 2018 single audit reports to determine the number of subrecipients that ultimately received an audit. We found 92 of the Department's subrecipients with subawards funded by the Highway Planning and Construction Cluster received a single audit for fiscal year 2018. Of those 92 subrecipients, 30 (33 percent) were not identified by the Department as requiring a single audit. The Highway Planning and Construction Cluster was audited as a major program for 12 of those 30 audits.

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

Cause of Condition

The Department had previously interpreted the audit requirements outlined in federal rule to only apply to subrecipients that received $750,000 or more in federal awards from only the Department itself. When the Department did not reimburse $750,000 or more to a subrecipient, the

Department relied on the subrecipient to inform the Department as to whether a single audit was required for their fiscal year. The Department did not monitor subrecipients of this category to ensure required audits would be completed, regardless of the total pass-through amount it received from all sources.

The Department asserted in its corrective action plan in response to the previous audit finding that informing its subrecipients of the requirement to receive a single audit should they spend $750,000 or more in federal award funds and provide a copy of the audit report to the Department is sufficient to meet the requirements of 2 CFR 200.332 – *Requirements for pass-through entities*. Since that audit, the Department revised its procedures to require follow up with each local programs subrecipient to ensure no audit is required for their most recent fiscal year. This change took effect during fiscal year 2021.

Effect of Condition

Without establishing adequate internal controls, the Department cannot identify whether its subrecipients met the threshold for an audit required under federal law and ultimately obtained the required audit(s). This increases the risk of undetected noncompliance with federal program requirements and that the Department may not issue management decisions for audit findings.

Recommendation

We recommend the Department:

- Monitor all subrecipients to ensure they respond to the Department regarding their single audit status each year
- Follow up with each of its subrecipients to determine if audits are required to include all subrecipients of federal funds, regardless of the amount the Department passed through

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 Local Agency Guidelines (LAG) and subaward language requires local agencies to comply with the single audit or program-specific audit requirements. Local Programs provides training throughout each year that includes reminding local agencies of the single audit requirements.

WSDOT Local Programs currently ensures all subrecipients that received federal funding in excess of $750,000 from WSDOT obtained a single audit and monitors those audits for any deficiencies detected and takes appropriate actions.

In accordance with 2 CFR 200.331 and 2 CFR 200.501, for local agencies receiving less than $750,000 from WSDOT, Local Programs now sends a communication that outlines federal requirements regarding single audits and seeks written verification from each subrecipient stating whether they are subject to a single audit. If the local agency was subject to a single audit, WSDOT monitors those audits for any deficiencies detected and takes the appropriate actions. The timing of the new communication protocol was delayed from implementation in FY 2020, due to the Governor's Stay Home, Stay Healthy order and Local Program's need to shift efforts to implement a new way of doing business from authorizing federal funds, processing reimbursements, and all other services necessary to ensure reasonable federal compliance, while minimizing any delays to the delivery of local agency capital projects during this critical time. The actions implemented for those agencies receiving less than $750,000 from WSDOT will be in full effect for the FY 2021 single audit cycle.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter. We will follow-up with the Department in 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 200.516 Audit findings, states in part:

> (l) *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.

Section 200.331 Requirements for Pass-Through Entities, states in part:

All pass-through entities must:

(f) Verify that every subrecipient is audited as required by Subpart F of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.

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.

2020-016 The Department of Transportation did not have adequate internal controls over and did not comply with requirements to conduct program and fiscal monitoring of subrecipients for the Highway Planning and Construction Cluster.

CFDA Number and Title:	20.205 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 Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.
Pass-through Entity:	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 (Office), administers federal funding under the Highway Planning and Construction Cluster to local agencies throughout the state for various highway construction projects. The Department spent about $659 million on highway projects during fiscal year 2020. Of that amount, it passed through about $200 million to local agencies as subawards.

Federal regulations require the Department to monitor the activities of its subrecipients to ensure subawards are used 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. In addition, the regulations require the Department to determine that subrecipients of federal funds awarded under *Title 23 CFR – Federal Highways* have sufficient accounting controls to properly manage federal funds.

The Office also maintains its own requirements for subawards of federal funds, published in the 2019 Local Agency Guidelines (LAG) Manual. This Manual outlines additional requirements imposed on all subrecipients by the Department, 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. Although the Manual

does not provide the periods for when these reviews should occur, the U.S. Department of Transportation, Federal Highway Administration (FHWA) stipulates in its Stewardship and Oversight Agreement (Agreement) with the State DOT that every PMR occur at least 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 the prior audit, 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 prior finding number was 2019-015.

Description of Condition

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

The Office did not ensure it completed PMRs of subrecipients every three years, as required by the Agreement. We randomly selected and reviewed six of the 13 PMRs performed by the Office during the audit period and found four (67 percent) were not performed within three years of the previous completed review, as required.

In addition, the Office did not conduct fiscal monitoring of subrecipients to ensure they establish sufficient accounting controls to properly manage Federal funds.

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

Cause of Condition

The Department believed that conducting onsite 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 renegotiate terms and conditions of the Agreement with FHWA, and because of the timing of our previous recommendations was not able to ensure PMRs due during the audit period would be completed within three years of the subrecipient agency's previous review. However, this did not meet the requirement for the Department to monitor its subrecipients to ensure they have sufficient accounting controls to manage federal funds.

The Department asserts that FHWA's approval of the LAG Manual supports its current subrecipient monitoring practices, and that based on this approval, no additional subrecipient monitoring procedures are required.

Effect of Condition

Without establishing adequate internal controls, the Department cannot reasonably ensure federal funds are being used for allowable purposes. Without monitoring each subrecipient's use of federal funds and accounting controls over federal funds expended during the period of performance of the subaward, the Department does not have reasonable assurance that the subrecipient has complied with the terms and conditions of the subaward.

In addition, failure to monitor each subrecipient's use of federal grant funds violates the terms and conditions of the Agreement and 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 project management reviews are completed for every active subrecipient at least every three years, as required under the Agreement
- Implement additional monitoring procedures to ensure subrecipient accounting controls are evaluated in monitoring the subrecipient's use of the federal subaward

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.

Our Local Programs Division schedules Project Management Reviews (PMR) every three years as directed in the Federal Highway Administration (FHWA) Stewardship and Oversight Agreement and WSDOT's Local Agency Guidelines (LAG) Manual; however, this year completing on site reviews were problematic given the Governor's Stay Home, Stay Healthy order. Our Local Programs Division had to develop new methods to conduct PMRs remotely. Additionally, FHWA communicated that they support a risk based PMR approach and are currently working to modify its Stewardship and Oversight Agreement template, which would allow WSDOT and other DOT's to modify their agreements to be in line with standard or best practices. Standard or best practices are to complete PMRs on a risk-based approach and to not complete the PMRs until such time as the project is substantially complete or complete. Additionally, PMRs can occasionally be delayed as WSDOT works with the local agency to obtain additional information or gather further

documentation. In light of these standard practices, Local Programs believed they were in compliance with the requirements, but will continue to work with FHWA, the State Auditors, and other stakeholders and take any actions required to ensure it remains compliant with all federal requirements and communicate those actions to appropriate staff and stakeholders. In the interim, our Local Programs Division will attempt to complete the applicable portions of PMR's within the currently required three-year cycle.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter. We will follow-up with the Department in 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 200.332 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 sub award is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the sub award; and that sub award 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 other means.

(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:

(m) *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.

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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 transportation department (STD)* 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 transportation department” if the context so implies.
>
> 635.105 – Supervising agency.
>
> > (a) The STD 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 STD 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.

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.

The Local Agency Guidelines (LAG) manual describes the processes, documents, and approvals necessary to administer federal-aid projects by transportation agencies. This 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 50220.2 (Stewardship and Oversight of Federal-Aid Projects Administered by Local Public Agencies, August 14, 2014).

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. 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. In addition WSDOT conducts documentation and a final inspection on every local agency federal aid project.

The Washington State Department of Transportation *Local Agency Guidelines Manual (M 36-63.37 – May 2019),* Chapter 53 – Project Closure, states in part:

53.3 Project Reviews

In order to be reasonably certain that local agencies are administering FHWA funds in accordance with the Local Agency Guidelines, WSDOT will perform procedural reviews on selected local agency ad-and-award projects.

These reviews will be:

- Project Management Reviews (PMR) performed by Local Programs
- Documentation Reviews performed by the Region Local Programs Engineer

2020-017 The Department of Transportation did not have adequate internal controls over and did not comply with quality assurance program requirements to ensure materials testing was performed by qualified testing personnel for projects funded by the Highway Planning and Construction Cluster.

CFDA Number and Title:	20.205 Highway Planning and Construction Cluster 20.219 Recreational Trails Program 20.224 Federal Lands Access Program
Federal Grantor Name:	Department of Transportation
Federal Award Number:	Too numerous to list. All approved subaward projects under the Federal Highway Administration Stewardship and Oversight Agreement.
Pass-through Entity:	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 (Department) 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 than $659 million on highway projects during fiscal year 2020.

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 FHWA. This manual documents the manner in which materials are tested for acceptance before being incorporated into construction projects. Materials can be accepted in various ways, such as testing of samples, visual inspection, or a certification of compliance from the manufacturer. If a materials test is required, the Department must ensure that the testing is

performed by qualified individuals, including independent testers, consultants or certified Department employees.

To ensure that testing is performed by qualified individuals. Testers must pass a certification exam which consists of a written exam and a performance exam. After passing both they are entered into the Qualified Tester Database and are certified for a period of 5 years, after which they must become recertified by passing both exams again. There are two types of tester qualifications Module and Method.

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 as a finding that the Department did not have adequate internal controls over and did not comply with QA program requirements to ensure materials conform to approved plans and specifications for projects funded by the Highways Planning and Construction Cluster. The finding number was 2019-019.

Description of Condition

The Department did not have adequate internal controls over and did not comply with quality assurance program requirements to ensure materials testing was performed by qualified testing personnel for projects funded by the Highway Planning and Construction Cluster.

We used a statistically valid sampling method to randomly select 56 of 525 Method testers to verify they were qualified to perform material testing and be in the Qualified Tester Database. We verified that the testers had both their written and performance exam prior to being entered into the tester database.

During our review we found:

- Three testers did not have written dates on their exams and therefore we could not confirm whether they were taken timely
- For four testers the Department was unable to provide documentation for their written tests and for one additional tester the Department was unable to provide documentation for their written or performance tests
- Thirteen of the testers the Department entered as qualified prior to completing all qualifications

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

Cause of Condition

Department management did not ensure that adequate internal controls were established and followed to ensure that only qualified testers were entered in to the Qualified Tester Database. Specifically, preventative controls were not in place and the Department's detective controls were not sufficient to detect the noncompliance in a timely manner.

Effect of Condition

The Department did not comply with the QA program requirements for ensuring only qualified material testers were entered into the Qualified Tester Database. By not properly verifying and documenting the qualifications of testers, the Department risks using materials that are improperly tested.

Recommendation

We recommend the Department:

- Update its policies and procedures to include review of tester records to ensure all tests have occurred and are properly documented before being entered into the Qualified Tester Database

- Ensure all testers are qualified before they are authorized to conduct material tests

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. WSDOT is committed to ensuring our programs comply with federal regulations.

2019 was a transitional year for the qualified tester program, as WSDOT shifted from a program with one-year certifications to a five-year certification program. Many of the exceptions noted in the tester database during the audit resulted from this transition. All materials audited for proper acceptance as part of the quality assurance testing were performed by qualified testers.

The Construction Division will review policies and procedures regarding tester qualifications to ensure compliance and address any concerns identified in the audit and update the WSDOT Construction Manual as needed. Updates to the Construction Manual will include as appropriate procedures for tester certification from the Western Alliance of Quality Transportation Construction. The Construction Division will communicate these updates to the appropriate WSDOT staff and stakeholders to help ensure adherence to federal regulations and Department policies and procedures. The Construction Division will communicate these updates to the appropriate WSDOT staff and stakeholders to help ensure adherence to federal regulations and Department policies and procedures.

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:

(n) *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 its 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.

(C) The quality control sampling and testing is evaluated by an IA program.

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 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.

9-1.2D Materials Tracking Program, MTP

The Project Engineer office shall use the Materials Tracking Program (MTP) to maintain the materials documentation information for each State Contract that is administered by that office.

Materials documentation such as approval, acceptance, field verification, CMO and other documentation for each item is required to be maintained for each permanently incorporated material. The Project Engineer office is expected to keep up to date entries for accurate tracking of materials placed on the jobsite and update the MTP to reflect the actual materials and quantities placed.

9-5.4C Method Qualification Examination Requirements

Qualification examinations require the candidate to successfully pass the written and performance examination. Written and performance examinations are given to determine if the tester possesses the knowledge and skills necessary to satisfy the established qualification requirements.

9-5.4D Documentation of Method Qualification

The IAI will be responsible for maintenance of the Region's Qualified tester information in the Tester Qualification Database and in hard copy files within the region. Originals of each tester's qualification examination (written examination and performance examination checklist) will be kept in the region files for a minimum of seven years.

The State Materials Laboratory will be responsible for maintaining the Tester Qualification computer program.

9-5.4H Method Requalification

The WSDOT Method Qualification is valid for five (5) years. A method qualified tester must be requalified prior to the Qualification expiration date. To requalify the tester must pass the written examination and performance examination required for the Method Qualification requested. The qualified tester is responsible for contacting the IAI to arrange for their written and performance examination.

2020-018 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with requirements to ensure the Coronavirus Relief Fund was used for allowable purposes and payments fell within the period of performance.

CFDA Number and Title:	21.019, COVID-19 Coronavirus Relief Fund
Federal Grantor Name:	Department of the Treasury
Federal Award Number:	None
Pass-through Entity:	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:	$40,095,634

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. The CARES Act requires payments from the CRF be used only to cover:

- Necessary expenditures incurred due to the public health emergency with respect to COVID-19;
- Costs that were not accounted for in the 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 30, 2020.

Through the CARES Act, Washington was awarded about $2.95 billion of CRF money to help fund the response to the COVID-19 pandemic. Of this amount, $1.9 billion was allocated by the Office of Financial Management to state agencies and about $1.05 billion was sent to local governments. In fiscal year 2020, state agencies spent $339.8 million in CRF funds.

The Department of Children, Youth and Families (Department) is Washington's lead agency for state-funded services that support children and families. The Department oversees early learning, juvenile rehabilitation and child welfare programs. In fiscal year 2020, the Department spent $69.4 million in CRF 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.

Description of Condition

The Department did not establish adequate internal controls over and did not comply with requirements to ensure CRF money was used for allowable purposes and payments fell within the period of performance.

The Department processed two large accounting adjustments that were the basis for its fiscal year 2020 CRF expenditures.

August 2020 accounting adjustment

The first adjustment was completed in August 2020 and totaled $28.8 million. The basis for this adjustment was to transfer the cost of COVID-19 grants the Department made to child care providers to the CRF. These payments were issued through the Social Service Payment System (SSPS) and ranged from $250 to $14,000. The Department established new service codes in SSPS to account for these payments.

To apply for the grants, providers were instructed to use the Department's WA Compass system or submit a hard-copy application. The application stipulated the funds could be used only for:

- Facility / space costs
- Personnel costs
- Utilities
- Health and safety / cleaning supplies
- Food

The application further stipulated providers must remain open and available to provide child care until July 31, 2020, and all grant funds must be spent by September 30, 2020.

We asked the Department what processes it had in place to verify providers complied with the grant requirements and only spent CRF funds for the allowable purposes stated in the application. The Department said it did not establish any such processes and relied solely on the provider's attestation in the application as support for the payments.

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

October 2020 accounting adjustment

The second adjustment was completed in October 2020 and totaled $40.6 million. The basis for this adjustment was to transfer expenditures the Department paid to child care providers through previously established service codes in SSPS and Departmental expenditures for goods and services and capital outlays to the CRF.

When the Department prepared this accounting adjustment, it did so without effectively identifying the specific transactions that were previously paid to providers through SSPS. We asked the Department to provide information to show what individual payments were charged to the CRF. The Department could not provide this information.

Despite not having identified the specific transactions that were used as the basis for it, the accounting adjustment was approved by management for processing.

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

August 2020 accounting adjustment

The Department said it did not establish a process to ensure providers spent COVID-19 grant funds only for allowable purposes because it was not required to by the Department of Treasury. The Department specifically cited the Treasury Frequently Asked Questions (FAQ) numbers 43, 50 and 51 as the basis for its decision. We reviewed these and all other FAQs from the Department of Treasury and did not identify any guidance that indicated a provider's application alone was sufficient to support that costs were allowable.

October 2020 accounting adjustment

The Department said it could not identify the detailed expenditures for this adjustment because it did not have adequate time or resources to meet the deadline established by the Office of Financial Management to record the activity in the State's accounting system.

Also, the October 2020 adjustment included expenditures that had been previously adjusted for other reasons, such as applying the Department's cost allocation methodology. This made identifying the actual transactions used as the basis for the CRF transfer difficult.

Due to the decentralized nature of federal grant management within the state of Washington, Office of Financial Management (OFM) established SAAM 50.30.45 which defines the responsibilities of state agencies administering or expending federal awards. Specifically:

- Develop internal policies in accordance with federal requirements.
- Evaluate and monitor compliance with federal statutes, regulations, and the terms and conditions of the federal awards.

The CRF was awarded directly to the OFM which was subsequently allocated to state agencies based on established criteria. As a pass-through entity, OFM is responsible for complying with the grant terms and conditions as outlined in the CARES Act, but also relies on agencies to exercise prudent management in the use and proper accounting of the funds. OFM has issued statewide communication on the federal requirements relating to the use of the CRF and provided consultation to state agencies in determining the optimal use of the funds.

The Department acted upon guidance from OFM and moved provider increased payments related to COVID to the CRF. Based on the guidance, the Department processed journal vouchers that included payments incurred before March 1, 2020, which led to unallowable expenditures being charged to the CRF. OFM did not adequately review the payment transfers to ensure they complied with the period of performance requirement.

Effect of Condition and Questioned Costs

August 2020 accounting adjustment

By not establishing a process to verify providers spent funds in accordance with grant terms, the Department had no assurance that CRF money was used only for the purposes outlined in the grant applications.

October 2020 accounting adjustment

By not establishing adequate internal controls over its accounting adjustments, the Department did not have reasonable assurance that CRF funds were used only for allowable purposes and fell within the allowed period of performance.

The Department gave us an electronic spreadsheet workbook that contained high-level information the Department used as the basis for its October 2020 accounting adjustment.

Independently, we used the information provided by the Department and identified the following:

- $15,779,783 in payments that had been paid to providers through SSPS in fiscal year 2020
- $446,779 for Departmental expenditures, such as goods and services and capital outlays

The difference between the payments we specifically identified and the total of the accounting adjustment was $24,404,438. We are questioning this amount because the Department could not provide documentation for us to verify whether the expenditures charged to the CRF were allowable or fell within the CRF period of performance.

For the $15,779,783 of payments made through SSPS that we independently identified, we examined their dates of service to determine if they occurred within the CRF period of performance that began on March 1, 2020. We found payments totaling $15,691,196 had dates of service between July 1, 2019, and February 29, 2020. These dates fell outside the allowable CRF period of performance and were unallowable for the Department to charge to the CRF.

In total, we are questioning $40,095,634. 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 a process to specifically identify payments used as a basis for accounting adjustments before they are charged to federal awards
- Ensure accounting adjustments are adequately supported before approving them for entry into the State's accounting system
- Establish processes to ensure child care providers only spend CRF funds in accordance with Department requirements
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

August 2020 accounting adjustment – Covid-19 Grants to Providers

In March of 2020, when schools were shut down, the Governor asked providers to remain open and continue to provide care. Child care providers continued to provide care to essential workers, and to those families who no longer had access to school. During this time and ongoing increased costs to child care providers include purchasing personal protective equipment (PPE), increased cleaning and sanitization, reduced group sizes and other mitigation efforts related to the Department of Health (DOH) guidance and the Department of Labor and Industries (LNI) requirements.

The Department maintains we acted in good faith and within the intent of the federal grant to provide immediate assistance to child care providers to maintain services during the pandemic. The Treasury guidance available at the time was interpreted to mean that an application for

assistance, with clear parameters around use of funds, was allowable documentation for internal controls. The Administration for Children and Families has also maintained that funding rolling out to child care providers needed to be as flexible and through the least burdensome process possible.

In addition, the grant application included language that providers must keep all receipts and spending documentation and share the information with the Department upon request. At the time of the audit, the Department had not requested any supporting documentation from providers due to the ongoing pandemic, lack of available staffing resources, and inability for staff to access DCYF facilities to open mail and review receipts.

October 2020 accounting adjustment

In response to the COVID-19 pandemic, the Washington State Governor issued directives to implement the Stay Home, Stay Healthy Order, requiring teleworking, hiring freezes, and staff furloughs. The Cost Allocation and Grants Unit was under resourced due to vacancies and the hiring freeze. In addition, staff were furloughed weekly for the month of July and once per month through October. Teleworking also created a resource issue for the unit due to the inability to process large amounts of data via the state's virtual private network resulting in an increase in data transmission time and a loss of productivity.

The request from OFM and the Legislature to transfer expenditures to the CRF was received during the time that available staff were completing year-end closing entries and reconciliation of the SFY20 expenditures. The Department did not have adequate time or resources to identify the detailed expenditures for this adjustment and meet the deadline established by the Office of Financial Management to record the activity in the State's accounting system.

The Department does not concur with the auditor's opinion that payments processed through SSPS are unallowable because detailed line item expenditure data was not available. All expenditures processed through SSPS are determined eligible for the applicable program prior to payments being made. The expenditures transferred at the high-level were reviewed in whole at the program level to determine eligibility and would have all be allowable for the CRF grant.

In addition, allowable Foster Care retainer payments totaling $6.8 million were included in the questioned cost but not reviewed due to the tight timeframe available for the audit.

The Department concurs with the auditor's review of expenditures outside of the CRF period of performance and has processed a journal voucher to correct those expenditures.

The Department is committed to complying with grant requirements and will consult with the grantor to determine whether the questioned costs identified in the audit should be repaid.

Auditor's Remarks

While the federal grantor offered flexibility in how funds were disbursed, we reaffirm our position that the Department needs to improve its internal controls over the direct payments to child care payments. Without adequate monitoring, the Department had no assurance that these funds were used for the purpose intended.

It is critical that the Department maintain adequate documentation to demonstrate how every payment is ultimately funded. While payments may be initially determined eligible to be funded by a certain federal program in SSPS, subsequent accounting adjustments may change the eligibility status of those payments. The proper classification of expenditures is also necessary to ensure the State's Schedule of Expenditures of Federal Awards (SEFA) is accurately prepared and the Department reports accurately to federal grantors.

Regarding the Foster Care retainer payments, we consulted with both the Department and OFM at the later stages of audit fieldwork. The Department said it did not want us to move forward with additional testing related to these payments.

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.

(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) Part 801, *Coronavirus Relief Fund, states in part*:

(d) Use of funds

A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—

(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);

(2) were not accounted for in the budget most recently approved as of March 27, 2020, for the State or government; and

(3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

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.

2020-019 The Department of Health did not ensure payments from the Coronavirus Relief Fund occurred during the allowable period of performance.

CFDA Number and Title:	21.019 COVID-19 Coronavirus Relief Fund
Federal Grantor Name:	Department of the Treasury
Federal Award/Contract Number:	None
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Components	Activities Allowed or Unallowed Allowable Costs / Cost Principles Period of Performance
Questioned Cost Amount:	$451,726

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. The CARES Act requires payments from the CRF be used only to cover:

- Necessary expenditures incurred due to the public health emergency with respect to COVID-19;
- Costs that were not accounted for in the 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 30, 2020.

Through the CARES Act, Washington was awarded about $2.95 billion of CRF money to help fund the response to the COVID-19 pandemic. Of this amount, $1.9 billion was allocated by the Office of Financial Management to state agencies and about $1.05 billion was sent to local governments. In fiscal year 2020, state agencies spent $339.8 million in CRF funds.

The Department of Health is Washington's lead agency for coordinating the state's response to the COVID-19 pandemic. The Department activated its Incident Management Team (IMT), which is responsible for managing, and responding to, local, regional, and national emergencies. In fiscal year 2020, the Department spent over $42 million in CRF funds.

Description of Condition

The Department established adequate internal controls to materially ensure only allowable expenditures were charged to the CRF. However, we found the Department made improper payments for expenditures that occurred outside the allowable period of performance.

Payroll charges

On January 19, 2020 the IMT began tracking when staff worked on activities related to the COVID-19 public health emergency. In total, the Department charged $12.5 million for payroll related expenditures to the CRF in fiscal year 2020.

We examined the Department's supporting documentation for all $12.5 million in payroll costs and found $387,944 for salaries and benefits incurred prior to March 1, 2020, which was the beginning of the period of performance for the CRF.

For some charges to the CRF for salaries and benefits, the Department provided documentation to support the expenditures, but it was not sufficient for us to confirm if the expenditures fell within the period of performance. Based on this documentation, we estimate the Department spent an additional $78,617 in likely improper payments.

Non-Payroll

The Department also charged $29.9 million for non-payroll expenditures to the CRF in fiscal year 2020 for activities related to the COVID-19 public health emergency.

We judgmentally selected and examined non-payroll charges and found instances when purchases for COVID-19 testing kits and rentals for recreational vehicles occurred prior to March 1, 2020. These improper payments totaled $63,782.

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

Cause of Condition

The Department had to make necessary accounting adjustments very late during the state's fiscal year closing process for changes in funding streams provided to DOH. Accounting staff did not have the detailed supporting documentation to verify the costs being adjusted fell within the allowed period of performance for the CRF.

Effect of Condition and Questioned Costs

In total, we are questioning $451,726. We also estimate the Department made likely improper payments totaling $78,617.

Federal regulations require the auditor to report as a finding when the known or likely questioned costs identified in the audit exceed $25,000.

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

We appreciate the State Auditor's Office (SAO) audit of the Coronavirus Relief Funds grant. DOH is committed to ensuring our programs comply with federal regulations and state laws. As mentioned above, the Department had limited time to move these funds to allowable funding streams provided by OFM. During the JV process, a small amount of costs that were essential to the Covid response, but outside of the allowable time period, were moved. DOH is working with OFM to reverse these JVs and move them to an allowable funding source.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter and will follow-up on its corrective action in 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 200.516 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 42 *U.S. Code of Federal Regulations* (CFR) Part 801, *Coronavirus Relief Fund, states in part*:

> (d) Use of funds
>
> A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—
>
> > (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);
> >
> > (2) were not accounted for in the budget most recently approved as of March 27, 2020, for the State or government; and
> >
> > (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

2020-020 The Department of Social and Health Services did not have adequate internal controls to ensure payments from the Coronavirus Relief Fund occurred during the allowable period of performance.

CFDA Number and Title:	21.019 COVID-19, Coronavirus Relief Fund
Federal Grantor Name:	Department of the Treasury
Federal Award Number:	None
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed, Allowable Costs, Period of Performance
Known Questioned Cost Amount:	$8,681,008

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. The CARES Act requires payments from the CRF be used only to cover:

- Necessary expenditures incurred due to the public health emergency with respect to COVID-19;
- Costs that were not accounted for in the 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 30, 2020.

Through the CARES Act, Washington was awarded about $2.95 billion of CRF money to help fund the response to the COVID-19 pandemic. Of this amount, $1.9 billion was allocated by the Office of Financial Management to state agencies and about $1.05 billion was sent to local governments. In fiscal year 2020, state agencies spent $339.8 million 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 2020, the Department spent about $192 million in CRF money. Over $177 million (92 percent) of this CRF money was spent on payment rate increases for providers that deliver client services and direct payments to clients. The Department's Developmental Disabilities Administration, Aging and Long-term Support Administration, and the Economic Services Administration each spent a significant portion of these 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.

Description of Condition

The Department did not have adequate internal controls to ensure payments from the CRF occurred during the allowable period of performance.

The CRF money was allocated to the Department after the end of fiscal year 2020. The Department used journal vouchers to transfer expenditures that occurred during fiscal year 2020 to the CRF. During this journal voucher process, expenditures were reviewed to ensure the expenditure dates were within the allowed period. However, this process was not sufficient to ensure that unallowable payments were not charged to the CRF.

During the audit period, the Department was required to use CRF money for expenditures that occurred after March 1, 2020. The Department did not meet this requirement.

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

Cause of Condition

Due to the decentralized nature of federal grant management within Washington, the Office of Financial Management (OFM) established SAAM 50.30.45 which defines the responsibilities of state agencies administering or expending federal awards. Specifically:

- Develop internal policies in accordance with federal requirements.
- Evaluate and monitor compliance with federal statutes, regulations, and the terms and conditions of the federal awards.

The CRF was awarded directly to OFM, which was subsequently allocated to state agencies based on established criteria. OFM is responsible for complying with the grant terms and conditions as outlined in the CARES Act, but relies on agencies to exercise prudent management in the use and proper accounting of the funds. OFM issued statewide communication on the federal requirements

relating to the use of the CRF and provided consultation to state agencies in determining the use of the funds.

The Department acted upon guidance from OFM and moved payments related to COVID provider rate enhancements to the CRF. Based on the guidance, the Department processed journal vouchers that included payments incurred before March 1, 2020, which led to unallowable expenditures being charged to the CRF. OFM did not adequately review the payment transfers to ensure they complied with the period of performance requirement.

Effect of Condition and Questioned Costs

During our testing, we identified $8,681,008 million of expenditures for services that occurred from July 2019 to February 2020 that were charged to the CRF. These service dates fell outside of the grant's period of performance and were not allowed to be charged to the grant.

By not establishing and following adequate internal controls, the Department cannot ensure it meets the period of performance and activities allowed requirements. By not complying with federal regulations, the Department risks having to repay federal funds or having future federal funds withheld.

Recommendations

We recommend the Department:

- Improve its communication with OFM regarding future uses of the CRF to ensure funds are only used for allowable purposes.
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department does not concur with the finding.

During the pandemic, direction provided by the federal government was limited and was changing as new information became available. The overarching guidance on the CARES Act provided stated expenditures may only be used to cover costs that were:

- *Necessary expenditures incurred due to COVID-19;*
- *Not accounted for in the budget most recently approved as of March 27, 2020; and*
- *Incurred during the period between March 1, 2020 and December 30, 2020.*

On April 22, 2020, the US Department of Treasury (Treasury) issued guidance for state, territorial, local and tribal governments on the funding available through the CARES Act.

The guidance from Treasury indicated expenses must be "incurred" during the period that began on March 1, 2020, and ended December 30, 2020. The Treasury defined a cost to be incurred "when the responsible unit of government had expended the funds to cover the cost." Further, it was assumed that similar to other areas of the CARES Act, the term "incurred" is measuring costs that were reasonably obligated and satisfied during the covered period to avoid instances where an entity is pre-paying expenses in an effort to maximize the use of the funding, but for which the entity does not have a legal obligation to pay such costs (e.g., pre-paying rent, utility or other contractual obligations).

Treasury recently updated its guidance to change its interpretation of "incurred." This was done in the January 15, 2021 Federal Register under the section "Costs Incurred During the period That Begins on March 1, 2020, and Ends on December 31, 2021:

> *Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020 and ends on December 31, 2021 (the "covered period"). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a state, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID-19 public health emergency during the covered period.*
>
> *Initial guidance released on April 22 provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of state, local and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period, but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred).*

As stated under the Description of Condition, all costs that were moved were for expenditures made on or after March 1, 2020. Per the April 2020 guidance provided by Treasury, DSHS was not out of compliance during the time period under review.

The Department and OFM will continue with their excellent record of communication. The Department will not be consulting with grantor to determine if the funds should be repaid.

Auditor's Remarks

We reaffirm our finding and disagree with the Department's interpretation of the federal requirement. In our judgment, the guidance from the Department of Treasury that began in April 2020, and eventually codified in the federal register, was clear. Only costs incurred ***during*** the period that began March 1, 2020 and ended December 31, 2020 were allowable to be paid with CRF funds.

We agree that federal guidance has changed since April 2020. For example, the ending date of the period of performance for the CRF is now December 31, 2021. However, there has been no change affecting the beginning date of March 1, 2020.

As stated in the federal register cited by the Department, "*Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period, but payment of funds need not be made during that time…*" For the expenditures questioned in this finding, the performance or delivery of the services occurred prior to March 1, 2020.

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 sample 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:

(o) *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) Part 801, *Coronavirus Relief Fund, states in part*:

(d) Use of funds

A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—

(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);

(2) were not accounted for in the budget most recently approved as of March 27, 2020, for the State or government; and

(3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

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.
>
> **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.

2020-021 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
Questioned Cost Amount:	None

Background

The Gramm-Leach-Bliley Act (also known as Public Law 106-102) 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 Gramm-Leach-Bliley Act because of their participation in the wiring of federal aid funds to consumers.

Provisions of the Gramm-Leach-Bliley 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 Gramm-Leach-Bliley Act requirements and to protect student financial aid information from unauthorized disclosure, misuse, alteration, destruction or other compromising acts.

The Department of Education provides further guidance to participating institutions regarding methods for meeting cybersecurity requirements on its website. Under this guidance, 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; and
- Detecting, preventing and responding to attacks, intrusions or other potential 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.

Description of Condition

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 University appointed a Chief Information Security Officer to coordinate its information security program. The University 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 a formal risk assessment specific to the requirements for information systems covered under the Gramm-Leach-Bliley Act was performed. Because of this, we also found the University did not have readily available documentation to support the specific safeguards implemented in response to risks identified through the required risk assessment.

The University enacted written policies for conducting information security risk assessments and security assessment and authorization reviews. However, these policies were implemented after the audit period had ended.

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

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

Cause of Condition

The University knew of the information system security requirements under the Gramm-Leach-Bliley Act but did not have established policies and procedures for performing the required information security risk assessment specific to the Act.

Additionally, management did not monitor those assigned with completing the risk assessment to ensure it was performed.

Effect of Condition

By not ensuring risk assessments of information system security specific to the Act were adequately documented, 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:

- 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.

The University agrees it did not have in place, during the audit period, a formal, documented risk assessment specific to the requirements for information systems covered under the Gramm-Leach-Bliley Act. Therefore, in part, the University agrees with this weakness identified in the Description of Condition.

The University does not agree, however, in light of the existing controls in place explained below, that the issue noted rises to the level of material weakness in the information system and information security environment.

As acknowledged by the auditor in the Description of Condition, the University had demonstrated that processes are in place to monitor and assess threats to information system security. These processes are regular and ongoing and include protocols for immediate remedy to reduce any risks identified and further enhance the confidentiality, integrity and availability of data. In addition, annual risk evaluation activities have been engaged for many years that include

assessment of risks to the information security environment broadly. Steps to mitigate risks identified as a result of this process are also immediately engaged and corrections or improvements implemented. These activities, while critical in a dynamic risk-heavy information security environment, were deemed insufficient by the auditor because, though they indirectly addressed the risk elements in the Act, they did not specifically cite what those elements were with a linkage from the assessment activity to the specific safeguard in place or put in place.

While the University disagrees with the level of reporting on this issue, in light of the specific requirements under the Act, the University agrees to include within its information system security program more formal risk assessment activities targeting the specific elements under the Act. Furthermore, the University will take advantage of this opportunity to evaluate and improve controls in its information system security program.

The University thanks the State Auditor for bringing this issue to the University's attention.

Auditor's Remarks

We appreciate the University's commitment to resolving this matter. We will follow-up on its corrective actions in 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 200.516 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 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.

2020-022 The University of Washington did not establish adequate internal controls over and did not comply with requirements to verify applicant information for the Student Financial Assistance programs.

CFDA Number and Title:	84.007, Federal Supplemental Educational Opportunity Grants 84.033, Federal Work-Study Program 84.038, Federal Perkins Loan Program 84.063, Federal Pell Grant Program 84.268, Federal Direct Student Loans 93.264, Nurse Faculty Loan Program 93.342, Health Professions Student Loans, Including Primary Care Loans and Loans for Disadvantaged Students 93.364, Nursing Student Loans
Federal Grantor Name:	U.S. Department of Education U.S. Department of Health and Human Services
Federal Award Number:	Various
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Verification
Known Questioned Cost Amount:	None

Background

Institutions of higher education are required to verify information in student aid applications to ensure accurate information is provided by the student for determining eligibility to receive Student Financial Assistance. The U.S. Department of Education selects Student Financial Assistance applicants to have certain information, such as household size and income, verified for accuracy. Institutions of higher education obtain this information directly from the students and must match it to the students' financial aid application.

If certain information on the student's application is found to be incorrect, a correction must be submitted to the central processor at the Department of Education and the student's financial aid award is recalculated. The institution reports to the Department of Education that the verification was completed.

During fiscal year 2020, the University of Washington (University) disbursed about $334.5 million to students under the Pell Grant and Federal Direct Student Loans programs.

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 requirements to verify applicant information for the Student Financial Assistance programs.

The University has written policies and procedures over the verification process, but those were not effective in preventing or detecting errors made during the verification process. Review of student verification documentation by University counselors did not detect conflicting information presented in the Institutional Student Information Records (ISIR) so it could be updated, or where verification was completed by University counselors, it was subsequently overridden by student ISIR submissions. In-between preliminary award and final disbursement, the changes to previously verified information was not detected.

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

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

Cause of Condition

Staff performing the verifications did not follow procedures to ensure corrections were submitted to the central processor. Specifically, in the errors identified, University Counselors did not perform final reviews prior to releasing the final award for disbursement so did not identify that interim ISIR submissions had overwrote these prior corrections. Management said it did not detect the inaccuracies because in November 2020 the University made the decision not to operate a key post-award monitoring control in the process due to pressure of work in distributing HEERF payments, our remote work status, and the significant additional volume of emergency aid requests experienced due to the COVID-19 pandemic.

Effect of Condition

We used a statistical sampling method to randomly select and examine 59 student verifications from a population of 5,698 to determine whether the verifications were completed properly, and awards were adjusted when appropriate.

In six cases, we found students had an incorrect application and the University failed to identify and/or submit corrections to Department of Education central processor. There were three other cases in which an interim ISIR was submitted by the student, which over-wrote previously verified information. Interim ISIR changes were not identified before final disbursement.

Of the nine total cases, two students were over-awarded benefits by $2,700 and one student was under-awarded benefits by $400. In the six remaining cases the difference between the original data and the verified data items did not result in any change to the award amount the student received.

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 University:

- Comply with existing procedures to ensure verification items are properly matched to student aid applications and reinstitute the post award monitoring control
- Strengthen controls over final review to identify or prevent interim ISIR submission that overwrite verified student information
- Ensure corrections are submitted accurately to the central processor
- Repay the questioned costs identified in the audit

University's Response

The University has established adequate internal controls over the student financial aid program, including the verification of applicant information. Although we agree that improvements can be made to our system of internal controls over the applicant verification process, we do not agree that we have a material weakness in our internal controls.

We believe we do not have a material weakness in our system of internal controls because:

- *The Student Financial Aid Office has completed both the verification process and evaluation of aid provided under our current set of internal controls and has historically identified very few situations where information was in error. Our low error rate in providing financial aid, is further reduced by our institutional review process that extends beyond the standard federal verification requirements.*
- *The Student Financial Aid Office's normal controls process includes a quality assurance review of awards to our highest need students to ensure compliance in non-pandemic years. Note had this review been completed, we expect the exceptions detected during the audit would have been corrected prior to the audit. As noted by the SAO, the University postponed this review process due to unprecedented extra effort to disburse the HEERF student aid and the extra pressure on the University to respond to the significant population of students and parents impacted by the pandemic. This was further complicated by completing this work in a remote environment. Also note that prior to the audit, the University had already planned to reinstitute this standard control process which has demonstrated effective compliance, as no such finding has been identified in the past.*

In addition to the planned restart of the quality assurance review, the University will implement the following:

- *Update current training materials and provide additional training to staff to cover the types of errors found in the audit;*
- *Establish a secondary review of a sample population to identify any errors in the verification process, including the submission of post verification ISIR changes. The results of the review will be used to identify any procedural changes or training needed.*

The University has already repaid the $2,700 identified during the audit.

Auditor's Remarks

Our assessment of a material weakness in the University's internal controls is based upon the audit objective outlined in the Office of Management and Budget's Uniform Guidance Compliance Supplement, which states:

> *"**Audit Objectives -** Determine whether the institution established policies and procedures to verify information in student aid applications and verified applications were in compliance with the verification requirements, made corrections, and reported the verification status, as applicable, in accordance with the requirements."*

In our judgment, the six uncorrected errors from our statistically valid sample of 59 student applications, demonstrated the University's procedures were not materially effective during the audit period.

The audit objectives for this special test do not include consideration of amounts in aid awarded by the institution, and therefore we reaffirm our audit finding. We will follow up on the University'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 200.403 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 sample 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.

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 668, *Student Assistance General Provisions* establishes the following applicable requirements:

Section 668.53 Policies and procedures

(a) An institution must establish and use written policies and procedures for verifying an applicant's FAFSA information in accordance with the provisions of this subpart. These policies and procedures must include –

(3) The method by which the institution notifies an applicant of the results of its verification if, as a result of verification, the applicant's EFC changes and results in a change in the amount of the applicant's assistance under the Title IV, HEA programs;

(4) The procedures the institution will follow itself or the procedures the institution will require an applicant to follow to correct FAFSA information determined to be in error; and

Section 668.54 Selection of an applicant's FAFSA information for verification.

(a) General requirements.

(1) Except as provided in paragraph (b) of this section, an institution must require an applicant whose FAFSA information is selected for verification by the Secretary, to verify the information specified by the Secretary pursuant to §668.56.

(2) If an institution has reason to believe that an applicant's FAFSA information is inaccurate, it must verify the accuracy of that information

(3) An institution may require an applicant to verify any FAFSA information that it specifies.

(4) If an applicant is selected to verify FAFSA information under paragraph (a)(1) of this section, the institution must require the applicant to verify the information as specified in §668.56 if the applicant is selected for a subsequent verification of FAFSA information, except that the applicant is not required to provide documentation for the FAFSA information previously verified for the applicable award year to the extent that the FAFSA information previously verified remains unchanged.

Section 668.59 Consequences of a change in an applicant's FAFSA information.

(a) For the subsidized student financial assistance programs, if an applicant's FAFSA information changes as a result of verification, the applicant or the institution must submit to the Secretary any changes to –

(1) A nondollar item; or

(2) A single dollar item of $25 or more.

(b) For the Federal Pell Grant Program, if an applicant's FAFSA information changes as a result of verification, an institution must –

(1) Recalculate the applicant's Federal Pell Grant on the basis of the EFC on the corrected valid SAR or valid ISIR; and

(2)

(i) Disburse any additional funds under that award only if the institution receives a corrected valid SAR or valid ISIR for the applicant and only to the extent that additional funds are payable based on the recalculation;

(ii) Comply with the procedures specified in §668.61 for an interim disbursement if, as a result of verification, the Federal Pell Grant award is reduced; or –

(iii) Comply with the procedures specified in 23 CFR §690.79 for an overpayment that is not an interim disbursement if, as a result of verification, the Federal Pell Grant award is reduced.

(c) For the subsidized student financial assistance programs, excluding the Federal Pell Grant Program, if an applicant's FAFSA information changes as a result of verification, the institution must -

(1) Adjust the applicant's financial aid package on the basis of the EFC on the corrected valid SAR or valid ISIR; and

(2)

(i) Comply with the procedures specified in §668.61 for an interim disbursement if, as a result of verification, the financial aid package must be reduced;

(ii) Comply with the procedures specified in 34 CFR §673.5(f) for a Federal Perkins loan or an FSEOG overpayment that is not the result of an interim disbursement if, as a result of verification, the financial aid package must be reduced.

(iii) Comply with the procedures specified in 23 CFR §685.303(e) for Direct Subsidized Loan excess loan proceeds that are not the result of an interim disbursement if, as a result of verification, the financial aid package must be reduced.

Section 668.61 Recovery of funds from interim disbursements.

(a) If an institution discovers, as a result of verification, that an applicant received under §668.58(a)(2)(i)(B) more financial aid than the applicant was eligible to receive, the institution must eliminate the Federal Pell Grant, Federal Perkins Loan, or FSEOG overpayment by –

(1) Adjusting subsequent disbursements in the award year in which the overpayment occurred; or

(2) Reimbursing the appropriate program account by –

(i) Requiring the applicant to return the overpayment to the institution if the institution cannot correct the overpayment under paragraph (a)(1) of this section; or

(ii) Making restitution from its own funds, by the earlier of the following dates, if the applicant does not return the overpayment;

(A) Sixty days after the applicant's last day of attendance.

(B) The last day of the award year in which the institution disbursed Federal Pell Grant, Federal Perkins Loan, or FSEOG Program funds to the applicant.

(b) If an institution discovers, as a result of verification, that an applicant received under §668.58(a)(2)(ii) more financial aid than the applicant was eligible to receive, the institution must eliminate the FWS overpayment by –

(1) Adjusting the applicant's other financial aid; or

(2) Reimbursing the FWS program account by making restitution from its own funds, if the institution cannot correct the overpayment under paragraph (b)(1) of this section. The applicant must still be paid for all work performed under the institution's own payroll account.

(c) If an institution disbursed subsidized student financial assistance to an applicant under §668.58(a)(3), and did not receive the valid SAR or valid ISIR reflecting corrections within the deadlines established under §668.60, the institution must reimburse the appropriate program account by making restitution from its own funds. The applicant must still be paid for all work performed under the institution's own payroll account.

2020-023 The University of Washington 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 Grants 84.033, Federal Work-Study Program 84.038, Federal Perkins Loan Program 84.063, Federal Pell Grant Program 84.268, Federal Direct Student Loans 93.264, Nurse Faculty Loan Program 93.342, Health Professions Student Loans, Including Primary Care Loans and Loans for Disadvantaged Students 93.364, Nursing Student Loans
Federal Grantor Name:	U.S. Department of Education U.S. Department of Health and Human Services
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
Questioned Cost Amount:	None

Background

The Gramm-Leach-Bliley Act (also known as Public Law 106-102) 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 Gramm-Leach-Bliley Act because of their participation in the wiring of federal aid funds to consumers.

Provisions of the Gramm-Leach-Bliley 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 Gramm-Leach-Bliley Act requirements and to protect student financial aid information from unauthorized disclosure, misuse, alteration, destruction or other compromising acts.

The Department of Education provides further guidance to participating institutions regarding methods for meeting cybersecurity requirements on its website. Under this guidance, 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
- 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; and
- Detecting, preventing and responding to attacks, intrusions or other potential 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.

Description of Condition

The University of Washington (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 University appointed a Chief Information Security Officer to coordinate its information security program and had established policies and procedures for performing the required information security risk assessment. However, the University did not have adequate documentation to show that a specific risk assessment was performed that addressed the requirements for information systems covered under the Gramm-Leach-Bliley Act. Because of this, we also found the University did not have sufficient documentation to show it had implemented specific safeguards in response to risks identified through the required risk assessment process.

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

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

Cause of Condition

The University knew of the information system security requirements under the Gramm-Leach-Bliley Act and had established policies and procedures for performing the required information security risk assessment, but management did not monitor those assigned with completing and documenting the risk assessment to ensure it addressed the specific requirements of the Act.

Effect of Condition

By not ensuring risk assessments of information system security were adequately documented to address the specific requirements of the Act, the University could not easily identify which systems security safeguards were being used to reduce specific risk of unauthorized disclosure, including theft, manipulation, destruction, or misuse of student information.

Recommendations

We recommend the University:

- 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

The University of Washington has established adequate internal controls to ensure student information security, including ongoing activities that assess risk and establish appropriate controls in the areas of employee training and management, information systems security, and the detection of, prevention of, and response to attacks and intrusions. While we agree that improvements can be made to organize and document these efforts as a single security plan mapped specifically to the requirements of the Gramm-Leach-Bliley Act, we do not agree that this constitutes a material weakness in our internal controls.

The University does not believe that we have a material weakness in our system of internal controls because:

- *UW Information Technology (UW-IT) performs a set of ongoing activities to continually assess risk to information security, including a weekly cyber intelligence report distributed to members of UW-IT leadership. In addition, the UW Office of the Chief Information Security Officer partnered with the leadership of the UW-IT Student Program in FY19/20*

to develop a Threat Intelligence Report describing risks to student data and assessing high level strengths and opportunities for improvement in the internal controls environment, including all areas specified by the Act. We acknowledge that this report would have been more appropriate as a formal written report instead of as a set of briefing materials. That said, improvement initiatives were identified and progress towards completion continues to be tracked. Outside of this effort, significant documentation exists describing our on-going efforts to protect the security of student information.

- *Acknowledging that there are areas for improvement in documenting and organizing this risk assessment information, we do not believe that this condition was caused by a lack of management attention to the assessment of risk or the development of internal controls. As indicated above, the University takes very seriously its responsibilities related to information systems security and we are continually working to identify potential risks and improve security over student information.*
- *While not documented in a single plan specifically mapped to the requirements of the Act, the University is able to demonstrate that a number of activities are being performed to assess and manage risk in the areas described by the Act, as well as to ensure that system security safeguards are adequate to prevent student information from unauthorized disclosure, including theft, manipulation, destruction or misuse.*

In addition to the efforts described above, the University will:

- *Organize and update documentation of risk assessment activities and information security controls for student information into a single set of information security plans with a clear mapping to the requirements of the Act;*
- *Self-assess the adequacy of the information security controls using one or more industry-accepted cybersecurity models;*
- *Develop a process to review and update this documentation at least annually as part of the UW-IT Student Program service management practice.*

Auditor's Remarks

We appreciate the University's commitment to resolving this matter. We will follow-up on its corrective actions in 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 200.516 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 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.

2020-024 The University of Washington did not establish adequate internal controls over and did not comply with requirements to report student enrollment information accurately for the Student Financial Assistance programs.

CFDA Number and Title:	84.007 Federal Supplemental Educational Opportunity Grants 84.033 Federal work-study Program 84.063 Federal Pell Grant Program 84.268 Federal Direct Student Loans
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: Enrollment Reporting
Questioned Cost Amount:	None

Background

Institutions of higher education are required to report enrollment information using the National Student Loan Data System (NSLDS). As part of this reporting, for students who are actively attending, an institution reports student enrollment level (status) at either full time, three-quarter time, half time, or less than half time. Federal requirements stipulate the credit levels for the respective enrollment status. Additional information about enrollment is also reported to NSLDS, such as details about the student's program and when graduations or withdrawals occur. This enrollment information is extracted and submitted multiple times a quarter from the college's student registration system and transmitted to NSLDS. Institutions are responsible for timely reporting, whether they report directly or via a third-party servicer.

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

University of Washington (University) did not establish adequate internal controls over and did not comply with requirements to report student enrollment information accurately.

The University's enrollment system was appropriately configured to report enrollment status of students. However, the enrollment system's reporting functions were not appropriately configured to include all student enrollment changes, including those students who graduated with multiple degrees.

The University uses the National Student Clearinghouse (NSC) to transmit the enrollment reporting data to the U.S. Department of Education's NSLDS. In doing so, the enrollment status for students that graduated with multiple degrees was incorrectly reported in NSLDS as "withdrawn."

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 University was not aware that a specific report needed to be provided to the NSC to ensure the NSC system accurately reported the graduation status of students pursuing multiple degrees or certificates. Without this report, the NSC system was unable to determine which degree the "Graduated" status needed to be applied to and as a result graduation status would not be applied and reported. Because of this, a student earning multiple degrees or certificates would default to a reported status of "Withdrawn" after obtaining only one of their multiple degrees and/or certificates.

Additionally, the University did not effectively monitor the accuracy of the enrollment data being reported in the NSLDS by NSC.

Effect of Condition

We used a statistically valid sampling method to randomly select and examine 32 students from a population of 15,513 to determine whether the enrollment status was reported accurately to the Department of Education.

In six cases (18.7 percent), we found student enrollment status was inaccurately reported in NSLDS as "Withdrawn" instead of "Graduated" as the University's registration records indicated. The six cases did not result in any change in the timing of repayment or the accrual of interest.

Because of this error, the University is at an increased risk of inaccurate reporting of student enrollment information in NSLDS and may be providing information that could lead the Department of Education to issue improper management decisions involving Title IV funding, including loss of interest subsidies and student program eligibility.

Recommendations

We recommend the University:

- Strengthen its monitoring of the NSC to ensure enrollment information reported in NSLDS is accurate and complete
- Follow up with the NSC to determine if changes to system configuration are required to comply with federal enrollment reporting requirements
- Work with NSLDS to determine whether previously reported enrollment data needs to be corrected

University's Response

The University concurs with the finding and provided the following as its planned corrective actions:

Strengthen its monitoring of the NSC to ensure enrollment information reported in NSLDS is accurate and complete

Office of the University Registrar will develop and employ an audit of student enrollment data submitted by NSC to NSLDS on a quarterly basis beginning in summer quarter 2021. This audit will monitor for accuracy of University data in the NSLDS system of record.

Follow up with the NSC to determine if changes to system configuration are required to comply with federal enrollment reporting requirements

After consultation with the National Student Clearinghouse, the Office of the University Registrar will provide a supplement Graduation file each time the Degree Verification file is submitted. We are preparing to send the Graduation file starting in mid-May 2021. We will also submit the Graduation files for each of the quarters during 2019-2020 and 2020-2021 academic years.

Work with NSLDS to determine whether previously reported enrollment data needs to be corrected

In addition to the above submission, the Office of the University Registrar will monitor for any student records with double majors that were impacted by the lack of secondary Graduate file submission. We will identify these records to the NSC and we will monitor these submissions in the NSLDS database for accuracy.

Auditor's Remarks

We appreciate the University's commitment to resolving this matter and we will follow-up on its corrective actions in 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 200.516 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.

34 CFR 690.83 Submission of reports [for Federal Pell Grant Program], section (b) (2) states:

(2) An institution shall submit, in accordance with deadline dates established by the Secretary, through publication in the Federal Register, other reports and information the Secretary requires and shall comply with the procedures the Secretary finds necessary to ensure that the reports are correct.

34 CFR 685.309 Administrative and fiscal control and fund accounting requirements for schools participating in the Direct Loan Program, states in part:

(a) *General.* A participating school must -

(1) Establish and maintain proper administrative and fiscal procedures and all necessary records as set forth in this part and in 34 CFR part 668; and

(2) Submit all reports required by this part and 34 CFR part 668 to the Secretary.

(b) *Enrollment reporting process.*

(1) Upon receipt of an enrollment report from the Secretary, a school must update all information included in the report and return the report to the Secretary -

(i) In the manner and format prescribed by the Secretary; and

(ii) Within the timeframe prescribed by the Secretary.

2020-025 Yakima Valley College did not establish adequate internal controls over and did not comply with requirements to accurately report student enrollment information for the Student Financial Assistance programs.

CFDA Number and Title:	84.007 Federal Supplemental Educational Opportunity grants 84.033 Federal work-study program 84.063 Federal Pell Grant Program 84.268 Federal Direct Student Loans
Federal Grantor Name:	Department of Education
Federal Award Number:	Various
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Enrollment Reporting
Known Questioned Cost Amount:	None

Background

Colleges are required to report enrollment information using the National Student Loan Data System (NSLDS). As part of this reporting, for students who are actively attending, a college reports student enrollment level (status) at either full time, three-quarter time, half time, or less than half time. Federal requirements stipulate the credit levels for the respective enrollment status. Additional information about enrollment is also reported to NSLDS, such as details about the student's program and when graduations or withdrawals occur. This enrollment information is extracted and submitted multiple times a quarter from the college's student registration system and transmitted to NSLDS.

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

Valley College (College) did not establish adequate internal controls over and did not comply with requirements to report student enrollment level (status) accurately

The College's registration system was configured to report enrollment status differently than allowed by federal requirements. In the registration system, a setting established full-time status at 10 credits, but federal regulations require 12 credits for full-time status. This setting also affected the calculations for other enrollment levels that are less than full time. For example, half-time enrollment is calculated at 50 percent of the full-time setting.

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

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

Cause of Condition

The registration system settings were incorrectly changed, but the College was not aware of when these changes occurred. The registration system did not record who made the changes or when they occurred. Management informed us that very few individuals at the College have the system access to change the setting. However, the College did not monitor program change controls to detect and correct the setting errors.

Effect of Condition

The inaccurate system configuration caused over-reporting errors in the reporting of enrollment and program enrollment status at four credit levels as follows:

Credit level	Enrollment Status College's system reported	Enrollment Status College's system should have reported
5	Half time	Less than half time
8	Three-quarters time	Half time
10	Full time	Three-quarters time
11	Full time	Three-quarters time

As a direct result of these errors, students with four out of 12 credit levels (33 percent) were inaccurately reported in NSLDS.

By not configuring its system enrollment status codes to align with federal requirements, the College is at an increased risk of inaccurate reporting of student enrollment information in NSLDS and may be providing information that could lead the Department of Education to issue improper management decisions involving Title IV funding, including loss of interest subsidies and student program eligibility.

Recommendations

We recommend the College:

- Update its system configuration to comply with federal enrollment reporting requirements
- Monitor its enrollment reporting procedures to ensure accuracy of data being reported
- Work with NSLDS to determine whether previously reported enrollment data needs to be corrected

College's Response

The College concurs with the finding.

As of February 2021, the Registrar's Office has established additional internal controls to ensure that enrollment levels reported are consistent with the Department of Education's definition.

Internal controls include:

- *The value defining a student's enrollment level has been updated to reflect 12 credits as the minimum for full-time enrollment. This corrected value also allows for part-time enrollment to be calculated and reported accurately.*
- *Access to registration system settings is limited to Registrar and Dean of Student Services.*
- *A quarterly review of the settings will ensure values remain unchanged and that accurate enrollment level data is reported.*

Auditor's Remarks

We appreciate the College's commitment to resolving this matter. We will follow-up with the College in 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 200.516 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:

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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.

34 CFR 690.83 Submission of reports [for Federal Pell Grant Program], section (b) (2) states:

(2) An institution shall submit, in accordance with deadline dates established by the Secretary, through publication in the Federal Register, other reports and information the Secretary requires and shall comply with the procedures the Secretary finds necessary to ensure that the reports are correct.

34 CFR 685.309 Administrative and fiscal control and fund accounting requirements for schools participating in the Direct Loan Program, states in part:

(a) *General.* A participating school must -

(1) Establish and maintain proper administrative and fiscal procedures and all necessary records as set forth in this part and in 34 CFR part 668; and

(2) Submit all reports required by this part and 34 CFR part 668 to the Secretary.

(b) *Enrollment reporting process.*

(1) Upon receipt of an enrollment report from the Secretary, a school must update all information included in the report and return the report to the Secretary -

(i) In the manner and format prescribed by the Secretary; and

(ii) Within the timeframe prescribed by the Secretary.

2020-026 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/Contract Number:	S010A170047-17B, SP10A190047, S010A180047
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Assessment System Security
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 3 through 8. 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 3 through 5, 6 through 9, and 10 through 12.

The Title I, Part A program in Washington is administered by the Office of Superintendent of Public Instruction (OSPI). OSPI, in consultation with Local Education Agencies (LEAs), establishes and maintains an assessment system that is valid, reliable, and consistent with relevant professional and technical standards. In its assessment system, OSPI 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 for each test administration. OSPI requires LEAs to submit the report to OSPI no later than five business days after completion of each test administration.

OSPI was granted a waiver from the U.S. Department of Education that eliminated statewide assessment requirements, beginning on March 27, 2020, for the 2019-20 school year due to school closures related to the COVID-19 pandemic.

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 and did not comply with federal requirements to ensure LEAs implemented testing security measures.

OSPI has developed guidance on how LEAs must manage and administer assessments in compliance with the law. The guidance is provided to LEAs through manuals, training modules, tools, templates and other documents. OSPI also requires LEAs to submit a District Administration and Security Report (DASR) at the conclusion of the testing cycle to ensure LEAs implement testing security measures.

During the audit period, OSPI was not able to perform monitoring to ensure LEAs followed the policies and procedures it implemented. Before the spring of 2020, OSPI did not have a process in place for ensuring all LEAs that administered assessments had submitted the required DASR.

OSPI planned to implement new protocols in the spring of 2020 developed with the intent to conduct monitoring in accordance with federal requirements. The new protocols include identifying a list of all LEAs that administered each assessment and checking to ensure DASRs were received for all assessments administered. At the time of the audit, OSPI had not conducted any reviews because the COVID-19 pandemic and the mandatory closure of all school facilities made it difficult for OSPI staff to contact test administrators at Districts.

During the audit, we selected 26 LEAs and examined the 57 assessments they had performed. We found OSPI did not receive 48 of the 57 DASRs. All these assessments were performed before the waiver from the Department of Education, dated March 27, 2020.

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

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

Cause of Condition

The monitoring process related to Assessment System Security was not properly designed to ensure all LEAs who performed an assessment had also submitted the required DASR.

Although new protocols were developed with the intent to conduct monitoring in accordance with federal requirements beginning in the spring of 2020, this was not able to be implemented because of the COVID-19 pandemic.

Effect of Condition

By not monitoring the LEAs, OSPI had no assurance that LEAs implemented proper test security measures.

Recommendation

We recommend OSPI follow its newly established procedures by monitoring the District Administration and Security Reports to ensure that the LEAs have implemented test security measures.

Office's Response

The Office concurs with the finding.

When school facilities were ordered to be closed in March, by the Governor's proclamation, only a few school districts had begun administering ELA and mathematics assessments. No science tests were administered in spring 2020. Approximately 99% of testing in Washington takes place between mid-April and mid-May, even though test administration windows begin as early as March and end in early June. School and district staff responsible for collecting security information from test administrators and coordinators were not able to perform these duties. The security information, which is paper-based in many districts, was not accessible by state law. In all cases, completion and submission of district and school security reports was not possible. In many instances, district and school staff were required to discontinue assessment responsibilities and focus on student connection, curriculum and, in many cases, to deliver food to students and families. OSPI's Assessment team was unable to contact many District Assessment Coordinators for DASR reports or other issues related to the administration of the assessments.

When school facilities initially closed, all students and district staff were ordered to stay at home until at least April 27. Throughout April and May the reopen and return date was pushed out several times until the final declaration in May that school facilities would remain shut through the end of the school year. District Administration and Security Reports (DASRs) are typically completed and submitted at the end of the test window, which was June 4, 2020.

OSPI concurs with the recommendation and has implemented procedures for monitoring to ensure LEAs have submitted DASR reports.

Auditor's Remarks

We appreciate OSPI's commitment to resolving this matter. We will follow up with OSPI in the 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.

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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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 OSPI 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.

2020-027 The Office of Superintendent of Public Instruction did not have adequate internal controls over the quality control process related to the proper identification and recruitment of eligible children for the Migrant Education State Grant Program.

CFDA Number and Title:	84.011 Migrant Education State Grant Program
Federal Grantor Name:	Department of Education
Federal Award/Contract Number:	S011A180048 & S011A190048
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Child Counts – Quality Control Process
Questioned Cost Amount:	None

Background

The Office of Superintendent of Public Instruction (OSPI) administers the Migrant Education State Grant Program (Program). The purpose of the Program is to help migrant students meet high academic challenges by overcoming obstacles created by frequent moves, educational disruption, cultural and language differences and health-related problems.

The Elementary and Secondary Education Act (ESEA) §9303 requires OSPI to submit an annual consolidated state performance report (CSPR) to the U.S. Department of Education. On the CSPR, OSPI must provide an unduplicated statewide count of eligible migratory children recruited into the Program, which the Department of Education may use to determine the State's annual grant allocations.

The Program requires OSPI to establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children statewide. OSPI contracts with Sunnyside School District's Office of Migrant Student Data Recruitment and Support (District) to identify and recruit eligible migratory students and to carry out the required quality control (QC) process.

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 the quality control process related to the proper identification and recruitment of eligible children for the Program.

To ensure the District complied with its contract terms, the Department drafted procedures to monitor the District and scheduled onsite visits to occur on a two-year cycle. At the time of the audit, OSPI had not conducted such reviews for the past two review cycles, with the last monitoring visit occurring in August of 2015.

We consider this internal control deficiency to be a material weakness. We did not report this issue as a finding in the prior audit.

Cause of Condition

During the past two review cycles, Program directors were responsible for monitoring the District. On both occasions, the respective directors decided not to conduct the reviews. On the first occasion, the specific reason was not documented and has been forgotten. On the second occasion, the director did not have the capacity to undertake the volume of work the review required because they were on agency-approved extended leave.

Effect of Condition

By failing to conduct ongoing official monitoring of the process completed by the District , OSPI places at risk the assurance that the identification and recruitment data reported on the CSPR is accurate. This could affect the annual allocations the State receives from the Department of Education.

Recommendation

We recommend OSPI reinstate its established procedures by monitoring the District and conduct onsite reviews to validate the contracted work.

Office's Response

The Office concurs with the finding.

Beginning program period 2020-2021, the Title I Part C Migrant Education Program will reinstate its on-going program monitoring cycle with the District that includes a review of the Quality Control Process for child counts reported to the Office of Migrant Education.

Auditor's Remarks

We appreciate the Office's commitment to resolve this matter. We will follow-up on its corrective action in 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 200.516 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 200.327 Financial Reporting, states in part:

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved government wide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). 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.

Title 34 U.S. Code of Federal Regulations (CFR) Part 200.89, Re-interviewing; eligibility documentation; and quality control, states in part:

(d) *Responsibilities of an SEA to establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children.* An SEA must establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children on a statewide basis. At a minimum, this system of quality controls must include the following components:

(1) Training to ensure that recruiters and all other staff involved in determining eligibility and in conducting quality control procedures know the requirements for accurately determining and documenting child eligibility under the MEP.

(2) Supervision and annual review and evaluation of the identification and recruitment practices of individual recruiters.

(3) A formal process for resolving eligibility questions raised by recruiters and their supervisors and for ensuring that this information is communicated to all local operating agencies.

(4) An examination by qualified individuals at the SEA or local operating agency level of each COE to verify that the written documentation is sufficient and that, based on the recorded data, the child is eligible for MEP services.

(5) A process for the SEA to validate that eligibility determinations were properly made, including conducting prospective re-interviewing as described in paragraph (b)(2).

(6) Documentation that supports the SEA's implementation of this quality-control system and of a record of actions taken to improve the system where periodic reviews and evaluations indicate a need to do so.

(7) A process for implementing corrective action if the SEA finds COEs that do not sufficiently document a child's eligibility for the MEP, or in response to internal State audit findings and recommendations, or monitoring or audit findings of 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.

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.

2020-028 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:	US Department of Education
Federal Award/Contract Number:	H173A170074, H173A180074, H173A190074, H027A170074-17B, H027A180074-18A, & H027A190074-19A.
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed, Allowable Costs/Cost Principles, 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 (LEA), 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 Special Education program (program) in Washington is administered by the Office of Superintendent of Public Instruction (OSPI) and serves about 143,000 eligible students. The program is specially designed instruction that addresses the unique needs of a student, is provided at no cost to parents, and includes the related services a student needs to access her or his educational program. OSPI spent about $236 million in federal IDEA grant funds during fiscal year 2020. About $231 million of that funding was passed through to LEAs.

OSPI 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's activities. LEAs claim grant funding on a reimbursement basis through OSPI'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 submit any supporting documentation with the reimbursement requests.

OSPI performs onsite monitoring, as well as desk reviews, of selected LEAs to ensure federal funds are used only for allowable purposes and meet federal cost principles. The LEAs are selected for review annually using a risk-based approach.

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 and did not comply with requirements to ensure payments to subrecipients were adequately supported for the Special Education program.

OSPI did not perform adequate fiscal monitoring of LEAs. Instead of selecting samples from the entire population of reimbursement requests when performing fiscal monitoring, OSPI allowed the LEAs to select samples at their discretion and send supporting documents as they saw fit. In our judgment, this level of monitoring was insufficient to ensure reimbursement requests were allowable and adequately supported.

Adequate fiscal monitoring is especially important in relation to this grant because OSPI does not receive supporting documentation with reimbursement requests.

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

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

Cause of Condition

OSPI did not establish an effective process by allowing LEAs to determine what supporting documentation to provide.

Effect of Condition

By failing to perform adequate fiscal monitoring, OSPI cannot ensure reimbursement requests are accurate, allowable, and adequately supported.

Recommendation

We recommend OSPI improve the design of its fiscal monitoring of LEAs to ensure reimbursement requests are allowable and adequately supported.

Office's Response

During school calendar year 2019-20 OSPI Special Education Operations Unit, identified improvements needed and began designing a pilot fiscal monitoring process and improving in response. However, in 2020-21, due to building closures and changing priorities resulting from the COVID pandemic, the fiscal monitoring pilot was delayed so that districts could focus on providing remote services to students, while OSPI Operations staff continued to plan for piloting in 2021-22. Despite the inability to implement the pilot fiscal monitoring, OSPI Operations staff continued to review district fiscal activities.

Beginning with the 2021-22 school calendar year, the Operations Unit staff will complete fiscal risk assessments for all local education agencies (LEAs). Using the risk assessment results, LEAs will be selected for either an on-site/virtual monitoring or desk review. In addition, LEAs will also be required to submit their expenditure reports for claims submitted each month, of which a sample will be selected and tested by the Operations Unit fiscal staff.

Auditor's Remarks

We appreciate the Office's commitment to resolving these matters. We will follow-up on the corrective actions in 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 200.302 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 §§ 200.333 Retention requirements for records,

200.334 Requests for transfer of records, 200.335 Methods for collection, transmission and storage of information, 200.336 Access to records, and

200.337 Restrictions on public access to records):

(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.

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 sub award is used for authorized purposes, in compliance with Federal statutes, regulation, and the terms and conditions of the sub award; and that sub award 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.
> >
> > (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.

2020-029 Yakima Valley College did not have adequate internal controls over and did not comply with Student Financial Assistance Programs applicant verification requirements.

CFDA Number and Title:	84.063 Federal Pell Grant Program 84.268 Federal Direct Student Loans
Federal Grantor Name:	U.S. Department of Education
Federal Award Number:	Various
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Verification
Known Questioned Cost Amount:	None

Background

Institutions of higher education are required to verify information in student aid applications to ensure accurate information is provided by the student for determining eligibility to receive Student Financial Assistance. The U.S. Department of Education selects Student Financial Assistance applicants to have certain information, such as household size and income, verified for accuracy. Institutions of higher education obtain this information directly from the students and must match it to the students' financial aid application.

If any information on the student's application is found to be incorrect, a correction must be submitted to the central processor at the Department of Education and the student's financial aid award is recalculated. The institution must report that the verification was completed to Department of Education.

During fiscal year 2020, the Yakima Valley College (College) disbursed about $14.8 million to students under the Pell Grant and Federal Direct Student Loans programs.

Federal regulations require grant 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 College did not have adequate internal controls over and did not comply with requirements to verify applicant information for the Student Financial Assistance Programs.

The College has written policies and procedures over the verification process, but they were not effective in preventing or detecting all errors made during the verification process. Management

did not establish effective controls to ensure verifications of student applications were performed by staff, as required, and the information reported to the central processor was accurate.

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

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

Cause of Condition

Staff performing the verifications did not follow procedures to match student information and submit corrections of student applications to the central processor. Specifically, the verification process prone to error involves manually matching documents to the application and submitting corrections to the central processor. There were no processes in place to detect the inaccuracies.

Effect of Condition

We used a statistical sampling method to randomly select and examine 57 student verifications from a population of 938 to determine whether the verifications were completed properly and awards were adjusted when appropriate.

In two cases, we found the College did not submit corrections to the students' applications after verification had occurred. In one additional case, a correction was submitted to the central processor. However, the information adjusted on the application was determined to be incorrect. This resulted in an overpayment of $1,369 to the student. In total, the three cases with errors represented over 5 percent of our sample population.

Based on our test results, we estimate the total amount of likely improper payments using federal funds to be $22,528.

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 student verification process complied with program requirements in all material respects. Accordingly, we used an acceptance sampling formula designed to provide a very 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 College:

- Strengthen controls to ensure verification items are properly matched to student aid applications
- Ensure that corrections are submitted accurately to the central processor
- Monitor student aid application verifications to ensure all verification activities are performed as required
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

College's Response

The College concurs with the finding.

As of March 2021, the Financial Aid Office has established additional internal controls to reduce the probability of inadvertent errors in the manual matching of verification documents.

Internal controls include:

- *Established process that utilizes new verification checklist which staff will use for every file selected for verification. The checklist includes all fields required for verification and serves to compare and collect values from verification worksheets against tax transcripts or other documentation.*
- *Self-audit random sample of verified files. Self-audit will identify training opportunities for continuous improvement as well as to correct possible errors.*

Auditor's Remarks

We appreciate the College's commitment to resolving this matter. We will follow-up with the College in 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 200.403 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 sample 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.

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.

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 668, *Student Assistance General Provisions* establishes the following applicable requirements:

Section 668.53 Policies and procedures

(a) An institution must establish and use written policies and procedures for verifying an applicant's FAFSA information in accordance with the provisions of this subpart. These policies and procedures must include

(3) The method by which the institution notifies an applicant of the results of its verification if, as a result of verification, the applicant's EFC changes and results in a change in the amount of the applicant's assistance under the Title IV, HEA programs;

(4) The procedures the institution will follow itself or the procedures the institution will require an applicant to follow to correct FAFSA information determined to be in error; and

Section 668.54 Selection of an applicant's FAFSA information for verification.

(a) General requirements.

(1) Except as provided in paragraph (b) of this section, an institution must require an applicant whose FAFSA information is selected for verification by the Secretary, to

verify the information specified by the Secretary pursuant to §668.56.

(2) If an institution has reason to believe that an applicant's FAFSA information is inaccurate, it must verify the accuracy of that information

(3) An institution may require an applicant to verify any FAFSA information that it specifies.

(4) If an applicant is selected to verify FAFSA information under paragraph (a)(1) of this section, the institution must require the applicant to verify the information as specified in §668.56 if the applicant is selected for a subsequent verification of FAFSA information, except that the applicant is not required to provide documentation for the FAFSA information previously verified for the applicable award year to the extent that the FAFSA information previously verified remains unchanged.

Section 668.59 Consequences of a change in an applicant's FAFSA information.

(a) For the subsidized student financial assistance programs, if an applicant's FAFSA information changes as a result of verification, the applicant or the institution must submit to the Secretary any changes to –

(1) A nondollar item; or

(2) A single dollar item of $25 or more.

(b) For the Federal Pell Grant Program, if an applicant's FAFSA information changes as a result of verification, an institution must –

(1) Recalculate the applicant's Federal Pell Grant on the basis of the EFC on the corrected valid SAR or valid ISIR; and

(2)

(i) Disburse any additional funds under that award only if the institution receives a corrected valid SAR or valid ISIR for the applicant and only to the extent that additional funds are payable based on the recalculation;

(ii) Comply with the procedures specified in §668.61 for an interim disbursement if, as a result of verification, the Federal Pell Grant award is reduced; or –

(iii) Comply with the procedures specified in 23 CFR §690.79 for an overpayment that is not an interim disbursement if, as a result of verification, the Federal Pell Grant award is reduced.

(c) For the subsidized student financial assistance programs, excluding the Federal Pell Grant Program, if an applicant's FAFSA information changes as a result of verification, the institution must -

(1) Adjust the applicant's financial aid package on the basis of the EFC on the corrected valid SAR or valid ISIR; and

(2)

(i) Comply with the procedures specified in §668.61 for an interim disbursement if, as a result of verification, the financial aid package must be reduced;

(ii) Comply with the procedures specified in 34 CFR §673.5(f) for a Federal Perkins loan or an FSEOG overpayment that is not the result of an interim disbursement if, as a result of verification, the financial aid package must be reduced.

(iii) Comply with the procedures specified in 23 CFR §685.303(e) for Direct Subsidized Loan excess loan proceeds that are not the result of an interim disbursement if, as a result of verification, the financial aid package must be reduced.

Section 668.61 Recovery of funds from interim disbursements.

(a) If an institution discovers, as a result of verification, that an applicant received under §668.58(a)(2)(i)(B) more financial aid than the applicant was eligible to receive, the institution must eliminate the Federal Pell Grant, Federal Perkins Loan, or FSEOG overpayment by –

(1) Adjusting subsequent disbursements in the award year in which the overpayment occurred; or

(2) Reimbursing the appropriate program account by –

(i) Requiring the applicant to return the overpayment to the Institution if the institution cannot correct the overpayment under paragraph (a)(1) of this section; or

(ii) Making restitution from its own funds, by the earlier of the following dates, if the applicant does not return the overpayment;

(A) Sixty days after the applicant's last day of attendance.

(B) The last day of the award year in which the institution disbursed Federal Pell Grant, Federal Perkins Loan, or FSEOG Program funds to the applicant.

(b) If an institution discovers, as a result of verification, that an applicant received under §668.58(a)(2)(ii) more financial aid than the applicant was eligible to receive, the institution must eliminate the FWS overpayment by –

(1) Adjusting the applicant's other financial aid; or

(2) Reimbursing the FWS program account by making restitution from its own funds, if the institution cannot correct the overpayment under paragraph (b)(1) of this section. The applicant must still be paid for all work performed under the institution's own payroll account.

(c) If an institution disbursed subsidized student financial assistance to an applicant under §668.58(a)(3), and did not receive the valid SAR or valid ISIR reflecting corrections within the deadlines established under §668.60, the institution must reimburse the appropriate program account by making restitution from its own funds. The applicant must still be paid for all work performed under the institution's own payroll account.

2020-030 The Department of Services for the Blind did not have adequate internal controls to ensure payroll expenditures charged to the Vocational Rehabilitation grant were allowable.

CFDA Number and Title:	84.126 Vocational Rehabilitation
Federal Grantor Name:	Department of Education
Federal Award/Contract Number:	H126A180072; H126A190072; H126A200072
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Questioned Cost Amount:	None

Background

The Department of Services for the Blind's (Department) Vocational Rehabilitation program provides services to individuals who are blind, are going blind or have low vision so that such individuals can prepare for and engage in gainful employment. These services are primarily funded by the Vocational Rehabilitation (VR) Grant.

The Department may use grant funds only for costs that are allowable and related to the grant's purpose.

In fiscal year 2020, the Department spent almost $9.7 million in federal funds for the VR program. More than $5.2 million of that total was for payroll expenses of employees who worked on the program.

The Department is required to certify its payroll monthly through the Department of Enterprise Services Small Agency Financial Services (SAFS). On-call, part-time employees must submit timesheets to track daily activities performed for VR grant. Twice a month, these employees complete and sign a timesheet and submit it to their direct supervisor for approval. The supervisor reviews and approves the employee's timesheet to ensure they are correctly charging time to 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.

Description of Condition

The Department did not have adequate internal controls to ensure payroll expenditures charged to the VR program were allowable.

We found the Department did not conduct timely reviews of its payroll certifications. We examined the supporting documentation for eight monthly certifications and found:

- One certification was reviewed seven months late.
- Two certifications were reviewed six months late.
- One certification was reviewed four months late.

We randomly selected and reviewed 20 employee timesheets and found one instance when a timesheet was not reviewed and approved by a supervisor.

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

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

Cause of Condition

The Department experienced staff turnover during the audit period. Staff from SAFS informed the Department that reviews were not being performed.

The timesheet missing a supervisory review was routed to Human Resources instead of the supervisor.

Effect of Condition

Not conducting a timely review and approval of payroll certifications increases the risk that unallowable expenditures could be charged to the VR grant.

Recommendation

We recommend the Department strengthen its internal controls to ensure monthly payroll certifications and timesheets are reviewed in a timely manner and properly approved by supervisors.

Department's Response

The period covered in this audit was during the time the COVID19 pandemic hit which forced all state Department's to shutter offices and send staff to work from their homes. The priority became putting new procedures in place for Department staff to be able to successfully perform all duties remotely while maintaining adequate controls over processes. At no time were reviews of payroll reports not performed but there were delays in getting certifications submitted to SAFS due to the time it took to set up acceptable methods for submitting the certifications electronically.

As a part of the payroll process SAFS maintains a certification tracking log to track receipt of payroll certifications received from Departments to which they provide payroll services. The tracking log serves as a system for SAFS to monitor receipt of certifications and be able to notify Department's when certifications are not received. DSB was recently informed that SAFS temporarily suspended the practice of notifying agencies of certifications not received during the first months of COVID19. As a result, DSB was not notified that DSB certifications had not been submitted so was not able to take prompt actions to resolve the issue.

As mentioned in this finding there was DSB staff turnover which did cause some disruption to the Department's ability to quickly identify the lack of timely certification submissions. As soon as SAFS alerted DSB to the issue, albeit not timely, staff located and finalized the submission of the missing certifications.

SAFS also recently informed DSB that although certifications are part of the payroll process they are not required in order for SAFS to process payroll. As such DSB has determined that the certification process is not effective as a control in preventing payroll from being processed with incorrect coding and ultimately incorrect grant coding.

Certifications are part of the payroll process, however, the key control to ensuring allowability are reviews of the payroll reports prior to processing payroll, or immediately after, with action taken to make timely corrections if necessary in both workstreams. DSB has implemented these controls to detect these types of payroll errors, and implemented steps required to correct those errors.

The Deputy Financial Officer (DFO) performs payroll report reviews for position cost coding consistent with the federally approved cost allocation plan and for federal grant allowability. DSB has added steps to document these payroll reviews for timely assurances that unallowable payroll expenditures are not charged to the grant.

DSB Human Resources (HR) administers collection of DSB staff timesheets and submits them to SAFS. HR requires all timesheets to be signed by supervisors prior to forwarding the timesheet to HR for payroll processing. HR will take additional steps to ensure supervisors are signing timesheets.

Auditor's Remarks

We appreciate the Department's commitment to resolving these matters. We will follow-up on the corrective actions in 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:

(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.

(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.

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.
> >
> > **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.

2020-031 The Department of Services for the Blind did not have adequate internal controls over reporting requirements for the Vocational Rehabilitation grant.

CFDA Number and Title:	84.126 Rehabilitation Services – Vocational Rehabilitation Grants to States
Federal Grantor Name:	U.S. Department of Education
Federal Award/Contract Number:	H126A180072; H126A190072; H126A200072
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Questioned Cost Amount:	None

Background

The Department of Services for the Blind's (Department) Vocational Rehabilitation program provides services for people who are blind, are going blind or have low vision so they can prepare for and engage in gainful employment. These services are primarily funded by the Vocational Rehabilitation (VR) Grant.

The Department must submit an Annual Vocational Rehabilitation Program/Cost Report (RSA-2), which is used to report expenditures for particular services, numbers of clients served, numbers of staff and amounts transferred in and out of the program. The grantor uses this information to evaluate and monitor the financial performance and achievements of a state's vocational rehabilitation agency. The report must be completed annually and is due by December 31 after the close of the federal fiscal year, and must include information about all open grant awards.

The Department must also submit a Federal Financial Report (SF-425), which is used to report expenditures for federal grants semi-annually and annually. The reports are due within 30 days after the end of each reporting period. A final SF-425 is due within 90 days after the period of performance. The report requires the disclosure of cash receipts, disbursements, and cash on hand for the grant during the reporting period. The report also includes disclosure of the indirect costs and program costs, and signature of a certifying person.

In the previous three audits, we reported the Department did not establish adequate internal controls over and did not comply with federal reporting requirements for the Annual RSA-2 and SF-425 reports. The prior finding numbers were 2019-027, 2018-019 and 2017-010.

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 reporting requirements for the Vocational Rehabilitation Grant.

During our audit period the following reports were due:

- Annual RSA-2
- Two semi-annual SF-425
- One annual SF-425
- One final SF-425

The Department established policies and procedures that require a secondary review of federal financial reports before they are submitted to the grantor to ensure their accuracy. It also hired a Senior Financial Officer in February 2020 to conduct the secondary review. However, we found the Department did not monitor to ensure a secondary review was consistently performed during the audit period.

Also, the Department did not always keep adequate supporting records to support SF-425 reports filed during the audit period. For two of the SF-425 reports we examined, the supporting documentation had to be re-created by the Department to substantiate the amounts reported.

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

Cause of Condition

At the time some of the reports were due, the newly hired Senior Financial Officer was in the process of obtaining the necessary permissions to access systems needed to conduct the reviews.

During the audit period, the Department faced logistical challenges due to the COVID-19 pandemic. The Department had to transition from an in-person office environment to a completely remote setting in a very short period of time.

Effect of Condition

By not implementing an independent secondary review of financial reports, or keeping supporting records used to create reports, the Department is at a higher risk of not detecting errors and misreporting information to the grantor.

Recommendations

We recommend the Department:

- Ensure secondary reviews of the RSA-2 and SF-425 reports are performed
- Keep adequate supporting records for all reports submitted to the grantor

Department's Response

The Department began making improvements to internal controls over financial reports immediately following receiving the prior year audit results and finding and as of the date of this audit report new controls are in place and operating effectively. The prior audit was completed February 2020.

As mentioned in the description of this finding, the Department hired a Senior Financial Officer (SFO) with experience in federal reporting requirements who began working for the Department in February 2020. The Department also put in place policies and procedures related to RSA reporting which were finalized in March 2020 and staff training was completed in April 2020. The policy requires a secondary review of the RSA reports and includes procedures where the Deputy Financial Officer (DFO) completes the reports and the SFO reviews and approves the reports prior to submitting them to the RSA.

What is not adequately described in the Cause of Condition is the impact of COVID19 on the Department and the temporary delays this event caused on the Department's ability to quickly implement the enhanced controls. The period covered in this audit was during the time the COVID19 pandemic hit which forced all state Departments to shutter offices and send staff to work from their homes. The priority became putting new procedures in place for Department staff to be able to successfully perform all duties remotely while maintaining adequate controls over processes. Also during this time, the newly onboarded SFO was still in process of gaining access to accounting and reporting systems necessary to perform report reviews. For these reasons and during this time it was not possible to consistently perform secondary reviews and ensure DSB was still meeting all of the RSA reporting deadlines.

The RSA reports due and submitted during the audit period were as follows:

- *Annual SF-425*
    - *2019 grant due 10/31/2019 (submitted 10/30/2019)*
- *Final SF-425*
    - *2018 grant due 12/31/2019 (submitted 10/30/2019)*

- *Annual RSA-2*
    - *2019 grant, due 12/31/2019 (submitted 12/31/2019)*
- *Semi-annual SF-425*
    - *2019 grant due 4/30/2020 (submitted 4/27/20)*
    - *2020 grant due 4/30/2020 (submitted 4/27/20)*

New controls were put in place in response to recent audit findings beginning in April 2020 and under very challenging conditions. Secondary reviews are being performed and new documentation requirements are in place to ensure all accounting entries include adequate support.
We also want to highlight this audit did not result in any questioned costs or significant violations of compliance requirements.

Auditor's Remarks

We appreciate the Department's commitment to resolving these matters. We will follow-up on the corrective actions in 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).

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.

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.

2020-032 The Department of Social and Health Services did not have adequate internal controls over and did not comply with federal requirements to ensure payments paid on behalf of clients for the Vocational Rehabilitation grant were allowable.

CFDA Number and Title:	84.126 Rehabilitation Services Vocational Rehabilitation Grants to States
Federal Grantor Name:	U.S. Department of Education
Federal Award/Contract Numbers:	H126A180071; H126A190071; H126A200071
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:	$13,143

Background

The Department of Social and Health Services' (Department) Division of Vocational Rehabilitation provide employment services and counseling to individuals with disabilities who want to work but experience barriers to work because of a physical, sensory, and/or mental disability. A Department counselor works with each person to develop a customized plan of services designed to help them reach their employment goal. These services are primarily funded by the Vocational Rehabilitation Grant.

The Department operates and administers the program in accordance with federal regulations, as well as with a State Plan that is approved every four years. The Department spends federal grant money for employment services that are included in a client's individual plan for employment (IPE). The IPE helps a person with a disability prepare for, secure, retain or regain an employment outcome. To ensure that the client is informed and involved in their employment outcome, both the client and a counselor must sign and date the completed IPE after reviewing it. Once an IPE is signed, most services are not allowable unless they are included in the approved IPE.

The Department may also spend federal grant money for pre-employment services that allow the Department to determine eligibility or ability to work and do not need to be in the IPE. While these expenses are not contained in an IPE, they still must be approved and have proper support.

The Department requires all purchases of goods and services on behalf of a client to be pre-approved, using an Authorization for Purchase (AFP). In some cases, a purchase is initiated with a verbal or written commitment to a vendor before an AFP is issued. In this case, a signed AFP must be mailed or given to the vendor within five working days of the commitment being made.

The Department also makes payments to contractors who provide pre-employment transition services for students who are no older than 21 and are eligible, or potentially eligible, for Vocational Rehabilitation services. These contractors submit supporting documentation for these services that includes information about the students they have served.

The Department spent more than $37.5 million in federal program funds in fiscal year 2020, with about $10.8 million paid for 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 federal requirements to ensure payments paid on behalf of clients for the Vocational Rehabilitation grant were allowable.

We used a statistical sampling method to randomly select and examine 59 out of a total population of 5,965 payments made for client services during fiscal year 2020. We reviewed each payment to determine if it was for an allowable employment service, was either included in a client's IPE or was a pre-employment service, and the AFP was issued after the IPE was signed and before the service was provided.

In six cases (10 percent), we found payments were improper. These payments included $13,143 in federally funded unallowable costs. Specifically, we found:

- One case when the Department was not able to provide either IPEs or AFP
- Four cases when the services provided were not documented in the signed IPE
- One case when the Department did not have a valid IPE with the client
- One case when the Department was not able to produce a client IPE before the AFP was issued

We also used a statistical sampling method to randomly select and examine 51 of a total population of 144 payments made to contractors for pre-employment transition services. We found one payment for $37,440 included $2,080 in federally funded unallowable costs, because one of the clients served was over 21 years of age.

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

This issue was reported as a finding in prior audits as findings 2019-023, 2018-023, 2017-014 and 2016-013.

Cause of Condition

Department staff did not follow established policies and procedures to ensure that payments for client services were contained in the client's approved IPE. Also, services were initiated without proper approval. Managerial oversight was not sufficient to detect or prevent these issues.

Effect of Condition and Questioned Costs

By not having adequate internal controls in place, the Department increases its risk of making improper payments for client services.

A statistical sampling method was used to randomly select the payments examined in the audit. Based on the results of our testing, we estimate the total amount of likely improper payments using federal funds to be $638,257.

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:

- Pay for client employment services only when those services are contained in an approved IPE and are adequately supported
- Ensure services are not initiated before being properly approved
- Ensure managers adequately monitor staff to ensure staff follow policies and procedures and federal requirements are met

- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department concurs with the finding and the Division of Vocational Rehabilitation (DVR) will complete the following actions to address the exceptions:

- *Incorporate comprehensive automated controls to validate authorizations for purchase into the system design of the case management system currently being procured to replace STARS.*
- *Develop and make available reinforcing training for staff to support understanding of existing and any updated requirements regarding the authorizations for purchase of client services.*
- *Develop a process to monitor the approval of services and provide feedback to leadership about potential areas for improvement.*
- *Initiate a review and implement process improvements:*
    - *Regarding the timing and kinds of approval required for VR services.*
    - *To existing policies and procedures focused on changes to customer plans for employment, as well as any other areas that come to management's attention during the process.*
- *Evaluate the effectiveness of and implement improvements to existing supervisory review activities, to include effective monitoring of those review activities.*
- *Contact the Department of Education, Rehabilitation Services Administration regarding the questioned costs identified in this audit.*

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter and will follow-up on its corrective action in 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 200.403 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 sample 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.

The Division of Vocational Rehabilitation Customer Services Manual states, in part:

Authorization for Purchase (AFP)

All purchases of goods and services on behalf of a DVR customer must be pre-approved using an AFP. An AFP is a legally binding document. When signed by a VR staff, an AFP is a contract between DVR and a registered vendor or DVR customer. The vendor must be registered in STARS before any authorization or verbal commitment is made.

Because the AFP is legally binding:

1. The AFP must include specific information in the AFP description that describes the goods/services authorized for purchase, as well as the dates of service, amounts authorized, and any other conditions related to the service(s) and/or payment. The AFP description should include the item being purchased and any other key identifying information, such as type/make/model, when appropriate. For example, Maxim Keyboard for PC, or Dragon NaturallySpeaking, Preferred Edition; or 2 pairs of pants, 3 shirts, 1 pair of shoes.

2. The Terms and Conditions must be provided to the vendor or customer along with the AFP.

If a verbal or written commitment is made to a vendor, an AFP is issued, signed by the authorized field staff and mailed or given to the vendor within 5 working days of making any verbal or written commitment to a vendor.

VR Supervisor Approval of Certain Services

VR Supervisors must review and approve certain services, including Community Rehabilitation Program (CRP) provided Community Based Assessments, CRP provided Job Placement and Retention, services supporting customer participation in post-secondary training, and services to support an IPE with an employment outcome in self-employment

Standard Operating Procedure: Supervisory AFP Review, states in part:

VR Field Supervisors have oversight responsibilities regarding the purchases made by counseling staff in the units that they supervise for program quality and compliance purposes. VR Supervisors perform this responsibility by making monthly reviews of the authorizations for purchase (AFPs) that are issued in their units. This review is accomplished through the use of the AFP Review web tool. These monthly reviews are an internal control ensuring that authorizations for purchase are appropriate, well-documented, and accurate.

Standard Operating Procedure: Purchasing Pre-Employment Transition Services from Vendors for DVR Customers, states in part:

> Students with disabilities may participate in these services from as young as 14 until they turn 22 years of age, and must be currently enrolled in a secondary or post-secondary education program.

2020-033 Yakima Valley College did not establish adequate internal controls over and did not comply with requirements to reconcile its institution records with Direct Loan disbursement records monthly.

CFDA Number and Title:	84.268 Federal Direct Student Loans
Federal Grantor Name:	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: Borrower Data and Reconciliation (Direct Loan)
Questioned Cost Amount:	None

Background

Institutions of higher education must report all Direct Loan disbursements and submit required records to the Common Origination and Disbursement (COD) system within 15 days of disbursement (OMB No. 1845-0021). Each month, the COD provides institutions with a School Account Statement (SAS) data file that consists of a Cash Summary, Cash Detail and Loan Details records.

Institutions are required to reconcile these files to their own financial records. Because up to three Direct Loan program years may be open at any given time, institutions may receive three SAS data files each month.

Federal regulations require grant 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

Yakima Valley College (College) did not establish adequate internal controls over and did not comply with requirements to reconcile its institution records with Direct Loan disbursement records monthly.

The College did not establish a process to ensure it performed monthly reconciliations of the SAS data file to its own records as required by federal regulations.

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 College said it had not been receiving SAS data files because of a technical issue preventing it from accessing the files from the Department of Education. The College had implemented another process to monitor its Direct Loan disbursements, but it was not the process required by federal regulations.

Effect of Condition

The College had two Direct Loan programs open during the audit period: 2018-19 and 2019-20.

For the 2018-19 loan program, there were four months that required reconciliation during the audit period. The College did not perform two (50 percent) of those reconciliations. For the 2019-20 loan program, there were 12 months that required reconciliation during the audit period. The College did not perform 11 (92 percent) of those reconciliations.

By not following federal regulations, the College is at a higher risk of not properly accounting for its Direct Loan disbursements.

Recommendations

We recommend the College:

- Resolve the technical issue that has prevented the college from obtaining the SAS data files
- Ensure that monthly reconciliations are performed, as required by federal regulations

College's Response

The College concurs with this finding.

The technical issue involving the Common Origination and Disbursement (COD) system which kept the School Account Statement (SAS) data file from generating has been resolved with the assistance of COD Technical Support. The Financial Aid and Business Offices have established a written process by which receipt of the monthly SAS report will be confirmed. This report, which provides a cash summary, cash detail, and loan detail records, will be used in conjunction with the functionality of our Student Management System to reconcile and identify Direct Loan discrepancies between institutional records and COD on a monthly basis. Each discrepancy will be recorded with an explanation and the appropriate resolution.

Auditor's Remarks

We appreciate the College's commitment to resolving this matter. We will follow-up with the College in 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 200.516 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 34 *U.S. Code of Federal Regulations* (CFR) Part 685, *William D. Ford Federal Direct Loan Program* establishes the following applicable requirements:

Section 685.300 *Agreements between an eligible school and the Secretary for participation in the Direct Loan Program*, states in part:

(b) **Program participation agreement.** In the program participation agreement, the school must promise to comply with the Act and applicable regulations and must agree to –

(5) On a monthly basis, reconcile institutional records with Direct Loan funds received from the Secretary and Direct Loan disbursement records submitted to and accepted 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.

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.

2020-034 The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the State Opioid Response program, the Block Grants for Prevention and Treatment of Substance Abuse program, and the Substance Abuse and Mental Health Services Projects of Regional and National Significance program received required audits.

CFDA Number and Title:	93.243, Substance Abuse and Mental Health Services Projects of Regional and National Significance 93.788, State Opioid Response 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 Numbers:	7H79SP023015; 5H79SP023015; 1H79SP080980; 7H79SM082187; 5H79SP080980-02; 5H79SM082187; 5H79TI080249-02; 6H79TI026803-02M001; 6H79TI026803-02M004; 1H79TI081705-01; 5H79TI081705-02; 3H79TI081705-01S1; 6H79TI081705-01M003 2B08TI010056-19, 3B08TI010056-19S1, 3B08TI010056-18S2, 6B08TI010056-18M002, 1B08TI083138-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the State Opioid Response (SOR) and the Block Grants for Prevention and Treatment of Substance Abuse programs. The Authority subawards federal funds to counties, tribes and nonprofit organizations to develop prevention programs and provide treatment, support and recovery services. During state fiscal year 2020, the Authority spent more than $37 million in federal funds

for the SOR and more than $54.8 million in federal funds for the Block Grants for Prevention and Treatment of Substance Abuse. Of these amounts, the Authority passed about $28.8 million to subrecipients of the SOR and $38.6 million to subrecipients of the Block Grants for Prevention and Treatment of Substance Abuse.

The Authority also administers the Substance Abuse and Mental Health Services Projects of Regional and National Significance program. This program addresses priority substance abuse treatment, prevention and mental health needs of regional and national significance. The Authority spent more than $4.9 million in federal funds during fiscal year 2020 and passed about $671,000 of this amount to subrecipients, including counties, school districts and nonprofit organizations.

Federal regulations require the Authority to monitor the activities of its subrecipients. This includes verifying that its subrecipients that spend $750,000 or more in federal awards during a fiscal year obtain a single audit. Further, for the awards it passes on to its subrecipients, the Authority must follow up and ensure the subrecipients take timely action on all deficiencies identified through audits and must issue a management decision for audit findings within six months of the audit report's acceptance by the Federal Audit Clearinghouse. These requirements help ensure grant money is used for authorized purposes and within the provisions of contracts or grant agreements.

As of July 1, 2018, these programs were transferred from the Department of Social and Health Services (DSHS) to the Authority.

In prior audits, we reported the Authority did not have internal controls over and did not comply with requirements to ensure subrecipients received required audits. The prior finding numbers were 2019-028 and 2019-065. We reported DSHS did not have internal controls over and did not comply with requirements to ensure subrecipients received required audits. The prior finding numbers were 2018-025, 2017-016, 2016-014, 2015-016 and 2014-019.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the SOR, the Block Grants for Prevention and Treatment of Substance Abuse program, and the Substance Abuse and Mental Health Services Projects of Regional and National Significance program received required audits.

We found the Authority did not have adequate internal controls in place to verify whether:

- Subrecipients received required audits, if necessary
- Findings were followed up on and management decisions were issued when due

We randomly selected and examined 18 subrecipients from a total population of 137 subrecipients. We found 10 subrecipients (55.6 percent) were not monitored to ensure their compliance with requirements for single audits of subrecipients.

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

Cause of Condition

The Authority did not establish adequate procedures to verify whether subrecipients obtained required audits. When the oversight of these programs was transferred from DSHS to the Authority, the Authority did not assign a staff member or unit to perform single audit tracking duties. Since then, the Authority established a multi-divisional work group for subrecipient monitoring. However, the Authority has not implemented an effective audit monitoring process.

Effect of Condition

Without establishing adequate internal controls, the Authority cannot ensure all subrecipients that met the threshold for a single audit complied with federal grant requirements.

Recommendations

We recommend the Authority:

- Establish policies and procedures related to subrecipient audit monitoring
- Continue to support its subrecipient monitoring workgroup

Authority's Response

The Authority concurs with the finding and has developed policies and procedures related to subrecipient audit monitoring; however they were not fully implemented at the time of the audit.

Auditor's Remarks

We appreciate the Authority's commitment to resolving this matter. We will follow-up with the Authority in the 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 200.331 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 purpose, in compliance with Federal statues, 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 and 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 and management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(f) Verify that every subrecipient is audited as required by Subpart F – Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

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 200.521 Management Decisions, states in part:

(c) Pass-through entity. As provided in § 200.331 Requirements for pass-through entities, paragraph (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.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in internal controls over compliance 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:
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> > > **Reasonably possible.** The chance of the future event or events occurring is more than remote but less than likely.
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> > > **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.

2020-035 The Department of Social and Health Services did not have adequate internal controls to ensure it submitted accurate quarterly reports for the Temporary Assistance for Needy Families grant.

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:	1901WATANF, 1901WATAN3, 2001WATANF, 2001WATAN3
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
Questioned Cost Amount:	None

Background

The Department of Social and Health Services, Community Services Division (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 work force 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 $296 million in federal grant funds during fiscal year 2020.

Federal regulations require the Department to file quarterly reports that include work participation data at summary and individual levels. The Department must file separate reports for its federal TANF program (ACF-199) and state programs (ACF-209). The proper reporting of work participation data is critical because it serves as the basis for the federal government's determination of whether states have met the required work participation rates. A penalty might apply for failure to meet the required rates.

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 submitted accurate quarterly reports. The prior finding numbers were 2019-030, 2018-028, 2017-020, and 2016-016.

Description of Condition

The Department did not have adequate internal controls in place to ensure it prepared accurate quarterly reports for the TANF grant.

Report verification – accuracy and completeness

Data is extracted from large databases and then transformed with customized SAS code to produce the amounts cited in the reports. In 2019, Research and Data Analysis (RDA) staff at the Department modified the existing code and created new code intended to make the process more efficient and automated. The new and old versions of the code were run to create the ACF-199 and ACF-209 reports. During fiscal year 2020, staff compared the two versions and worked to resolve any differences. The intent of the parallel report comparison was to identify errors. However, the Department did not have documentation showing how the variances were investigated or resolved.

Change management controls

During fiscal year 2020, the Department implemented a foundation server for source code control. This code management tool maintains a history of code change and can track changes made as well as store all previous versions of the code.

The Department did not establish independent processes for staff who reviewed, tested and approved code changes. One person was responsible for additions to, edits of, and deletion from the source code, including testing and implementing the code in production, leading to a lack of separation of duties.

We consider these internal control deficiencies to be a significant deficiency. We were able to examine other supporting data not used by the report preparers to verify the amounts reported by the Department were materially accurate.

Cause of Condition

Report verification – accuracy and completeness

The Department said it did an informal review, but it did not document its processes.

Change management controls

The Department did not have adequate staff to separate duties over change management controls during the audit period.

Effect of Condition

Report verification – accuracy and completeness

By not maintaining documentation of how variances in code were investigated and addressed, management cannot effectively monitor to ensure data used for reporting purposes was accurate.

Change management controls

Unidentified errors or unauthorized changes to source code could result in incomplete or inaccurate ACF-199 and/or ACF-209 reports.

Recommendations

We recommend the Department:

- Document reviews performed of the ACF-199 and ACF-209 reports to ensure they are complete and accurate to support compliance with federal reporting requirements
- Perform and document independent reviews of code changes

Department's Response

The Department agrees with the audit findings.

Due to the timing and frequency of audits, the Department is not made aware of a finding until six months after the state fiscal year concludes. It is not always feasible to correct audit issues within the next six months before a new audit cycle begins. This also means the previous year's audit issues will still be outstanding during at least the first six months of the current audit period. For this reason, we anticipate receiving repeat findings for two or three years in a row.

In response to the SFY 2019 audit finding, the Department implemented an independent review process through which staff in the Research & Data Analysis (RDA) Division, who do not produce the ACF-199 and ACF-209 reports, generate TANF and SSP-MOE quarterly samples for data validation. RDA staff review the samples against source data systems with the assistance of TANF Policy representatives and then document the review and any discrepancies. The manager of the federal reporting team reviews the QA results and ensures corrections are made as needed.

In January 2021, the Department transitioned primary responsibility for TANF federal reporting from RDA to the Economic Services Administration (ESA). ESA is establishing an independent review process for all code changes and anticipates having this work completed by June 2021.

ESA continues to conduct quality assurance processes for each report by having the manager review identified discrepancies and recommend corrective actions as needed. In addition, ESA conducts ongoing quarterly internal control/quality assurance through random sampling of the 199 and 209 reported cases.

The Department will continue to ensure:

- *The use of the formal change control procedures and change control logs in the replacement TANF Federal Reporting System.*
- *Independent review and documentation of all code changes. Use of MS Team Foundation Server for our code repository.*
- *Ongoing updates to documentation throughout the production of TANF Federal Reports using the current TANF Reporting System.*

Auditor's Remarks

We appreciate the Department's commitment to resolving these matters. We will follow-up on the corrective actions in 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:
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> > (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).
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> > Section 200.516 Audit findings, states in part:
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> > (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.

Title 45 Code of Federal Regulations, Public Welfare

Section §265.3 What reports must the State file on a quarterly basis, states in part:

(a) Quarterly reports.

(1) Each State must collect on a monthly basis, and file on a quarterly basis, the data specified in the TANF Data Report and the TANF Financial Report (or, as applicable, the Territorial Financial Report).

(2) Each State that claims MOE expenditures for a separate State program(s) must collect on a monthly basis, and file on a quarterly basis, the data specified in the SSP-MOE Data Report.

(b) TANF Data Report. The TANF Data Report consists of four sections. Two sections contain disaggregated data elements and two sections contain aggregated data elements.

(1) Disaggregated Data on Families Receiving TANF Assistance—Section one. Each State must file disaggregated information on families receiving TANF assistance. This section specifies identifying and demographic data such as the individual's Social Security Number and information such as the amount of assistance received, educational level, employment status, work participation activities, citizenship status, and earned and unearned income. The data must be provided for both adults and children.

(2) Disaggregated Data on Families No Longer Receiving TANF Assistance—Section two. Each State must file disaggregated information on families no longer receiving TANF assistance. This

section specifies the reasons for case closure and data similar to the data required in section one.

(3) Aggregated Data—Section three. Each State must file aggregated information on families receiving, applying for, and no longer receiving TANF assistance. This section of the TANF Data Report requires aggregate figures in such areas as: The number of applications received and their disposition; the number of recipient families, adult recipients, and child recipients; the number of births and out-of-wedlock births for families receiving TANF assistance; the number of noncustodial parents participating in work activities; and the number of closed cases.

(4) Aggregated Caseload Data by Stratum—Section four. Each State that opts to use a stratified sample to report the quarterly TANF disaggregated data must file the monthly caseload data by stratum for each month in the quarter.

(d) *SSP-MOE Data Report.* The SSP-MOE Data Report consists of four sections. Two sections contain disaggregated data elements and two sections contain aggregated data elements.

(1) *Disaggregated Data on Families Receiving SSP-MOE Assistance—Section one.* Each State that claims MOE expenditures for a separate State program(s) must file disaggregated information on families receiving SSP-MOE assistance. This section specifies identifying and demographic data such as the individual's Social Security Number, the amount of assistance received, educational level, employment status, work participation activities, citizenship status, and earned and unearned income. The data must be provided for both adults and children.

(2) *Disaggregated Data on Families No Longer Receiving SSP-MOE Assistance—Section two.* Each State that claims MOE expenditures for a separate State program(s) must file disaggregated information on families no longer receiving SSP-MOE assistance. This section specifies the reasons for case closure and data similar to the data required in section one.

(3) *Aggregated Data—Section three.* Each State that claims MOE expenditures for a separate State program(s) must file aggregated information on families receiving and no longer receiving SSP-MOE assistance. This section of the SSP-MOE Data Report requires

aggregate figures in such areas as: The number of recipient families, adult recipients, and child recipients; the total amount of assistance for families receiving SSP-MOE assistance; the number of non-custodial parents participating in work activities; and the number of closed cases.

(4) *Aggregated Caseload Data by Stratum—Section four.* Each State that claims MOE expenditures for a separate State program(s) and that opts to use a stratified sample to report the SSP-MOE quarterly disaggregated data must file the monthly caseload by stratum for each month in the quarter.

(e) *Optional data elements.* A State has the option not to report on some data elements for some individuals in the TANF Data Report and the SSP-MOE Data Report, as specified in the instructions to these reports.

(f) *Non-custodial parents.* A State must report information on a non-custodial parent (as defined in §260.30 of this chapter) if the non-custodial parent:

(1) Is receiving assistance as defined in §260.31 of this chapter;

(2) Is participating in work activities as defined in section 407(d) of the Act; or

(3) Has been designated by the State as a member of a family receiving assistance.

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.

2020-036 The Department of Children, Youth, and Families did not have adequate internal controls over its process to allocate administrative expenditures to federal grants.

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 93.596 – COVID-19 Child Care Mandatory and Matching Funds of the Child Care and Development Fund 93.658-Foster Care; 93.658-COVID-19 Foster Care 93.659-Adoption Assistance 93.775/93.777/93.778-Medicaid 93.775/93.777/93.778-COVID-19 Medicaid 93.870-Maternal, Infant and Early Childhood Home Visiting Grant
Federal Grantor Names:	Office of Child Care, Administration for Children & Families, Department of Health and Human Services
Federal Award/Contract Numbers:	G1801WACCDF; G1901WACCDF; 2003WACCDF; 2003WACCC3; 1902WAFOST; 2002WAFOST; 1902WAADPT; 2002WAADPT; 1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT; 7X10MC32742-01-00; 1X10MC33616-01-00
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Questioned Cost Amount:	None

Background

As a condition of receiving federal grant funds, the Department of Children, Youth, and Families (Department) must submit a public assistance cost allocation plan (PACAP) to the U.S. Department of Health and Human Services each state fiscal year. The PACAP describes how administrative costs of the Department are allocated to all funding sources including federal grants.

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 and updates cost allocation base input tables that contain cost objectives, which automatically distributes the cost of payments to either state, local, or federal funding sources. The tables in CAS can be added, deleted, changed, or inactivated each calendar month.

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. For example, a base could be made up of three elements that allocate 35 percent, 25 percent and 40 percent, respectively, that will total 100 percent. Records of these bases are kept in workbooks that are reviewed and approved before being uploaded or keyed to AFRS for use.

In fiscal year 2020, the Department used CAS to allocate about $297 million in administrative costs to the following federal programs: Child Care and Development Block Grant, Foster Care Title IV-E, Adoption Assistance, Maternal, Infant and Early Childhood Visiting Home Visiting and Medical Assistance 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 the prior audit, we reported the Department did not have adequate internal controls over its process to allocate administrative expenditures to federal grants. The prior finding number was 2019-045.

Description of Condition

The Department did not have adequate internal controls over its process to allocate administrative expenditures to federal grants.

During fiscal year 2020, the Department established 43 bases used to allocate costs for grants reviewed during our audit period. We randomly selected 27 workbooks to examine and found:

- Two instances where there was no documented evidence to show that workbooks were reviewed and approved by a supervisor
- Five instances where there was no documented evidence that the coding input into AFRS was reviewed to ensure its accuracy before being finalized
- Six instances where the person who input coding into AFRS was the same person who reviewed and finalized the input to ensure its accuracy. According to the Department, these duties should be segregated.

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

Cause of Condition

The Department was not able to maintain adequate internal controls because of limited staffing resources.

Effect of Condition

By not establishing adequate internal controls, there is an increased risk that the Department 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.

Recommendations

We recommend the Department:

- Ensure there is adequate documentation to show what updates are made to base workbooks and that supervisors have reviewed and approved the updates
- Establish segregation of duties with different staff preparing and reviewing workbooks

Department's Response

The Department concurs with the overall finding of SAO and would like to acknowledge that the audit took place during the COVID-19 pandemic. In response to the COVID-19 pandemic, the Washington State Governor issued directives to implement the Stay Home, Stay Healthy Order, requiring teleworking, hiring freezes, and staff furloughs. The Cost Allocation and Grants Unit was under resourced due to vacancies and the hiring freeze.

While this is a repeat finding, the Department received the FY19 finding from the State Auditor's Office in February 2020, eight months after FY20 started. Therefore, the Department was unable to revise its cost allocation base workbook process prior to the 2020 fiscal year. As to the Auditor's specific recommendations, the Department has implemented a new process for cost allocation base changes to ensure segregation of duties and maintain proper documentation.

Auditor's Remarks

We appreciate the Department's commitment to resolving these matters. We will follow-up with the Department in 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 200.516 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.

Appendix VI to Part 200—Public Assistance Cost Allocation Plans

A. GENERAL

Federally-financed programs administered by state public assistance agencies are funded predominately by the Department of Health and Human Services (HHS). In support of its stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation, and approval of public assistance cost allocation plans in Subpart E of 45 CFR Part 95. All administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. This Appendix extends these requirements to all Federal awarding agencies whose programs are administered by a state public assistance agency. Major federally-financed programs typically administered by state public assistance agencies include: Temporary Aid to Needy Families (TANF), Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant.

B. DEFINITIONS

1. State public assistance agency means a state agency administering or supervising the administration of one or more public assistance programs operated by the state as identified in Subpart E of 45 CFR Part 95. For the purpose of this Appendix, these programs include all programs administered by the state public assistance agency.

2. State public assistance agency costs means all costs incurred by, or allocable to, the state public assistance agency, except expenditures for financial assistance, medical contractor payments, food stamps, and payments for services and goods provided directly to program recipients.

C. POLICY

State public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate, and approve, public assistance cost allocation plans in accordance with

Subpart E of 45 CFR Part 95. The plan will include all programs administered by the state public assistance agency. Where a letter of approval or disapproval is transmitted to a state public assistance agency in accordance with Subpart E, the letter will apply to all Federal agencies and programs. The remaining sections of this Appendix (except for the requirement for certification) summarize the provisions of Subpart E of 45 CFR Part 95.

D. SUBMISSION, DOCUMENTATION, AND APPROVAL OF PUBLIC ASSISTANCE COST ALLOCATION PLANS

1. State public assistance agencies are required to promptly submit amendments to the cost allocation plan to HHS for review and approval.

2. Under the coordination process outlined in section E, Review of Implementation of Approved Plans, affected Federal agencies will review all new plans and plan amendments and provide comments, as appropriate, to HHS. The effective date of the plan or plan amendment will be the first day of the calendar quarter following the event that required the amendment, unless another date is specifically approved by HHS. HHS, as the cognizant agency for indirect costs acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the state public assistance agency and will inform the state agency of the action taken on the plan or plan amendment.

E. REVIEW OF IMPLEMENTATION OF APPROVED PLANS

1. Since public assistance cost allocation plans are of a narrative nature, the review during the plan approval process consists of evaluating the appropriateness of the proposed groupings of costs (cost centers) and the related allocation bases. As such, the Federal Government needs some assurance that the cost allocation plan has been implemented as approved. This is accomplished by reviews by the Federal awarding agencies, single audits, or audits conducted by the cognizant agency for indirect costs.

2. Where inappropriate charges affecting more than one Federal awarding agency are identified, the cognizant HHS cost negotiation office will be advised and will take the lead in resolving the issue(s) as provided for in Subpart E of 45 CFR Part 95.

3. If a dispute arises in the negotiation of a plan or from a disallowance involving two or more Federal awarding agencies, the dispute must be resolved in accordance with the appeals procedures set out in 45 CFR Part 16. Disputes involving only one Federal awarding agency will be resolved in accordance with the Federal awarding agency's appeal process.

4. To the extent that problems are encountered among the Federal awarding agencies or governmental units in connection with the negotiation and approval process, the Office of Management and Budget will lend assistance, as required, to resolve such problems in a timely manner.

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.

2020-037 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with requirements to ensure payroll changes 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 93.596 – COVID-19 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, G1901WACCDF, 2003WACCDF, 2003WACCC3
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Questioned Cost Amount:	$11,207,984

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 process in which employees who spend 100 percent of their time working on the grant must be included in a semi-annual certification. Employees who work on multiple grants must submit timesheets to track daily activities performed for each grant. Twice a month, these employees complete and sign a timesheet and submit it to their direct supervisor for approval. The supervisor reviews and approves the employee's timesheet to ensure they are correctly charging time to the program.

The Department requires each business 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 2020, the Department spent about $245 million in CCDF federal funding. Almost $24.5 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 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 changes paid by the CCDF were allowable and properly supported.

We reviewed the semi-annual certifications for the first half of fiscal year 2020 (July 1 to December 31, 2020) that were completed during the audit period and identified six employees who were not included in semi-annual certifications.

The Department did not complete any semi-annual certifications for the second half of fiscal year 2020 (January 1 to June 30, 2020).

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. The Department stated that due to the lack of available resources, management considered other areas to be of higher priority for responsible staff, causing the Department to not follow its established policy.

Effect of Condition

The Department charged $11,207,984 in direct payroll costs to the CCDF that were not adequately supported. 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 records 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.

In response to the Covid-19 pandemic, the Washington State Governor issued directives to implement the Stay Home, Stay Healthy Order, requiring teleworking, hiring freezes, and staff furloughs. The Cost Allocation and grants unit was under resourced due to vacancies and the hiring freeze. In addition, staff were furloughed weekly for the month of July and once per month through October. Teleworking also created a resource issue for the unit due to the inability to process large amounts of data via the state's virtual private network resulting in an increase in data transmission time and a loss of productivity. As a result, resources for the cost allocation and grants unit responsible for the payroll certifications were prioritized to the most vital areas of managing the pandemic responses and funding-related tasks.

The Department is committed to complying with grant requirements and will consult with the grantor to determine whether the questioned costs identified in the audit should be repaid.

Auditor's Remarks

We appreciate the Department's commitment to resolving these matters. We will follow-up on the corrective actions in 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 200.403 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 sample 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.

(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; therefor, 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.

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:

1. 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.

2020-038 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 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund 93.596 – COVID-19 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, G1901WACCDF, 2003WACCDF, 2003WACCC3
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Questioned Cost Amount:	$7,736

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 childcare and funds improvements to child care quality. In fiscal year 2020, the Department spend about $245 million in CCDF federal funding.

The Department is responsible for establishing policies to ensure payments are allowable. In fiscal year 2020, the Department made 282,648 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 (FFN). Licensed centers typically operate as larger facilities, whereas licensed family homes are limited to no more than 12

children at a time. Both centers and homes must adhere to strict licensing requirements established by the Department and are subject to annual monitoring visits.

FFN providers are exempt from many of the licensing requirements. These providers are limited to receiving payment for a maximum of six children in their home or the client's home at a time.

Authorizations for child care

To be authorized for child care services, parents must be determined to be eligible based on their income, residency and demonstrated need based on approved activities. Once parents are determined to be eligible, the Department authorizes the amount of care based on the hours a parent participates in approved activities. For licensed providers, the service levels are generally either 23 full-day units (up to 10 hours a day) or 30 half-day units (up to five hours a day) when authorizing care for households with more than 110 hours of activity. Care is authorized based on need when approvable activities are less than 110 hours. When more than 10 hours a day of care is needed, the Department may authorize additional care for overtime. FFN providers are paid by the hour, and authorizations are made for either part-time care (up to 110 hours a month) or full-time care (up to 230 hours a month). When more than 10 hours a day of care is needed, the Department may authorize additional care for overtime.

Attendance records

According to state rules, child care providers must maintain attendance records to support their billings. At a minimum, the records must include: the child's name; the child's arrival and departure times; date(s) child care was provided; and authorized identifiers (such as signatures or PINs), typically of a parent or guardian. During state fiscal year 2019, the Department implemented a new electronic time and attendance reporting system that maintains electronic copies of attendance records. The adoption dates for using this system varied by provider type and, at the time of the audit, not all providers had incorporated the use of the Department's system or an approved third-party system for tracking.

Before using the new attendance reporting system, providers were not required to submit attendance records unless selected for review. The new reporting system enables the Department to perform data analysis and audit of payments. The Department has established a subsidy audit unit that randomly selects prior payments for review. If the provider has not yet set up access to the Department's electronic system, or another DCYF approved system upon request, providers must submit attendance records and other supporting documentation, which are reconciled to paid invoices.

COVID-19 amendments

In response to the COVID-19 pandemic, the Department updated its CCDF State Plan to reflect necessary changes applicable to child care provider services and payments. 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 provider changes during the state declared emergency for COVID-19:

- Family Contribution to Copayment: Families were not required to pay a copayment.
- Payment Practices: Providers were paid based on enrollment rather than attendance. This increased school-age care authorizations.
- Group Sizes and Ratios: There was a temporary decrease in the maximum group size and ratios for each age group.
- Quality Provider Grants: Grants were offered to licensed providers who remained open.

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 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 Child Care and Development Fund Cluster programs were allowable and properly supported.

We used a statistical sampling method to randomly select and examine 133 of a total population of 282,648 payments for child care to determine if they were allowable. We chose child care payments by totals from each of the three provider types: licensed centers, licensed family homes and FFNs. With assistance from the Department, we requested attendance records, provider handbooks, and other required receipts from providers that supported the payments. We reviewed each provider's records to determine if the payments were allowed by federal and state regulations as well as by Department policies.

We found 74 payments funded by the CCDF grant that were noncompliant. Of these, 40 were partially or fully unallowable, and we questioned $7,736 paid by federal CCDF funds.

The reasons the overpayments occurred were:

- Attendance records were not submitted by providers in response to our request
- Providers overbilled for services not performed or not supported by attendance records.

- Providers billed for overtime, registration fees, and/or field trip fees when they did not have a written policy in place to also charge these same fees to private paying parents.
- Providers billed for field trip and quality enhancement activities that were not properly supported by receipt(s).
- Providers did not have a valid license during the month of service.
- Providers were not paid the correct rate.

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

Cause of Condition

Although payment authorizations establish a maximum for what providers may bill without further approval, this does not prevent providers from billing for unallowable days, hours or services. The claim and payment systems are not linked to authorizations or attendance. The Department approves reimbursement requests as long as the provider payment request does not exceed the authorized amount for each type of service. Each month, the Department performs a post-payment review on a sample of payments to determine if they are properly supported. These audits have found significant noncompliance for many years. Adequate resources are not available to perform a review of all submitted documentation before payment. Until the child care subsidy payment system is linked to all attendance reporting systems, providers must maintain attendance records and submit this supporting documentation only when it is requested.

Effect of Condition

By not having adequate internal controls in place, the Department increases its risk of making improper payments for child care services.

A statistical sampling method was used to randomly select the payments examined in the audit. Based on the results of our testing, we estimate the total amount of likely improper payments with federal CCDF funds to be $21,307,273. In addition, 10 of the improper payments were partially funded by state dollars. We found $1,102 of improper state payments, which projects to a likely improper payment amount of $2.7 million. This amount is not included in the 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 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:

- Strengthen internal controls over payments to providers to reduce the rate of unallowable payments
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department partially concurs with the audit finding.

In response to prior audit findings, the Department procured an electronic attendance record system. The Department's electronic attendance record system enables accurate, real-time recording of child care attendance, tracks daily attendance, and captures data on child care usage.

Effective December 1, 2018, licensed providers who accept subsidy were required to use the Department's electronic attendance record system or an approved third party system to track attendance. Effective November 30, 2019 (about halfway through the 2020 audit period), FFN providers were also required to use the Department's system or an approved third party system for tracking attendance. Based on the effective dates above, we will not see the full benefit of the electronic attendance record system until state fiscal year 2021.

Of the 40 exceptions cited, the Department ***concurs*** *that 39 of the payments were partially or fully unallowable due to records not received or being incomplete, incorrect billing hours, overtime billing rules, missing signatures, and field trip fee billing rules. The Department will establish overpayments where appropriate and refer the overpayments to the Office of Financial Recovery for collection. In addition, the Department will continue to provide technical assistance to providers to assist with accurate billings and documentation.*

The Department ***does not*** *concur with the SAO's exception and questioned costs of $1,250.04 related to a provider not having attendance records during a month covered by enrollment based pay during the COVID-19 pandemic. The Department passed emergency rules and update the CCDF state plan to allow providers to bill based on enrollment for covered months without requiring providers to support billings with attendance records. These emergency rules covered the period of 3/16/2020 through 8/31/2020. In response to the audit, the provider submitted a written statement that they were open during the month of review and billed based on enrollment based rules. The Department maintains that this was allowable under the emergency rules.*

If the grantor contacts the Department regarding questioned costs that should be repaid, the Department will confirm these costs with HHS and will take appropriate action.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter. In regards to the one payment the Department does not concur with, the provider attested to remaining open, but did not provide a status of the sampled child's attendance record or documentation indicating their nonattendance. We reaffirm our finding and will follow-up on its corrective actions in 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 200.403 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 sample 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.

Washington Administrative Code 110-15-0034 Providers' responsibilities, states:

> Child care providers who accept child care subsidies must do the following:
>
> > (1) Licensed or certified child care providers who accept child care subsidies must comply with all child care licensing or certification requirements contained in this chapter, chapter 43.216 RCW and chapters 110-06, 110-300, 110-300A, 110-300B, and 110-305 WAC.
> >
> > (2) In-home/relative child care providers must comply with the requirements contained in this chapter, chapter 43.216 RCW, and chapters 110-06 and 110-16 WAC.
> >
> > (3) In-home/relative child care providers must not submit an invoice for more than six children for the same hours of care.
> >
> > (4) All child care providers must use DCYF's electronic attendance recordkeeping system or a DCYF-approved electronic attendance recordkeeping system as required by WAC 110-15-0126. Providers must limit attendance system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.
> >
> > > (a) Providers using DCYF's electronic recordkeeping system must submit monthly attendance records prior to claiming payment. Providers using a DCYF-approved electronic recordkeeping system must finalize attendance records prior to claiming payment.
> > >
> > > (b) Providers must not edit attendance records after making a claim for payment.
> >
> > (5) All child care providers must complete and maintain accurate daily attendance records. If requested by DCYF or DSHS, the provider must provide to the requesting agency the following records:
> >
> > > (a) Attendance records must be provided to DCYF or DSHS within twenty-eight calendar days of the date of a written request from either department.
> > >
> > > (b) Pursuant to WAC 110-15-0268, the attendance records delivered to DCYF or DSHS may be used to determine whether a provider overpayment has been made and may result in the establishment of an overpayment and in an immediate suspension of the provider's subsidy payment.

(6) All child care providers must maintain and provide receipts for billed field trip/quality enhancement fees as follows. If requested by DCYF or DSHS, the provider must provide the following receipts for billed field trip/quality enhancement fees:

(a) Receipts from the previous twelve months must be available immediately for review upon request by DCYF;

(b) Receipts from one to five years old must be provided within twenty-eight days of the date of a written request from either department.

(7) All child care providers must collect copayments directly from the consumer or the consumer's third-party payor, and report to DCYF if the consumer has not paid a copayment to the provider within the previous sixty days.

(8) All child care providers must follow the billing procedures required by DCYF.

(9) Child care providers who accept child care subsidies must not:

(a) Claim a payment in any month a child has not attended at least one day within the authorization period in that month; however, in the event a ten-day notice terminating a provider's authorization extends into the following month, the provider may claim a payment for any remaining days of the ten calendar day notice in that following month;

(b) Claim an invoice for payment later than six months after the month of service, or the date of the invoice, whichever is later; or

(c) Charge consumers the difference between the provider's customary rate and the maximum allowed state rate.

(10) Licensed and certified providers must not charge consumers for:

(a) Registration fees in excess of what is paid by subsidy program rules;

(b) Days for which the child is scheduled and authorized for care but absent;

(c) Handling fees to process consumer copayments, child care services payments, or paperwork;

(d) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(e) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state.

Washington Administrative Code 110-15-0190 WCCC benefit calculations, states:

(1) The amount of care a consumer may receive is determined by DCYF at application or reapplication. Once the care is authorized, the amount will not be reduced during the eligibility period unless:

(a) The consumer requests the reduction;

(b) The care is for a school-aged child as described in subsection (3) of this section; or

(c) Incorrect information was given at application or reapplication.

(2) To determine the amount of weekly hours of care needed, DCYF reviews:

(a) The consumer's participation in approved activities and the number of hours the child attends school, including home school, which will reduce the amount of care needed.

(b) In a two parent household, the days and times approved activities overlap, and only authorize care during those overlapping times. The consumer is eligible for full-time care if overlapping care totals one hundred ten hours in one month.

(c) DCYF will not consider the schedule of a parent in a two parent household who is not able to care for the child.

(3) Full-time care for a family using licensed providers is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Twenty-three full-day units per month will be authorized when the child is in care five or more hours per day.

(b) Thirty half-day units per month will be authorized when the child is in care less than five hours per day.

(c) Forty-six half-day units per month will be authorized during the months of June, July, and August for a school-aged child who is in care for five or more hours per day.

(4) Partial-day monthly unit. A single partial-day monthly unit per month will be authorized for a school-age child attending a licensed family home child care when the child is:

(a) Authorized for care with only one provider; and

(b) Eligible for full-time authorization, but is in care less than five hours on a typical school day; and

(c) Expected to need care before and after school.

(d) Only one monthly unit may be authorized per child per month.

(5) Supervisor approval is required for additional days of care that exceeds twenty-three full days, thirty half days, or one partial-day monthly unit per month.

(6) Full-time care for a family using in-home/relative providers (family, friends and neighbors) is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Two hundred thirty hours of care will be authorized when the child is in care five or more hours per day;

(b) One hundred fifteen hours of care will be authorized when the child is in care less than five hours per day;

(c) One hundred fifteen hours of care will be authorized during the school year for a school-aged child who is in care less than five hours per day and the provider will be authorized for contingency hours each month, up to a maximum of two hundred thirty hours;

(d) Two hundred thirty hours of care will be authorized during the school year for a school-aged child who is in care five or more hours in a day; and

(e) Supervisor approval is required for hours of care that exceed two hundred thirty hours per month.

(7) Care cannot exceed sixteen hours per day, per child.

(8) When determining part-time care for a family using licensed providers and the activity is less than one hundred ten hours per month:

(a) A full-day unit will be authorized for each day of care that exceeds five hours;

(b) A half-day unit will be authorized for each day of care that is less than five hours; and

(c) A half-day unit will be authorized for each day of care for a school-aged child, not to exceed thirty half days.

(9) When determining part-time care for a family using in-home/relative providers:

(a) Under the provisions of subsection (2) of this section, DCYF will authorize the number of hours of care needed per month when the activity is less than one hundred ten hours per month; and

(b) The total number of authorized hours and contingency hours claimed cannot exceed two hundred thirty hours per month.

(10) DCYF determines the allocation of hours or units for families with multiple providers based upon the information received from the parent.

(11) DCYF may authorize more than the state rate and up to the provider's private pay rate if:

(a) The parent is a WorkFirst participant; and

(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site. "Appropriate" means licensed or certified child care under WAC 110-15-0125, or an approved in-home/relative provider under WAC 110-16-0010. "Reasonable distance" is determined by comparing distances other local families must travel to access appropriate child care.

(12) Other fees DCYF may authorize to a provider are:

(a) Registration fees;

(b) Field trip fees;

(c) Nonstandard hours bonus;

(d) Overtime care to a licensed provider when care is expected to exceed ten hours in a day; and

(e) Special needs rates for a child.

Washington Administrative Code 110-15-0249 Nonstandard hours bonus, states:

(1) A consumer's provider may receive a nonstandard hours bonus (NSHB) payment per child per month for care provided if:

(a) The provider is licensed or certified;

(b) The provider provides at least thirty hours of nonstandard hours care during one month; and

(c) The total cost of the NSHB to the state does not exceed the amount appropriated for this purpose by the legislature for the current state fiscal year.

(2) Nonstandard hours are defined as:

(a) Before 6 a.m. or after 6 p.m.;

(b) Any hours on Saturdays and Sundays; and

(c) Any hours on legal holidays, as defined in RCW 1.16.050.

(3) NSHB amounts are:

(a) Seventy-six dollars and fifty cents for family homes; and

(b) Seventy-five dollars for centers.

Washington Administrative Code 110-15-0247 Field trip/enhancement fees, states:

(1) DSHS pays licensed or certified family home child care providers a monthly field trip/quality enhancement fee up to thirty dollars per child or the provider's actual cost for the field trip, whichever is less, only if the fee is required of all parents whose children are in the provider's care. DEL-licensed or certified child care centers and school-age centers are not eligible to receive the field trip/quality enhancement fee.

(2) The field trip/quality enhancement fee is to cover the provider's actual expenses for:

(a) Admission;

(b) Enrichment programs and/or ongoing lessons;

(c) Public transportation or mileage reimbursement at the state office of financial management rate for the use of a private vehicle;

(d) The cost of hiring a nonemployee to provide an activity at the child care site in-house field trip activity; and

(e) The purchase or development of a prekindergarten curriculum.

(3) The field trip/quality enhancement fee shall not cover fees or admission costs for adults on field trips, or food purchased on field trips.

Washington Administrative Code 110-15-0245 Registration fees, states:

(1) DSHS may pay licensed or certified child care providers and DEL contracted seasonal day camps a registration fee when:

(a) A child is first enrolled by the consumer for child care with a provider;

(b) A consumer enrolls their child with a new child care provider during their eligibility period; or

(c) A child has more than a sixty-day break in child care services with the same provider, and it is the provider's policy to charge all parents this fee when there is a break in service.

(2) A registration fee will be paid only once per calendar year for children who are cared for by the same provider, even if the provider receives subsidy payments under different subsidy programs during this time period for the enrolled children, unless there is a break of sixty days or more as provided in subsection (1)(c) of this section.

Washington Administrative Code 110-305-1001 License required, states:

(1) A school-age program that provides child care for children must be licensed by the department unless exempt under RCW 43.215.010(2).

(2) A child care program claiming an exemption must provide to the department proof that they qualify for an exemption using a department approved form.

Washington Administrative Code 110-15-0205 Daily child care rates—Licensed or certified family home child care providers, states:

> (1) Base rate. DCYF pays the lesser of the following to a licensed or certified family home child care provider:
>
> (a) The provider's private pay rate for that child; or
>
> > (b) The maximum child care subsidy daily rate for that child as listed in the following table effective July 1, 2019:
>
> (2) Effective July 1, 2019, family home providers in all regions and for all ages will receive a partial-day rate that is seventy-five percent of the full-day rate when:
>
> > (a) The family home provider provides child care services for the child during a morning session and an afternoon session. A morning session begins at any time after 12:00 a.m. and ends before 12:00 p.m. An afternoon session begins at any time after 12:00 p.m. and ends before 12:00 a.m.;
>
> (b) The child is absent from care in order to attend school or preschool; and
>
> (c) The family home provider is not entitled to payment at the full-day rate.
>
> > (d) In no event will a child care provider be entitled to two partial-day rates totaling one hundred fifty percent of the daily rate.
>
> (3)(a) Effective September 1, 2019, a single partial-day monthly rate as listed in the table below is authorized for school-age children who:
>
> (i) Are eligible for a fulltime authorization;
>
> (ii) Are authorized for care with only one provider; and
>
> (iii) Do not need care for more than five hours during a typical school day.
>
> (b) The monthly unit is prorated for partial months of authorization.
>
> (4) WAC 110-300-0355 allows providers to care for children from birth up to and including the end of their eligibility period after their thirteenth birthday.
>
> (5) If the family home provider cares for a child who is thirteen years of age or older, the provider must follow WACs 110-300-0300 and 110-300-0355. A child who is thirteen years of age or older at application must meet the

special needs requirement according to WAC 110-15-0220. If the provider has an exception to care for a child who has reached the child's thirteenth birthday, the payment rate is the same as subsection (1) of this section and the five through twelve year age range column is used for comparison.

(6) DCYF pays family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (7) of this section).

(7) DCYF cannot pay family home child care providers to provide care for children in their care if the provider is:

(a) The child's biological, adoptive or step-parent;

(b) The child's legal guardian or the guardian's spouse or live-in partner; or

(c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

2020-039 The Department of Children, Youth, and Families did not have adequate internal controls over and did not comply with client eligibility requirements for the Working Connections Child Care program.

CFDA Number and Title:	93.558 Temporary Assistance for Needy Families 93.575 Child Care and Development Block Grant 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund 93.596 – COVID-19 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, G1901WACCDF, 2003WACCDF, 2003WACCC3, 1901WATANF, 1901WATAN3, 2001WATANF, 2001WATAN3
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Eligibility
Known Questioned Cost Amount:	$7,513

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 2020, the Department spent $245 million in CCDF federal funding. The Temporary Assistance for Needy Families (TANF) grant is administered by the Department of Social and Health Services (DSHS). TANF grant funds may be used to pay clients' child care costs to meet one of the program's primary purposes of helping clients obtain employment. If a client obtains employment and is no longer eligible for the program, TANF funds may still be used to pay child care costs to help the client maintain employment.

In fiscal year 2020, the Department paid child care providers almost $151.3 million in CCDF and TANF federal grant funds.

Some payments made for child care are paid for 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 Working Connections Child Care program.

As of July 1, 2019, the responsibility for making and documenting child care eligibility determinations under the CCDF and TANF grants was transitioned from the Department of Social and Health Services (DSHS) to the Department.

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 re-application;
- 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.

State rules describe the information clients must provide to the Department to verify their eligibility. The Department must complete client eligibility determinations within 30 days, or the application process must start over. The information must be accurate, complete, consistent and from a reliable source. This information includes, but is not limited to, employer and hourly wage information, proof of an approved activity under TANF, and family household size and composition.

Once determined to be eligible for the program, a client is eligible for one year unless a change in income causes the client to exceed 85 percent of the state's median income. The Department requires that clients self-report such income changes. A written notice communicates the recipients' reporting requirement and the specific dollar threshold applicable to the household. If the client's new income exceeds this cutoff level, the Department must determine if the client exceeded the threshold temporarily, or should be denied services.

The Department has access to systems that contain wage and household benefit and composition data for some, but not all, child care recipients. The Department uses this information in part to determine program eligibility, benefit level including client co-payment and the amount of child care the family is eligible to receive. If an ineligible client receives assistance, the payment made to the child care provider is not allowable.

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: Families are not required to pay a copayment.
- Level of Care: School age child care units for recipients were 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 seven audits, we reported findings related to eligibility for the Working Connections Child Care 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 four most recent audits also reported the Department was materially non-compliant with federal requirements. These were reported as finding numbers 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 and did not comply with client eligibility requirements for the Working Connections Child Care Program.

During the audit period, 32,969 households were determined to be eligible for child care. We used a statistical sampling method to randomly select and examine 86 of these determinations. In 14 instances (16 percent), we found the Department made eligibility determinations improperly, did not obtain required documentation, or did not verify information before authorizing services. Specifically, we found:

- Ten cases (12 percent) when the Department did not obtain sufficient information to make an accurate determination at the time of application, approval, and/or authorization:
    - Five cases (6 percent) when the Department incorrectly determined the household composition and did not obtain documentation to verify the income for both parents. In four of these cases, the household would not

have been eligible to receive services because actual household income exceeded the income limits.

- Five cases (6 percent) when the Department did not obtain complete or timely wage data to determine if the household met income eligibility requirements or to determine the correct level of care assessed and co-pay required. The Department received partial information or had extended timeframes for verifying this data, but never followed up on the remaining income documentation. For three of these cases, the household would not have been eligible to receive services because income exceeded the limits.

- Four cases (5 percent) when the Department obtained adequate income information, but incorrectly applied the wage data when assessing benefits for the household:
- One case (1 percent) when the Department incorrectly entered the wage data and made an inaccurate determination. The household would not have been eligible to receive services because it had exceeded the income limits.
- Three cases (3 percent) when the Department incorrectly calculated income resulting in an incorrect assessment of the household's monthly co-pay amount.

Additionally, for five households, the Department notified the recipient of the incorrect state median income for self-reporting purposes.

The Department performs multiple types of internal audits in relation to the CCDF program. These audits usually have a particular focus and do not address all areas regarding a particular client's eligibility. These audits have found significant noncompliance for many years. However, despite being aware of these issues, the Department has not implemented sufficient internal controls to address and correct them.

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

Cause of Condition

Department staff made eligibility determinations without obtaining sufficient supporting documentation to ensure the household was eligible. Although the Department has policies and procedures, they are not detailed enough to ensure staff make determinations in a consistent manner. Additionally, management did not ensure staff consistently followed the procedures that were in place.

On February 7, 2020, the Department adjusted its child care subsidy co-pay calculation table with the federal poverty level and state median income amounts in effect beginning

April 1, 2020. This update caused the approval letters to reference the new state median income limits before the effective date for applications approved during this time.

Effect of Condition

By not implementing adequate internal controls, the Department is at a higher risk of paying providers for child care services when clients are ineligible.

Of the 14 client eligibility determinations we identified that had errors, six resulted in $7,513 of federal overpayments to providers. All of this amount was paid with CCDF grant funds.

Because we used a statistical sampling method to randomly select the payments examined in the audit, we estimate the amount of likely federal improper payments to be $2,880,018 for the CCDF grant.

Further, some of the improper payments were partially funded by state money. Specifically, we found $21,338 of improper CCDF state payments, which projects to a likely improper payment amount of $8,179,968 for CCDF. We also found $6,209 of improper TANF state payments, which projects to a likely improper payment amount of $2,380,404 for TANF. These amounts are not included in the 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).

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:

- Supports approvals and authorizations for child care adequately with verified documentation
- Reviews eligibility determinations sufficiently to detect improper eligibility determinations

- Supports income and household composition information adequately, and ensures the accuracy of that information
- Accurately communicates income reporting thresholds to recipients

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.

DCYF would like to highlight that between the completion of SWSA 2019 audit and the start of the SWSA 2020 audit, Washington State was under a statewide lockdown followed by significant restrictions, which required numerous emergency rules and subsequent policy and procedure changes to adjust to COVID-19 impacts on clients and providers.

In response to prior CCDF Eligibility findings, the Department prepared to implement major changes to improve our internal controls over determining eligibility. However, many of these changes were delayed due to COVID-19 and then implemented during the SFY21 audit period. Therefore, the Department observed similar findings in SFY20 as in in the SFY19 audit period, but with a reduction in questioned costs due to additional training for child care eligibility workers. We have outlined these improvements below.

SAO Cause of Condition: 1) Department staff made eligibility determinations without obtaining sufficient supporting documentation to ensure the household was eligible.

The Department improved procedures and implemented new processes to determine household composition in October 2020. This change was originally scheduled for April 2020 and was delayed due to implementation of policies to support providers and families due to the COVID-19 pandemic. Program improvements to support accurate determination of household composition included new system automation to support increased documentation, staff training, and resources to support eligibility staff. All five of the audit errors related to household composition for this audit had eligibility determined prior to the implementation of our mitigation efforts.

SAO Cause of Condition: 2) Department has policies and procedures but they are not detailed enough to ensure staff make determinations in a consistent manner.

Child care is a quickly evolving field with continued program improvements and policy changes. The Department had difficulty obtaining the desired consistent eligibility determination because of implementation of emergency and temporary rules, in response

to the COVID-19 pandemic, into the already planned improvement changes. Federal guidance stresses the importance of simplified policies that do not limit access for eligible families while ensuring program integrity. Historically the child care rules were more strict with overly prescriptive policies and procedures. This resulted in increased audit findings. The Department has simplified policies and processes to align with CCDF requirements resulting in continued improvement of audit findings. These efforts continue as the Department develops policies to meet CCDF requirements.

SAO Cause of Condition: 3) Management did not ensure staff consistently followed the procedures that were in place.

The Department is part of the Health and Human Services coalition to look at integrated eligibility systems. The eligibility system and subsequent audit program that came to the Department during the transition from DSHS is very complicated and antiquated. The eligibility systems auditing program, which is still owned by DSHS, is no longer supported by DSHS Information Technology Division which prevents the Department from implementing any changes or alterations being made to adapt this program to the current needs.

The Department's child care trainers develop and facilitate training for changes in policy, procedures, and areas of weakness. The complete overhaul of the household composition process, which was part of the prior Corrective Action Plan 2019-027, included extensive training which was created and taught to all child care eligibility workers.

SAO Cause of Condition: 4) A system update caused the approval letters to reference the new state median income limits before the effective date for applications approved during this time.

In response to SAO identifying the error in automation, the Department corrected and immediately implemented processes to review client communication when changes are made to income limits and copay charts.

During SFY20 several areas of vulnerability that were identified in previous audits were automated:

- *For cases approved with new employment:*
    - *An automated reminder of the need for income verification is sent to the client on day 40 to increase client response; and*
    - *An automated closure on day 61 if verification hasn't been received.*
- *A system improvement to only allow authorizations for children that meet our citizenship requirements.*

- *Updated the system to require supervisor approvals for any overtime care.*
- *A program violation database was created to prevent clients and providers from participating in child care subsidy if convicted of fraud.*

Auditor's Remarks

We appreciate the Department's commitment to resolving these matters. We will follow-up on the corrective actions in 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 200.403 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 sample 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.

Washington Administrative Code 110-15-0012 Verifying consumers' information, states:

> (1) DSHS may require the consumer to provide verification of child care subsidy eligibility if DSHS is unable to verify it through agency records or systems. The information and verification provided to DSHS from the consumer must:
>
> (a) Clearly relate to the request made by DSHS;
>
> (b) Be from a reliable source;
>
> (c) Be accurate and complete; and
>
> (d) If DSHS has reasonable cause to believe the information and verification the consumer provides is unreliable, inaccurate, incomplete, or inconsistent, DSHS may:
>
> (i) Ask the consumer to provide additional verification that may include a statement from a person who lives outside of the consumer's residence who knows the consumer's circumstances;
>
> (ii) Send an investigator from the DSHS office of fraud and accountability (OFA) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. Consumer's rights are found in WAC 110-15-0025; or
>
> (iii) Deny the application, request for reduced copay, or request for additional child care.
>
> (2) Gross income of consumers with more than ninety days of employment must be employer-verified. If the consumer has less than ninety days of employment, the consumer must provide verification from the employer within sixty days from the approval date.
>
> (3) DSHS may only request verification for changes during the family's eligibility period that reduce a copayment or increase the authorized amount of care, if agency records or systems cannot provide verification.
>
> (4) If DSHS is unable to verify household composition of a single-parent household through agency records, the single-parent consumer must provide the name and address of the child's other parent, or declare, under penalty of perjury:

(a) That the other parent's identity and address are unknown to the consumer; or

(b) That providing this information will likely result in serious physical or emotional harm to the single-parent consumer or another person residing with the single-parent consumer; and

(c) Whether the other parent is present or absent in the household.

(5) DSHS will pay for requested verification that requires payment; however, this does not include payment for a self-employed consumer's state business registration or license, which is a cost of doing business.

Washington Administrative Code 110-15-0015 Determining household size, states:

(1) DCYF determines a consumer's family size as follows:

(a) For a single parent, including a minor parent living independently, DCYF counts the consumer and the consumer's children;

(b) For unmarried parents who have at least one mutual child, DCYF counts both parents and all of their children living in the household;

(c) Unmarried parents who have no mutual children are counted as separate WCCC households, the unmarried parents and their respective children living in the household;

(d) For married parents, DCYF counts both parents and all of their children living in the household;

(e) For parents who are undocumented aliens as defined in WAC 388-424-0001, DCYF counts the parents and children, documented and undocumented, and all other family rules in this section apply. Children needing care must meet citizenship requirements described in WAC 110-15-0005;

(f) For a legal guardian verified by a legal or court document, adult sibling or step-sibling, nephew, niece, aunt, uncle, grandparent, any of these relatives with the prefix "great," such as a "great-nephew," or an in loco parentis custodian who is not related to the child as described in WAC 110-15-0005, DCYF counts only the children and only the children's income is counted;

(g) For a parent who is out of the household because of employer requirements, such as training or military service, and expected to return

to the household, DCYF counts the consumer, the absent parent, and the children;

(h) For a parent who is voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household, DCYF counts the consumer, the absent parent, and the children. WAC 110-15-0020 and all other family and household rules in this section apply;

(i) For a parent who is out of the country and waiting for legal reentry in to the United States, DCYF counts only the consumer and children residing in the United States and all other family and household rules in this section apply;

(j) An incarcerated parent is not part of the household count for determining income and eligibility. DCYF counts the remaining household members using all other family rules in this section; and

(k) For a parent incarcerated at a Washington state correctional facility whose child lives with them at the facility, DCYF counts the parent and child as their own household.

(2) When the household consists of the consumer's own child and another child identified in subsection (1)(f) of this section, the household may be combined into one household or kept as distinct households for the benefit of the consumer.

Washington Administrative Code 110-15-0031 Notification of changes, states:

(1) Consumers applying for or receiving WCCC benefits must:

(a) Notify DSHS within five days of:

(i) Starting care with a provider; or

(ii) Any change in providers.

(b) Notify DSHS, within ten days, of:

(i) Changes of the address or telephone number of the consumer's in-home/relative provider;

(ii) Changes of the consumer's home address or telephone number;

(iii) Changes that increase the number of hours of authorized care;

(iv) When the consumer's countable income increases and exceeds eighty-five percent of state median income; or

(v) When the consumer's countable resources exceed one million dollars.

(c) The effective date of the change is:

(i) The date of the change when the consumer reports timely and provides required verification within the requested time frame;

(ii) The date the change is reported when the consumer does not report timely and provides required verification within the requested time frame; or

(iii) The date the verification is received when it is not returned within the requested time frame.

(d) When required changes are timely reported, an overpayment will not be established.

(e) When required changes are not timely reported, an overpayment may be established as provided in WAC 110-15-0271.

(2) When a consumer reports a change that will decrease their copayment, the date of change for the copayment is described in WAC 110-15-0085.

Washington Administrative Code 110-15-0065 Calculation of income, states:

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.

(2) If a consumer receives a lump sum payment (such as money from the sale of property or back child support payment) in the month of application or during the consumer's WCCC eligibility:

(a) DSHS calculates a monthly amount by dividing the lump sum payment by twelve;

(b) DSHS adds the monthly amount to the consumer's expected average monthly income:

(i) For the month it was received; and

(ii) For the remaining months of the current eligibility period; and

(c) To remain eligible for WCCC the consumer must meet WCCC income guidelines after the lump sum payment is applied.

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); and

(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.

2020-040 The Department of Children, Youth, and Families did not have adequate internal controls over matching, level of effort and earmarking requirements and did not comply with matching requirements for the Child Care and Development Fund Cluster programs.

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 93.596 – COVID-19 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, G1901WACCDF, 2003WACCDF, 2003WACCC3
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Matching, Level of Effort, Earmarking
Questioned Cost Amount:	$6,595,589

Background

The Child Care and Development Fund (CCDF) provides funds to states, territories, and tribes to increase the availability, affordability, and quality of child care services. Funds are used to subsidize child care for low-income families in which the parents are working or attending training or educational programs, as well as for activities to promote overall child care quality for all children, regardless of subsidy receipt.

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, a state may transfer TANF funds to CCDF and, if so, the funds transferred in are treated as Discretionary Funds. States are instructed how to spend federal money. For a state to receive the allotted share of the Matching Fund, the state must match federal Matching Fund claimed with state expenditures at the Federal Medical Assistance Percentage rate for the applicable fiscal year

and meet the Maintenance of Effort (MOE) requirement. In addition, the Department must meet earmarked expenditures for administrative and quality activities.

In Washington, the Department of Children, Youth, and Families (Department) administers the CCDF grant. In fiscal year 2020, the Department spent about $245 million in CCDF 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 matching, level of effort, and earmarking requirements and did not comply with matching requirements for the Child Care and Development Fund Cluster programs.

Department staff run monthly expenditure reports to track requirements over matching, level of effort, and earmarking for each open grant award. The Department did not have documentation to show this process was operating during the audit period and that reports were reviewed by management.

During the audit period, the matching requirement applied to the federal fiscal year 2019 award. State expenditures from the Department and the Department of Social and Health Services (DSHS) were used to meet this requirement.

Also, the Department did not have any written policies and procedures describing how it monitored to ensure the matching, level of effort, and earmarking requirements were met. We consider these internal control deficiencies to be a material weakness.

This condition was not reported in the prior audit.

Cause of Condition

The responsibility to track grant expenditures was transferred to multiple staff during the audit period. The Department said the lack of an established process was due to insufficient staffing.

As of July 1, 2019, the responsibility for making and documenting child care payments and eligibility determinations under the CCDF and TANF grants was transitioned from the DSHS to the Department. During the transition there was a lack of monitoring over DSHS expenditures claimed for match for the federal fiscal year that crossed both agencies. In calculating state expenditures for this requirement, the Department was using a DSHS expenditure total without confirming its accuracy.

Effect of Condition

By not establishing adequate internal controls, the Department is at greater risk of not complying with federal requirements.

We were able to examine other documentation to confirm the Department materially complied with the level of effort and earmarking requirements.

For the federal fiscal year 2019 matching award, the Department claimed $37,790,150, but actually spent $31,194,561 in state expenditures, which resulted in questioned costs of $6,595,589.

Recommendations

We recommend the Department:

- Keep documentation to demonstrate internal control activities are in place
- Ensure management reviews and documents evidence that the control activities are operating effectively
- Develop written policies and procedures describing these processes
- Ensure CCDF expenditures reported by DSHS are 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 concurs with the overall finding and would like to acknowledge that the audit took place during the Covid-19 pandemic and the Governor's mandatory stay home stay, safe healthy executive order. In addition, the Department was created as a new agency on July 1, 2018, this audit took place in the second year of operations as transition was still taking place.

The Department has been working on internal controls to ensure that CCDF expenditures reported by DSHS are properly supported. This grant is not yet closed and therefore, we are working on reconciling this grant to ensure that all grant requirements are met prior to the end of the grant period. At the beginning of SFY 2020, all expenditures for CCDF are processed and recorded at DCYF. This will assist staff in managing the matching, level of effort, and earmarking requirements. We will also develop written procedures describing the matching, level of effort, and earmarking process.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter. We will follow-up on its corrective actions in the next audit.

Applicable Laws and Regulations

Title 2 *U.S. 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

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.

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.

2020-041 The Department of Children, Youth, and Families did not have adequate internal controls over period of performance requirements for the Child Care and Development Fund Cluster programs.

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 93.596 – COVID-19 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, G1901WACCDF, 2003WACCDF, 2003WACCC3
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Period of Performance
Questioned Cost Amount:	None

Background

The Child Care and Development Fund (CCDF) provides funds to states, territories, and tribes to increase the availability, affordability, and quality of child care services. Funds are used to subsidize child care for low-income families in which the parents are working or attending training or educational programs, as well as for activities to promote overall child care quality for all children, regardless of subsidy receipt.

Each federal grant specifies a performance period during which program costs may be obligated or liquidated. 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 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 have specific requirements for period of performance (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.

In Washington, the Department of Children, Youth, and Families (Department) administers the CCDF grant. In fiscal year 2020, the Department spent about $245 million in CCDF 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 controls over period of performance requirements for the Child Care and Development Fund Cluster programs.

The Department did not establish an effective process to ensure expenditures were obligated within the allowable period of performance. Also, the Department did not have any written policies and procedures describing how it monitored to ensure the period of performance requirement was met.

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

This condition was not reported in the prior audit.

Cause of Condition

The Department said the lack of an established process was due to insufficient staffing resources.

Effect of Condition

During our review of Department records, we identified over $24 million in costs obligated to the CCDF grant after the period of performance ended but that were not yet spent. The Department said these expenditures were incorrectly coded. We did not question the costs because the Department did not draw federal funds on it and it is working on transferring the costs to other funding sources.

By not having adequate internal controls in place, the Department is at a higher risk of making improper payments outside the period of performance.

Recommendations

We recommend the Department:

- Establish an effective process to ensure expenditures are obligated to the CCDF grant only during its allowed period of performance.
- Develop written policies and procedures describing this process.

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 partially concurs with the finding and would like to acknowledge that the audit took place during the Covid-19 pandemic and the Governor's mandatory stay home stay, safe healthy executive order. In addition, it is important to note that the Department was created as a new agency on July 1, 2018 and this audit was conducted during the second year of operations as a new agency.

The Department does not concur with the finding that adequate controls are not in place to ensure proper expenditures are charged to the CCDF grant. The SAO performed a SFY20 compliance audit of the period of performance requirements and found no expenditures improperly charged to the federal partner. The Department performs weekly reviews of the period of performance requirements. If expenditures are found to be charged to the incorrect grant year or obligated or liquidated outside of the grant period a journal voucher (JV) is created to correct the charges. The Department provided SAO with copies of JVs that were processed to show documentation of period of performance expenditures that were identified and corrected during the audit period. In addition, the period of performance requirements are documented in the Department's federal bimonthly cash draw workbooks and quarterly 696 reports. The cash draws and 696 report are reviewed by the Cost Allocation and Grants Unit Manager prior to release to the federal partner.

The Department concurs that it does not have written policies and procedures related to period of performance. As a newly established agency, the Department continues to work on documenting, refining internal controls, processes and procedures. The Department has been developing and refining internal controls to ensure that CCDF expenditures are recorded within the period of performance requirements. Further, it should also be noted that this grant is not yet closed and therefore, the Department is performing the reconciliation of the CCDF grant to ensure that all grant requirements are met and are within the period of performance prior to the end of the grant. We will also develop written procedures describing the process by which the Department will ensure expenditures are obligated by the applicable date for each grant award.

Auditor's Remarks

While the audit did not identify non-compliance, in our judgment, there is a reasonable possibility that the internal controls asserted by the Department would not prevent, detect and correct errors that could lead to non-compliance with grant requirements.

We appreciate the Department's commitment to implement written policies and procedures. We will follow-up on its corrective actions in 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 200.403 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 sample 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 200.303 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.

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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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 45 CFR Part 98, *Child Care and Development Fund*, Subpart G – Financial Management, 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.

2020-042 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 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund 93.596 – COVID-19 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:	G1801WACCDF, G1901WACCDF, 2003WACCDF, 2003WACCC3
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Health and Safety Requirements
Known Questioned Cost Amount:	$8,760

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 2020, the Department spent about $245 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.

Licensed providers

Department licensors conduct annual, unannounced monitoring visits of licensed providers, using a monitoring checklist to verify whether required health and safety standards are being met. 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 health and safety violations are identified during a monitoring visit, licensors document them on an inspection report. The inspection report contains the areas of provider noncompliance and establishes deadlines for correcting them. Providers must show proof of compliance to their licensor. If the provider does not resolve a noncompliance issue, the Department may impose sanctions, issue fines, or suspend or revoke the provider's license.

FFN providers

The FFN provider health and safety requirements were updated on October 1, 2018. Requirements applying to non-relative FFN providers include annual technical visits, initial and ongoing health and safety training and the signing of a health and safety agreement between providers and parents. Additionally, all relative and non-relative FFN providers who receive subsidy payments are required to complete a fingerprint background check. The Department submitted and received approval for the CCDF State Plan for federal fiscal years 2019-2021 to address how the Department would meet these new requirements. New state rules were also adopted to address these requirements.

COVID-19 waiver

In response to the COVID-19 pandemic, the Department received two waivers from the Administration for Children & Families, under the U.S. Department of Health and Human Services. Effective February 29, 2020, the Department was exempt from the following health and safety requirements:

- Licensed provider annual unannounced monitoring visits
- Non-relative FFN annual technical visits
- Fingerprint background checks for licensed providers, non-relative FFNs, and relative FFNs

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 health and safety requirements for the Child Care and Development Fund Program.

Licensed provider inspections – monitoring visits

The Department was required to perform monitoring visits from July 1, 2019, until February 29, 2020 – the effective date of the federal waiver. The Department did not have documentation to show it had a plan to comply with the annual visit requirements of all providers.

Licensed provider inspections – noncompliance follow-up

For the visits completed in fiscal year 2020, the Department was required to conduct timely follow-up on noncompliance issues. When serious health and safety violations are identified, licensors must conduct an unannounced re-check of the facility within 10 business days. Less serious non-compliance issues must be re-checked or compliance verified by the licensor within 15 business days.

Licensors track required provider rechecks individually. The Department did not establish a process to ensure all licensors materially complied with this requirement. Supervisors conduct monthly meetings with licensors but it is informal and undocumented.

Non-relative FFN providers – technical visits and ongoing annual training

By October 1, 2019, federal regulations required the Department to meet the annual technical visit and ongoing annual training requirement. The Department adopted a rule (WAC 110-16-0030) that states it must conduct annual technical assistance visits for non-relative FFN providers within a year of subsidy approval. During these visits, an FFN specialist reviews health and safety requirements and performs the ongoing training requirements.

In fiscal year 2020, the Department did not implement any procedures to ensure the visits and provider training occurred.

Non-relative FFN providers – initial health and safety training

Washington's CCDF state plan and a state rule (WAC 110-16-0025) require non-relative FFN providers to complete health and safety training within 90 days of their subsidy payment start date.

The Department said this requirement was being monitored in fiscal year 2020. We requested documentation from the Department detailing which providers were required to complete initial health and safety training during the audit period. The Department could not provide this information due to system limitations.

Non-relative FFN providers – provider health and safety agreement

The state plan and a state rule (WAC 110-16-0030) 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.

During the audit period, Department management decided to accept an email confirmation of completion from the provider in lieu of a signed copy of the agreement due to the provider's inability to electronically sign the document. The Department did not request approval from the grantor to change its approach.

FFN providers – background checks

Beginning October 1, 2019, a state rule (WAC 110-06-0046) requires all FFN providers to receive a fingerprint background check and be approved by the Department before providing child care.

If a background check results in the provider being disqualified, the provider is not allowed to receive payments from the Department until they pass the background check.

The Department did not establish an effective process to ensure all providers received required fingerprint background checks before the October 1, 2019, deadline.

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

These issues were reported as a finding in prior audits. The finding numbers were: 2019-039, 2018-035, 2017-025, 2016-022 and 2015–024.

Cause of Condition

Licensed provider inspections– monitoring visits

The Department did not start conducting visits until September of 2019 because of the August 1, 2019 effective date of new regulations and an extensive system update of the WA Compass system. The system update was needed because of changes to state rules.

Licensed provider inspections – noncompliance follow-up

The Department did not follow-up on the health and safety violations identified on the Inspection Report in a timely manner for the following reasons:

- Transition to the new licensing standards that became effective August 1, 2019. These new standards included a new set of risk levels for each regulation and a corresponding set of new policies and procedures to address the specific requirements for re-checking each risk level.
- Licensing staff were not sufficiently trained on policies and procedures related to the new standards, checklist, and IT system, and did not have the field experience needed to accurately complete their work
- Turnover of licensing staff
- Some providers refused the licensor access or were not available for re-check within the required recheck time period.

Non-relative FFN providers – technical visits and ongoing annual training

The Department planned to start the technical visits and ongoing annual training in April 2020 until the COVID-19 pandemic limited in-person contact. At that point, this plan was suspended through the remainder of fiscal year 2020.

Non-relative FFN providers – initial health and safety training

The Department could not provide information needed to perform the audit due to system reporting limitations between its WA Compass and Barcode systems.

Non-relative FFN providers – provider health and safety agreement

The Department decided to add technical assistance phone calls with the providers to support their understanding of the health and safety requirements. Upon completion of the technical assistance calls the provider was electronically sent the parent provider agreement to discuss the health and safety topics with the parent. Many providers expressed difficulty with signing an electronic copy of the agreement. As a result, the Department stopped requiring a signed agreement and accepted an email confirmation from the provider indicating they reviewed the agreement with the parent.

FFN providers – background checks

The new background check and fingerprint processes often take more than 30 days to complete, causing hardship for applicants. To lessen the burden for those needing child care services, the Department decided that when a license exempt FFN provider clears a background check or fingerprint check, the Department would backdate the start date of the payment approval for those requests received within 10 days of the parent's specified provider request date. The Department discontinued this practice in March 2020.

Effect of Condition

Licensed provider inspections – monitoring visits

From July 1, 2019, to February 29, 2020, when the COVID-19 waiver was granted to the Department, 4,934 licensed providers required a monitoring visit. We found that 1,788 (36 percent) had received a monitoring visit during that period. For the remaining four months of the fiscal year, 3,146 (64 percent) monitoring visits were yet to be completed. The Department states its Licensing Division held meetings to plan completion of required visits, but the meeting outcomes were not documented. In our judgment, it is reasonable to conclude that the Department was at substantial risk of material noncompliance with the monitoring visit requirement by the end of state fiscal year 2020.

By not completing monitoring visits in a timely manner, the Department does not have assurance that providers are meeting health and safety requirements. Further, not following up on noncompliance violations in a timely manner can put children in jeopardy for harm, neglect, and unhealthy emotional and cognitive development environments.

Licensed provider inspections – noncompliance follow-up

From the monitoring visits completed in fiscal year 2020, we used a statistically valid sampling method to randomly select and examine records for 58 licensed providers that received a monitoring visit during fiscal year 2020 to determine if noncompliance violations were followed up in a timely manner. We found nine instances (16 percent) lacking sufficient documentation to show adequate follow-up was performed or performed in a timely manner for violations of health, safety or well-being of children.

Non-relative FFN providers – technical visits and ongoing annual training

The Department did not conduct any technical visits or complete any ongoing annual training during the audit period.

By not conducting these visits and providing training, providers are less likely to understand and comply with safety and health requirements.

Non-relative FFN providers – initial health and safety training

Because the Department could not provide a non-relative FFN population for us to test this requirement, we could not conclude on the compliance.

Non-relative FFN providers – provider health and safety agreement

A state rule (WAC 110-16-0030) requires the Parent and FFN Provider Health and Safety Agreement to be signed by the provider and parent(s) and to verify that the parent(s) and provider discussed and reviewed all of the topics and subject matter items contained in the agreement. During the audit period, the Department decided to accept emails in lieu of signatures for this agreement.

FFN providers – background checks

We used a statistically valid sampling method to randomly select and examine 59 FFN providers to determine whether the Department performed required background checks. We found 13 (22 percent) providers did not have fingerprint background checks completed in accordance with requirements. Specifically, we found:

- One provider was disqualified from providing child care but had previously been approved by the Department and a prior criminal background inquiry was on file.
- Six providers had not passed a fingerprint check by October 1, 2019.
- Six providers received payments before completing and passing a background check because the Department was backdating payments to the date of application once background checks cleared.

Grant funds may not be used to pay providers before they complete and pass required background checks. For the six instances we identified, the providers were paid $8,760 with federal funds. Because a statistical sampling method was used to select the providers examined, we estimate the amount of likely federal improper payments to be $613,487.

When provider background checks are not performed in a timely manner, it increases the risk that children are left in the supervision of an unqualified individual.

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).

Recommendations

We recommend the Department:

- Ensure management follows established policies and procedures to ensure compliance requirements are met
- Ensure staff are properly trained
- Ensure staff sufficiently document the results of follow-up visits when serious violations are identified
- Obtain a waiver from the grantor if management wants to deviate from the approved state plan
- Ensure systems used to conduct and monitor completion of visits, training and background checks have the capability to generate data needed to verify compliance with federal requirements
- Ensure background checks are conducted before allowing services to be provided
- Consult with the grantor to discuss whether the questioned costs identified in the audit should be repaid

Department's Response

The Department is strongly committed to ensuring the health, safety, and well-being of all children in care. As to the Auditor's specific findings, the Department offers the following detail:

Licensed provider inspections – monitoring visits

The Department disagrees that there was not a plan to comply with the requirement to conduct an annual visit for all providers.

Regular meetings occur to discuss and monitor compliance with annual visits, including individual monthly meetings between supervisors and licensing staff, unit meetings, and leadership meetings. WA Compass reports allow for the ability to track the progress of annual visits. As the need arises, licensors are moved from one area of the state to another to help in offices that may be experiencing lack of staffing resources. Status and workload of other licensing duties such as applications and complaints are considered and monitor visits shared across offices and regions as needed to help adjust caseloads so that annual visits can be completed as required. Due to the pandemic and the Washington State Governor's Stay Home, Stay Healthy Order, the department was unable to send licensing staff to assist other offices with work as stated above.

Licensed provider inspections – noncompliance follow-up

The Department concurs with the SAO finding that the health and safety violations identified during the audit were not followed up on in a timely manner. The Department transitioned to new licensing standards effective August 1, 2019 that created three different risk levels for corresponding violations which require follow-up along specific timelines or no follow up at all depending on the level of risk associated with the violation. System enhancements were made in WA Compass and changes continue to be made to track when follow up health and safety visit are required, but the reports have not been finalized.

These risk levels added to Department policies and procedures and the transition to the new methodology and licensing approach required new and ongoing training for licensing staff and providers. In addition, some providers refused the licensor access or were not available for re-check within the required recheck time-period.

Non-relative FFN providers – technical visits and ongoing annual training

The Department concurs with the SAO finding that the in-person technical assistance visits and ongoing annual training were not completed during the period of July 1, 2019 through June 30, 2020. During this time, DCYF worked with Office of Child Care Region X, who provided technical assistance to support compliance with monitoring and inspection requirements, with the understanding that determination of compliance would occur during Region X's onsite monitoring, Summer 2021. Implementation and completion of the visits was then subsequently paused due to the Washington State Governor's directive to implement the Stay Home, Stay

Healthy Order, effective February 29, 2020. The Department requested and received from Region X approval for a temporary waiver, effective the same date, of the monitoring and inspection requirement. As a result, the implementation of in-person visits was suspended.

The exact topic area for the annual training requirement for non-relative providers is based on the results of the technical assistance in-person visit. Since the visits could not be implemented during this audit period, the ongoing annual training needs could not be identified.

The Department started virtual visits with non-relative providers as an alternative to in person visits effective February 1, 2021. The virtual visits have provided the department the ability to observe the provider implementing the health and safety requirements in the child's environment. This is done utilizing the checklist that was designed for the in-person visits. These virtual visits will continue to be conducted until it is deemed safe for the in person visits to begin.

<u>Non-relative FFN providers – initial health and safety training</u>

The Department concurs with the SAO finding that the information regarding compliance with health and safety training could not be provided due to system limitations. The Department offered to provide this information in an alternative format which was declined due to timing limitations of the audit.

Since October 2018, the Department has monitored all FFN providers for compliance of all health and safety requirements. Each License Exempt Specialist is assigned a provider caseload that is regularly monitored for compliance. When a new non-relative provider is approved they are sent an email detailing all training requirements. The specialist also begins to track the individual non-relative's training compliance. If the provider has not completed the health and safety training within 45 days of approval, a reminder email is sent to the provider. The specialist continues to track compliance and if the provider does not complete the training within 90 days of approval a notice is sent to the subsidy team to discontinue authorization of the provider.

Completion date of the health and safety trainings is reflected in the provider's account.

<u>Non-relative FFN providers – provider health and safety agreement</u>

The Department concurs the state plan and a state rule (WAC 110-16-0030) require non-relative FFN providers sign a health and safety agreement. 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.

Early on it became apparent that the non-relative providers needed added support to understand how to implement the new health and safety requirements. As a result, the Department decided to add technical assistance phone calls with the non-relative providers to discuss their understanding of the requirements. This support was divided into two separate technical assistance calls. The

first call focused on the child and the second call focused on the environment. At the completion of the second call the provider was then electronically sent the parent/provider health and safety agreement to discuss the health and safety topics with the parent. Many providers expressed difficulty with signing an electronic copy of the agreement. As an alternative, the Department added the option of accepting an email confirmation from the provider indicating they reviewed the agreement with the parent.

Compliance with this requirement is documented in the provider's account either by uploading the signed document to the account or by adding a provider case note with the uploaded email added to the account.

FFN Providers - Background Checks

While this is a repeat finding, the Department received the FY19 finding from the State Auditor's Office during February 2020, eight months after FY20 ended. Therefore, the Department was unable to revise its backdating process prior to the 2020 fiscal year.

The Department concurs that the license exempt team would request FFN provider's payment start date be backdated in some instances. This included when a significant delay occurred in processing a provider's Portable Background Check (PBC), and only when providers PBC results were returned as approved. The Department maintains that at no time was payment approved for any provider that was disqualified or whose household member was disqualified (if care was provided in the provider's home).

As of October 1, 2018, the Department's License Exempt Services began overseeing the approval of FFN providers. This included:

- *Processing applications for new FFN providers including submission of a full PBC.*
- *Updating existing FFN provider accounts who were providing care prior to October 1, 2018. These providers had until September 30, 2019 to come into compliance with new PBC requirements.*

In addition, the Department's License Exempt Services team had limited staff (12) who worked with the over 5000 provider accounts to;

- *Assist individuals in becoming a provider; and*
- *Updating provider accounts to allow existing providers to submit a PBC.*

Given the Department's limited staffing resources and high volume of providers, assistance to providers was often delayed resulting in the provider or potential provider not beginning the PBC process in a timely manner. To complicate this delay, the PBC process was often taking up to one month to complete.

The issues described above characterized the PBC process during a period of transition that brought the Department into further compliance with CCDF Reauthorization federal rule changes requiring a much more robust, time consuming, background check than had been in place prior. Backdating helped prevent a loss of provider capacity that could have significantly impacted family access to care during this transition. With the transition complete, the Department ceased the backdating practice on March 1, 2020.

Auditor's Remarks

As described in the Effect section of the finding, the Department did not provide documentation to demonstrate it had a plan to conduct the required annual licensing visits for all providers.

We reaffirm our finding and appreciate the Department's commitment to resolving the matters described above and will follow-up on its corrective actions in 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 200.403 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 sample 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.

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 110-06-0046 Requirements for license-exempt in-home/relative providers, states, in part:

(1) The background check process must be completed for:

(a) All license-exempt in-home/relative providers who apply to care for a WCCC consumer's child; and

(b) Any individual sixteen years of age or older who is residing with a license-exempt in-home/relative provider when the provider cares for the child in the provider's own home where the child does not reside.

(2) Additional background checks must be completed for individuals listed in subsection (1)(a) and (b) of this section when an individual sixteen years of age or older is newly residing with a license-exempt in-home/relative provider when the provider cares for the child in the provider's own home where the child does not reside.

(3) The background check process for license-exempt in-home/relative providers requires:

(a) Submitting a completed background check application; and

(b) Completing the required fingerprint process.

(4) Each subject individual completing the DCYF background check process must disclose:

(a) Whether he or she has been convicted of any crime;

(b) Whether he or she has any pending criminal charges; and

(c) Whether he or she has been subject to any negative actions, as defined by WAC 110-06-0020.

(5) A subject individual must not have unsupervised access to children in care unless he or she has obtained DCYF background check clearance authorization under this chapter.

(6) A subject individual who has been disqualified by DCYF must not be present on the premises when early learning services are provided to children.

WAC 110-16-0025 Health and safety training, states:

(1) A provider not related to the child, as described in WAC 110-16-0015 (3)(c) must complete the following training within ninety calendar days of the subsidy payment begin date:

(a) Infant, child, and adult first aid and cardiopulmonary resuscitation (CPR):

(i) This training must be taken in person and the provider must demonstrate learned skills to the instructor.

(ii) The instructor must be certified by the American Red Cross, American Heart Association, American Safety and Health Institute, or other nationally recognized certification program.

(b) Prevention of sudden infant death syndrome and safe sleep practices when caring for infants; and

(c) Department-approved health and safety training which includes the following topic areas:

(i) Prevention and control of infectious diseases;

(ii) Administration of medication;

(iii) Prevention of, and response to, emergencies due to food and allergic reactions;

(iv) Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;

(v) Prevention of shaken baby syndrome, abuse head trauma, and child maltreatment;

(vi) Emergency preparedness and response planning for natural disaster and human-caused events;

(vii) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

(viii) Appropriate precautions in transporting children;

(ix) Recognition and reporting of child abuse and neglect, including the prevention of child abuse and neglect as defined in RCW 26.44.020 and mandatory reporting requirements under RCW 26.44.030; and

(x) Other topic areas as determined by the department.

(2) A provider not related to the child, as described in WAC 110-16-0015 (3)(c) can meet the health and safety training in subsection (1)(c) of this section if the department verifies that the provider has completed any of the following either prior to or within ninety calendar days of the subsidy payment begin date:

(a) Child care basics, a department-approved thirty-hour health and safety training.

(b) Washington state early childhood education initial certificate (twelve credits) that includes early childhood education and development 105 health, safety, and nutrition.

(3) A provider not related to the child, as described in WAC 110-16-0015 (3)(c), who, on October 1, 2018, has an existing WCCC subsidy authorization with an end date on or before December 30, 2018, does not need to complete the training required under subsections (1) or (2) of this section. If the provider is reauthorized for payment beginning January 1, 2019, or later, the provider must complete the training required under

subsections (1) and (2) of this section unless exempt from training under subsection (2)(b) of this section.

(4) A provider not related to the child, as described in WAC 110-16-0015 (3)(c), must annually renew portions of the training required in subsection (1)(c) of this section, as determined by state or federal requirements.

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:

> Licensor determines 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, 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.

2020-043 The Department of Social and Health Services did not have adequate internal controls over assessing the level of potential fraud risk for the Child Care and Development Fund program.

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 93.596 – COVID-19 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, G1901WACCDF, 2003WACCDF, 2003WACCC3
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions: Fraud Detection and Repayment
Questioned Cost Amount:	None

Background

The federal Child Care and Development Fund (CCDF) grant helps eligible working families pay for child care. In fiscal year 2020, Washington child care providers were paid about $150 million in federal grant funds. Although the Department of Children, Youth and Families (DCYF) is the lead agency for the CCDF program, the Department of Social and Health Services' (Department) Office of Fraud and Accountability (OFA) has the statutory authority to conduct investigations related to allegations of fraud in the CCDF program. State law requires DCYF to refer suspected incidents of child care subsidy fraud to OFA for appropriate investigation and action.

Both DCYF and the Department accept reports of suspected fraud online, by mail, phone or fax. Staff from either agency can report suspected fraud through internal systems or to a hotline.

When the Department receives a report of suspected fraud in a program it oversees, it runs the report through an automated process in its Barcode system to assess the level of potential fraud risk. The process considers which programs the client is receiving benefits from, the total benefits

(dollars) being received by the client, whether the client has come up on prior reports and the client's overpayment history. These factors are all assigned point values that vary based on the client's particular case. These point values are summed and, based on this total, the suspected fraud is rated from 1 to 5, with 1 being the highest risk level. Once it's received by OFA, it is assigned to an investigator for review.

OFA supervisors attempt to assign all reports rated as 1 or 2 and then work their way down to lower-rated reports. The OFA Director issued a directive to managers that all Fraud Early Detection (FRED) reports rated as 1 or 2 should be assigned with 90 days of the case being referred. OFA management explained that some reports are not assigned to investigators because of workload capacity. No matter what priority level is assessed, if a FRED report is not assigned to an investigator within 90 days, it is "aged out" and sent back to Department program staff. Program staff review the original reported information and decide whether to send the case back through the automated process to be reassessed or dismiss the fraud report.

In fiscal year 2020, OFA received 2,156 child care fraud reports. Of those, 344 reports aged out of the system.

If an OFA Intentional Overpayment Investigation (IOI) concludes that potential fraud occurred, the results are sent to a local prosecuting attorney's office or United States attorney's office. If a court responds with the legal determination of fraud, the case is forwarded to the Department's Office of Financial Recovery to seek repayment from the client.

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 assessing the level of potential fraud risk for the CCDF program.

During our review of CCDF fraud cases, we found the Department did not run all fraud referrals through the Barcode system. Phone calls that came into the hotline were entered into Fraud Case Management System (FCMS) first and given a prioritization number by the intake worker who took the call. We found that all fraud referrals received by phone call were entered into the Fraud Case Management System (FCMS) without being processed through the Barcode scoring algorithm.

OFA staff discovered during July 2019 that the Barcode prioritization number was not replacing the prioritization number OFA staff had entered originally. Because Barcode did not overwrite FCMS prioritization numbers, the level of potential fraud risk for all such referrals was not assessed in accordance with the Director's directive.

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

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

Cause of Condition

Barcode priority numbers were not overwriting FCMS initial priority numbers.

Effect of Condition

By not processing all fraud referrals for priority, the Department is at a higher risk of not identifying high priority cases when they are initially referred to the Department.

Recommendations

We recommend the Department:

- Follow its own policy and ensure that all referred fraud cases are properly assessed
- Work with Barcode and FCMS staff to ensure the electronic process is corrected

Department's Response

The Department partially concurs with the finding.

We agree there was a technology issue between FCMS and Barcode. We disagree with the Auditor's description of the condition. All fraud referrals, with the exception of vendor referrals, are processed through Barcode. Each phone call to the hotline was entered into FCMS first and given a prioritization number by the intake worker who took the call. The referral then went through the Barcode scoring algorithm and received a second prioritization number, but this score did not overwrite the existing FCMS score. This resulted in two different priority numbers for hotline calls between FCMS and Barcode. The Barcode number was stored in backend tables and was not accessible to all OFA staff.

The Office of Fraud and Accountability discovered this anomaly in July 2019. The issue was researched and monitored, and then the Department instituted corrective action measures on October 28, 2019. All FRED referrals are entered through Barcode to ensure proper prioritization of all referrals. No high-priority referrals aged out after October 28, 2019.

The Office of Fraud and Accountability is building a new case management system. This anomaly will be addressed and corrected during the build of the new system.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter. We will follow-up with the Department 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).

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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> > **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:
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> > > **Reasonably possible.** The chance of the future event or events occurring is more than remote but less than likely.
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> > > **Probable.** The future event or events are likely to occur.
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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.

Directive / Prioritizing FRED Cases – dated January 31, 2018, states in part:

> As is current practice, all Regional Managers are directed to assign FRED cases using the prioritization scoring system. Cases should be assigned based on priority level starting with Priority level 1 cases and working down to priority level 5 as workloads permit.
>
> A manager's focus should be on getting all the priority 1 and 2 cases assigned within 90 days of the referral from CSD based on available staffing in each region. After priority level 1 and 2 cases are assigned, the balance of the priority levels should be assigned based on the scoring, geography of the region and worker availability.
>
> This has been the practice of OFA since the FREDS were given scores but a recent state audit recommended it become written policy.

2020-044 The Department of Children, Youth, and Families did not have adequate internal controls over 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 93.778 Medical Assistance Program 93.778 COVID-19 - Medical Assistance Program
Federal Grantor Name:	Administration for Children & Families
Federal Award/Contract Number:	1902WAFOST; 2002WAFOST; 1902WAADPT;2002WAADPT; 1905WA5MAP; 1905WA5ADM
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed, Allowable Costs / Cost Principles
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 funds programs.

Department staff generally work on multiple programs and cases throughout a workday, which makes maintaining a timesheet difficult and time consuming. RMTS simplifies how the Department allocates the cost of time and effort to state and federal programs. RMTS is a sampling tool that is used to generate statistically valid statewide estimates of various activities performed by Department employees. The Department uses a system called FamLink to allow staff to work on client cases, document information, generate samples and compile RMTS results.

The Department's use of 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 RMTS staff must follow.

For the RMTS to properly calculate the percentages of activities performed by the Department, 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. RMTS Coordinators and RMTS Headquarters (HQ) are responsible for keeping the list of sample workers current. Sampled workers are responsible for the accurate and timely completion of the RMTS sample and must complete samples within three business days. RMTS HQ performs a quality control review of all completed samples to ensure samples are being completed correctly. At the end of the month, the Department compiles the samples and enters results into the cost allocation system.

During fiscal year 2020, the Department used RMTS to allocate about $127.4 million to the following federal programs: Foster Care-Title IV-E, Adoption Assistance, and Medical Assistance 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 the prior audit we reported the Department did not have adequate internal controls over and did not comply with some Public Assistance Cost Allocation Plan Requirements. The prior finding number was 2019-044.

Description of Condition

The Department did not have adequate internal controls over some Public Assistance Cost Allocation Plan requirements.

We randomly selected five out of the 12 monthly employee updates to determine whether the sampling universe was complete.

RMTS Headquarters

The Program Manager is responsible for creating monthly employee reports that show current staff that are in the sampling population and 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.

We found all five months the Program Manager created the employee reports and commutated them to the RMTS Coordinators. We also found that the Program Manager updates FamLink with responses from RMTS Coordinators.

RMTS Coordinators

RMTS Coordinators receive reports from the Program Manager asking for updates on employees in the reports. RMTS Coordinators review and send updates to the Program Manager, so updates can be made in FamLink to ensure the sampling universe is complete.

For the five months we reviewed, not all RMTS coordinators sent updates to the Program Manager regarding employee changes. Because the RMTS coordinators did not send updates, the sampling universe was not complete.

The Department had procedures in place, but they were ineffective in ensuring compliance with the PACAP. We consider this internal control deficiency to be a material weakness, which led to material noncompliance.

Cause of Condition

The Department did not monitor RMTS coordinators to ensure that coordinators reviewed and sent updates to the Program Manager.

Effect of Condition

The Department's inadequate internal controls affected the integrity of its RMTS sample universe. An erroneous sample could cause the costs charged by the Department for its headquarters and regional operations to federally funded programs to be unallowable according to the PACAP. If the Department charged unallowable or unsupported costs to federal programs, the grantors could seek repayment for those costs.

Recommendations

We recommend the Department establish a process, including monitoring, to ensure RMTS sampling populations are complete.

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 or the overall finding. This audit finding is based on the determination that the Department does not have an accurate and complete sampling universe. There is not a deficiency with the integrity of the RMTS resulting in unallowable costs allocated to federal programs.*

The Department maintains that we are in compliance with the most current federally approved Public Assistance Cost Allocation Plan, (PACAP) which includes the RMTS instructions. The audit scope expanded beyond the approved process within the RMTS instructions.

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 we are in compliance with federal regulations and the most current approved PACAP.

Auditor's Remarks

The Department's cost allocation procedures 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."

Our audit scope included all relevant requirements under the Uniform Guidance, in addition to the provisions of the Department's approved PACAP and associated RMTS instructions.

The PACAP states RMTS Headquarters Staff and RMTS Coordinators will keep the list of sampled workers current. Our testing showed that the Department did not have adequate controls to ensure that the sample worker population is current before sample selections are made. The Department did not have documentation evidencing its practices met statistical sampling standards.

We reaffirm our finding and will review the status of the Department's corrective action plan 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 200.430 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.

2020-045 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
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	1902WAADPT, 2002WAADPT
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Matching
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.

To ensure that state matches are met, the Department uses the Cost Allocation System (CAS) to match every transaction with nonfederal 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 as the preparer, approver or staff who input 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 state expenditures.

In fiscal year 2020, the Department spent about $55 million in federal funding for the Adoption Assistance program and about $50 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.

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 makes edits to CAS when changes to matching rates become necessary. There were 17 cost objectives used during fiscal year 2020. Of these, we judgmentally selected five cost objectives that made up 95 percent of federal grant expenditures to test.

We reviewed three edit forms that the Department used to update the five cost objectives and found:

- Two instances when there was no documented evidence to show that edit forms were reviewed and approved by a supervisor
- One instance when the person who entered the coding into the Department's accounting system was the same person who reviewed to ensure its accuracy. According to Department policy, these duties should be segregated.

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

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

Cause of Condition

The Department said the edit forms were not properly approved and the duties were not always segregated because of limited staffing resources.

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.

Recommendations

We recommend the Department follow its established policy and:

- Ensure edit forms are reviewed by management
- Ensure duties are segregated, with different people preparing, reviewing, and entering the edit forms

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 overall finding of SAO and would like to acknowledge that the audit took place during the COVID-19 pandemic. In response to the COVID-19 pandemic, the Washington State Governor issued directives to implement the Stay Home, Stay Healthy Order, requiring teleworking, hiring freezes, and staff furloughs. The Cost Allocation and Grants Unit was under resourced due to vacancies and the hiring freeze.

The Department has been working on internal controls to ensure that all edit forms are reviewed and approved by management, which includes if the Cost Allocation Unit and Grants Manager is unavailable to approve edit forms, then the edit form will be approved by a lead worker, another manager including Washington Management Service positions, or department leadership. As a new agency, the Department is continuing to refine our policies and procedures and therefore, has implemented an edit form workflow to ensure that there is segregation of duties when edit forms are requested.

Auditor's Remarks

We appreciate the Department's commitment to resolving this matter. We will follow up with the Department in 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:

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(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.

(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.

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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> > > **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.

2020-046 The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure providers of the Medicaid and Children's Health Insurance Programs were properly screened, licensed, and enrolled.

CFDA Number and Title:	93.767 Children's Health Insurance Program 93.775 State Medicaid Fraud Control Units 93.777 State Survey and Certification of Health Care Providers and Suppliers 93.777 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:	Department of Health and Human Services
Federal Award Number:	1905WA5021; 2005WA5021; 1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity:	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 the Medicaid and the Children's Health Insurance Programs (CHIP). Medicaid is a jointly funded state and federal partnership providing coverage for about 1.9 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 2020, the Medicaid program spent over $14.3 billion in federal and state funds and CHIP spent more than $163 million in federal funds.

The Authority is responsible for ensuring medical providers are eligible to render services to recipients of both programs. Providers are to remain in good standing with eligibility requirements in order to continue receiving payments under the programs. Washington had over 105,000 active

providers during fiscal year 2020. During that time, the Authority paid nearly $6.5 billion to providers for direct client services under both programs.

The Authority is responsible for performing measures appropriate for the provider type at application and initial enrollment. Additionally, in March 2011, a new federal regulation required state Medicaid agencies to revalidate the enrollment of all Medicaid providers at least every five years. In January 2016, the Centers for Medicare and Medicaid Services (CMS) issued guidance to states that requires the revalidation of all providers, enrolled on or before March 25, 2011, to be completed by September 25, 2016. After this deadline, all providers must be revalidated every five years from their initial enrollment date. Federal law also requires that in between revalidation periods, state Medicaid agencies are to confirm the identity and determine the exclusion status of providers, including any person with ownership, controlling interest, or acting as an agent or managing employee of the provider, no less frequently than monthly by performing checks of Federal databases.

The processes for provider enrollment and revalidation are very similar. The first step in enrolling or revalidating a provider 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. In addition, certain provider behaviors require a provider 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 a provider is assessed at a moderate or high risk, onsite visits are also required to be conducted for those not already conducted as part of their enrollment with Medicare. According to federal regulation, state Medicaid agencies must adjust the categorical risk level of a particular provider from limited or moderate to high when any of the following situations occurs:

- A Medicaid agency imposes a payment suspension on a provider based on credible allegation of fraud, waste, or abuse. The provider's risk level remains high for ten years after the date the payment suspension was issued.
- A provider that, upon applying for enrollment or revalidation, is found to have an existing state Medicaid plan overpayment.
- The provider has been excluded by the Office of Inspector General or another state's Medicaid program in the previous ten years.
- A Medicaid agency or CMS, in the previous six 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 any time within six months from the date the moratorium was lifted.

Federal regulations require that a high-risk provider, or a person with a five percent or more direct or indirect ownership in the provider, is to receive a fingerprint-based criminal background check. The deadline to fully implement a fingerprint-based criminal background check process was July 1, 2018.

In response to the COVID-19 pandemic, the Authority obtained flexibilities under CMS approved blanket waivers effective March 1, 2020 through the end of the emergency declaration. These included the waiving of provider application fees, fingerprint-based criminal background checks, and site visits. It also allows for the postponement of all revalidation actions and for the expedited processing of any pending and new provider applications. Additionally, the Department of Health announced a temporary extension for professional licenses which are due for renewal between April 1 and September 30, 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 providers were revalidated every five years and screening requirements were met. The prior finding numbers were 2019-048, 2018-042, 2017-033, and 2016–035.

Description of Condition

We found the Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure providers of the Medicaid and Children's Health Insurance Programs were properly screened, licensed, and enrolled.

In October 2018, the Authority partially implemented the Automated Provider Screening (APS) system, which was designed to automatically perform an integrated data match check against federal databases and licensing agencies for providers in the CHIP and Medicaid programs each month and at enrollment or revalidation. Prior to November 2019, when APS was fully implemented, the Authority had not established an adequate follow-up process to review the data match results and finalize the revalidation process.

When APS identifies an issue with a verification item, the providers' crosscheck information is flagged by the system and staff manually review the verification against the third-party source to determine the eligibility status of the provider prior to approving them for services. Though the Authority had performed monthly EPLS database checks, it did not have an adequate follow-up process prior to September 2019 to ensure a review of all data match results was performed.

We used a statistical sampling method and randomly selected and examined 59 out of a total of 105,585 providers which were active during the audit period to determine if the Authority had properly screened the provider based on their enrollment status and correctly determined their eligibility status. Fifty-three of these providers were enrolled prior to August of 2019 and we determined the Authority did not review the results of their applicable database checks for the months of July and August to ensure the provider was not excluded or otherwise ineligible.

The Authority implemented a risk level adjustment process for all situations except for overpayments in January 2019. A process to adjust risk levels for providers with overpayments was not implemented until October 2019. During this time, adequate internal controls were not in place to ensure that providers were accurately assessed the correct risk and were appropriately screened in accordance with that determination.

The Authority did not implement a fingerprint-based criminal background check process, as required by federal regulations. The Authority asserts the risk to the State is minor due to the small volume of newly enrolling providers who are required to be fingerprinted since the vast majority of these are enrolled with Medicare and CMS allows States to rely on their provider screening results. However, because the Authority did not have a process to ensure all providers were adjusted to high risk when necessary, the total level of noncompliance cannot be quantified.

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

Cause of Condition

The Authority said that limited staff resources was the reason follow-up on the data match results was not completed and a fingerprint-based criminal background check process was not implemented. Additionally, due to the public health emergency, projects which were in process to rectify known compliance issues were halted due to waivers in effect and in an effort to redirect resources towards more urgent priorities.

Management did not ensure that the units responsible for ensuring provider risk levels were properly identified and assigned were aware of, and performed, their roles in the process.

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 receiving federal Medicaid and CHIP funds. Payments to providers who are suspended or debarred would be unallowable, and the Authority could be required to repay the grantor for any such payments.

Recommendations

We recommend the Authority:

- Implement internal controls designed to bring it into material compliance with the provider revalidation process
- Establish adequate internal controls to ensure it completes required EPLS checks at least monthly.
- Ensure it properly adjusts each provider's screening risk level
- Implement a process to conduct fingerprint-based criminal background checks for high risk providers

Authority's Response

The Authority agrees that some aspects of the provider eligibility process were not fully implemented at the beginning of the audit period; however, as mentioned by the SAO, most of the required processes were either in place, or waived by the CMS COVID-19 pandemic waiver, for the majority of the audit period.

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:

(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 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 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 455.434 Criminal background checks

The State Medicaid agency -

(a) As a condition of enrollment, must require providers to consent to criminal background checks including fingerprinting when required to

do so under State law or by the level of screening based on risk of fraud, waste or abuse as determined for that category of provider.

(b) Must establish categorical risk levels for providers and provider categories who pose an increased financial risk of fraud, waste or abuse to the Medicaid program.

(1) Upon the State Medicaid agency determining that a provider, or a person with a 5 percent or more direct or indirect ownership interest in the provider, meets the State Medicaid agency's criteria hereunder for criminal background checks as a “high” risk to the Medicaid program, the State Medicaid agency will require that each such provider or person submit fingerprints.

(2) The State Medicaid agency must require a provider, or any person with a 5 percent or more direct or indirect ownership interest in the provider, to submit a set of fingerprints, in a form and manner to be determined by the State Medicaid agency, within 30 days upon request from CMS or the State Medicaid agency.

Section 455.434 Criminal background checks.

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(b) Must establish categorical risk levels for providers and provider categories who pose an increased financial risk of fraud, waste or abuse to the Medicaid program.

(1) Upon the State Medicaid agency determining that a provider, or a person with a 5 percent or more direct or indirect ownership interest in the provider, meets the State Medicaid agency's criteria hereunder for criminal background checks as a “high” risk to the Medicaid program, the State Medicaid agency will require that each such provider or person submit fingerprints.

(2) The State Medicaid agency must require a provider, or any person with a 5 percent or more direct or indirect ownership interest in the provider, to submit a set of fingerprints, in a form and manner to be

determined by the State Medicaid agency, within 30 days upon request from CMS or the State Medicaid agency.

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.

2020-047 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to ensure Medicaid Service Verifications were performed for eligible nursing home claims or that reports of potential fraud obtained through the Medicaid service verification process were investigated.

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:	Department of Health and Human Services
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity:	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 1.9 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 $14.3 billion in federal and state funds during fiscal year 2020.

For states, such as Washington, that use an automated claims processing system (ProviderOne), federal regulations require a specific method to be in place to verify with Medicaid clients that they received services billed by providers. The intent is to improve program integrity and identify potential fraud and abuse in the Medicaid program.

The specific verification method involves sending individual written notices, within 45 days of payment, to all or a sample group of Medicaid clients whose claims were processed through ProviderOne. Medical, nursing home, and social service claims are subject to the Medicaid service

verification process and the samples are selected using software that is coded by a contractor. In fiscal year 2020, the Medicaid program spent over $4.8 billion for these types of claims.

If the verification process identifies a report of potential Medicaid fraud, the Authority must conduct preliminary investigations to determine if sufficient evidence exists to warrant a full investigation. If the Authority identifies a credible suspicion of fraud or abuse, it must forward the information to the Attorney General's Office, Medicaid Fraud Control Unit, for investigation.

In state fiscal year 2020, the Authority mailed Medicaid medical and social service verification surveys to randomly selected clients every month. The clients were selected to receive the survey based on payments made through ProviderOne and were selected using programming code written and maintained by a vendor.

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 requirements to ensure reports of potential fraud obtained through the Medicaid service verification process were investigated. The prior finding number was 2019-052.

In the 2018 and 2017 audits, we also reported the Authority did not have adequate internal controls over and did not comply with requirements to ensure Medicaid service verifications were performed for eligible nursing home claims. These findings were determined to be resolved during the 2019 audit.

Description of Condition

We found the Authority did not have adequate internal controls over and did not comply with requirements to ensure Medicaid Service Verifications were performed for eligible nursing home claims or that reports of potential fraud obtained through the Medicaid Service Verification process were investigated.

We used a non-statistical sampling method to randomly select and examine five of a total population of 12 monthly reports. Although the Authority established an adequate process to select medical claims processed through ProviderOne, it did not include nursing home claims in any of the five months reviewed. Nursing home claims account for about 8 percent of total fee-for-service claims paid through ProviderOne.

The Authority also did not establish an effective process to ensure it complied with federal requirements to investigate Medicaid service verifications. For the five monthly reports reviewed, we found referrals for preliminary investigations were not completed when Medicaid service verifications indicated the client did not receive a billed service or was asked to pay for the service.

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

Cause of Condition

The Authority did not ensure the contractor included nursing homes in its code used to pull the monthly samples. It also did not monitor sufficiently to detect that no nursing home claims were being included in the sample.

The Authority's Section of Program Integrity, which is responsible for the Authority's Medicaid service verification process, recently underwent a major reorganization. Staff assigned to the program were new to their positions. In addition, the Authority said it did not conduct preliminary investigations due to limited fraud investigation staff.

Effect of Condition

By not designing its service verification process to include all required claims and not conducting preliminary investigations of Medicaid service verifications that indicated the client did not receive a billed service or was asked to pay for the service, the Authority faces increased risk of not detecting potential Medicaid fraud. Further, because the Authority did not comply with federal regulations, it could face sanctions or other actions by the federal granting agency.

Recommendations

We recommend the Authority

- Design its service verification survey process to include all required ProviderOne claims
- Establish a process to ensure it performs preliminary investigations, as required, when allegations of Medicaid fraud or abuse are received

Authority's Response

The Authority implemented the required system enhancement for the service verification survey process prior to the conclusion of the audit and will subsequently monitor the process to ensure the relevant claim types are included. The Authority has also established policies and procedures for the preliminary investigation process; however, they were not fully implemented until after the audit period.

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:
>
> (c) *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 42, U.S. Code of Federal Regulations, Chapter IV, Subpart C—Mechanized Claims Processing and Information Retrieval Systems, section 433.110 Basis, purpose and applicability, states in part:

(a) This subpart implements the following sections of the Act:

(1) Section 1903(a)(3) of the Act, which provides for FFP in State expenditures for the design, development, or installation of mechanized claims processing and information retrieval systems and for the operation of certain systems. Additional HHS regulations and CMS procedures for implementing these regulations are in 45 CFR part 75, 45 CFR part 95, subpart F, and part 11, State Medicaid Manual; and

(2) Section 1903(r) of the Act, which imposes certain standards and conditions on mechanized claims processing and information retrieval systems (including eligibility determination systems) in order for these systems to be eligible for Federal funding under section 1903(a) of the Act.

Title 42, U.S. Code of Federal Regulations, Section 433.116 FFP for operation of mechanized claims processing and information retrieval systems, states in part:

(a) Subject to paragraph (j) of this section, FFP is available at 75 percent of expenditures for operation of a mechanized claims processing and information retrieval system approved by CMS, from the first day of the calendar quarter after the date the system met the conditions of initial approval, as established by CMS (including a retroactive adjustment of FFP if necessary to provide the 75 percent rate beginning on the first day of that calendar quarter). Subject to 45 CFR 95.611(a), the State shall obtain prior written approval from CMS when it plans to acquire ADP equipment or services, when it anticipates the total acquisition costs will exceed thresholds, and meets other conditions of the subpart.

(b) CMS will approve enhanced FFP for system operations if the conditions specified in paragraphs (c) through (i) of this section are met.

(c) The conditions of §433.112(b)(1) through (22) must be met at the time of approval.

(d) The system must have been operating continuously during the period for which FFP is claimed.

(e) The system must provide individual notices, within 45 days of the payment of claims, to all or a sample group of the persons who received services under the plan.

(f) The notice required by paragraph (e) of this section—

(1) Must specify—

(i) The service furnished;

(ii) The name of the provider furnishing the service;

(iii) The date on which the service was furnished; and

(iv) The amount of the payment made under the plan for the service; and

(2) Must not specify confidential services (as defined by the State) and must not be sent if the only service furnished was confidential.

(g) The system must provide both patient and provider profiles for program management and utilization review purposes.

(h) If the State has a Medicaid fraud control unit certified under section 1903(q) of the Act and §455.300 of this chapter, the Medicaid agency must have procedures to assure that information on probable fraud or abuse that is obtained from, or developed by, the system is made available to that unit. (See §455.21 of this chapter for State plan requirements.)

Title 42, U.S. Code of Federal Regulations, Section 455.1 Basis and scope, states in part:

This part sets forth requirements for a State fraud detection and investigation program, and for disclosure of information on ownership and control.

(a) Under the authority of sections 1902(a)(4), 1903(i)(2), and 1909 of the Social Security Act, Subpart A provides State plan requirements for the identification, investigation, and referral of suspected fraud and abuse cases. In addition, the subpart requires that the State—

(1) Report fraud and abuse information to the Department; and

(2) Have a method to verify whether services reimbursed by Medicaid were actually furnished to beneficiaries.

Title 42, U.S. Code of Federal Regulations, Section 455.14 Preliminary investigation states:

> If the agency receives a complaint of Medicaid fraud or abuse from any source or identifies any questionable practices, it must conduct a preliminary investigation to determine whether there is sufficient basis to warrant a full investigation.

Title 42, U.S. Code of Federal Regulations, Section 455.20 Beneficiary verification procedure states:

> (a) The agency must have a method for verifying with beneficiaries whether services billed by providers were received.
>
> (b) In States receiving Federal matching funds for a mechanized claims processing and information retrieval system under part 433, subpart C, of this subchapter, the agency must provide prompt written notice as required by §433.116 (e) and (f).

2020-048 The Health Care Authority, Division of Program Integrity, did not establish adequate internal controls over and did not comply with requirements to identify and refer suspected fraud cases for investigation.

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:	Department of Health and Human Services
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity:	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 1.9 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 $14.3 billion in federal and state funds during fiscal year 2020.

Federal regulations require states to develop methods and criteria for identifying and investigating suspected fraud cases within the Medicaid program. In addition, the state Medicaid agency must develop procedures, in cooperation with State legal authorities, for referring suspected fraud cases to law enforcement officials, including the State Medicaid Fraud Control Division.

The Division of Program Integrity (Division) is the main office in the Health Care Authority (Authority) that reviews program integrity of Medicaid operations. The Division's mission is to identify, prevent and recover improper payments to providers and

its contractors, and identify noncompliance with state and federal regulations as well as with contractual requirements.

This mission is carried out through:

- Data mining and analysis of payment transactions to identify potential fraud
- Conducting audits and reviews of health care providers, contractors, and subcontractors to ensure compliance with applicable laws and regulations
- Preventing future improper payments by recommending process improvements through amended program policies and Medicaid payment system edits
- Providing educational outreach to Medicaid providers, managed-care organizations, health care associations, and other Medicaid contractors to identify, report and prevent fraud

The Division's Audit and Investigations Unit is responsible for conducting medical and hospital audits to detect and prevent fraud, waste and abuse, and identify any associated improper payments. Medical audits comprise three types of audits: self-initiated, focused, and desk audit. Hospital audits are data-driven audits that primarily focus on review of payment coding. If suspected credible allegations of fraud are found, the Office refers the case to the Medicaid Fraud Control Division.

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 Audit and Investigations Unit did not establish adequate internal controls over and did not comply with requirements to identify and refer suspected fraud cases for investigation. The prior finding numbers were 2019-053 and 2018-047.

Description of Condition

The Authority's Division of Program Integrity, did not establish adequate internal controls over and did not comply with requirements to identify and refer suspected fraud cases for investigation.

Federal law requires all state Medicaid agencies to establish methods and criteria for investigating suspected cases of fraud and procedures for referring suspected fraud to law enforcement officials. The Division did not have any such policies and procedures pertaining to its audits. Because of this, we could not determine whether the Division conducted its audits in accordance with established policies and procedures.

The Authority is also required to ensure all staff who conduct investigations or review and refer suspected fraud are appropriately qualified. It does this by creating position descriptions that would ensure the employee is qualified if they meet the minimum requirements. The Authority had 36 staff members in the Division who might refer suspected cases of fraud. Using a non-statistical sampling method we selected nine and compared their qualifications to their position descriptions. We determined one of the nine did not meet the minimum qualifications of their position.

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

Cause of Condition

The Division had outdated policies and procedures for the investigation and referral of suspected fraud. The Division did not update its policies and procedures to reflect its current audit practices after its most recent reorganization, which merged two units in 2019. During the audit period, the Division was building up staff and reviewing its procedures, but it said part of the challenge was getting the staff from two prior units to agree on a common set of procedures for the new combined unit. The Division did start to develop draft policies and procedures during the audit period, but they were not approved before the end of the fiscal year. Additionally, when the new supervisor was appointed to her position in November of 2019, she had only one auditor on her team.

The Division also did not set standards for documentation regarding audit case work. Further, management did not document reviews of audits and investigations to ensure all work performed by the auditors was accurate, complete, and adequately documented.

The one employee who did not meet the qualifications of their position had taken a voluntary demotion. The Authority's Human Resources Division said that management assessed their skills compared to what they needed in the positions and determined the employee was qualified, thus approving the demotion. However, management approved the demotion without Human Resources involvement in assessing whether the employee met the position qualifications.

Effect of Condition

By not establishing policies and procedures to identify and investigate suspected fraud, the Authority did not meet federal program integrity requirements.

Because it did not require secondary reviews of provider audits, the Authority had no assurance that credible cases of fraud were properly identified and referred to the Medicaid Fraud Control Division. Failure to identify suspected fraud cases increases the risk of undetected improper payments within the Medicaid program.

Recommendations

We recommend the Authority:

- Develop and implement policies and procedures for the Division
- Require and document secondary reviews of each audit for accuracy and completeness
- Monitor audits to ensure they are performed and documented in accordance with Division policies and procedures
- Ensure that all staff conducting reviews or identifying fraud meet the qualifications of their position description

Authority's Response

The Authority concurs with the finding. Policies and procedures for the Audit and Investigations Unit have been developed and are in the process of being finalized, including those for secondary reviews, audit documentation and monitoring, as well as staff qualifications.

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:

(d) *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 42 U.S. Code of Federal Regulations Part 455, Program Integrity: Medicaid, Subpart A – Medicaid Agency Fraud Detection and Investigation Program, states in part:

455.13. Methods for identification, investigation, and referral.

The Medicaid agency must have –

(a) Methods and criteria for identifying suspected fraud cases;

(b) Methods for investigating these cases that –

(1) Do not infringe on the legal rights of persons involved; and

(2) Afford due process of law; and

(c) Procedures, developed in cooperation with State legal authorities, for referring suspected fraud cases to law enforcement officials.

455.14. Preliminary investigation.

If the agency receives a complaint of Medicaid fraud or abuse from any source or identifies any questionable practices, it must conduct a preliminary investigation to determine whether there is sufficient basis to warrant a full investigation.

455.15. Full investigation.

If the findings of a preliminary investigation give the agency reason to believe that an incident of fraud or abuse has occurred in the Medicaid program, the agency must take the following action, as appropriate:

(a) If a provider is suspected of fraud or abuse, the agency must –

(1) In States with a State Medicaid fraud control unit certified under subpart C of part 1002 of this title, refer the case to the unit under the terms of its agreement with the unit entered into under § 1002.309 of this title;

(b) If there is reason to believe that a beneficiary has defrauded the Medicaid program, the agency must refer the case to an appropriate law enforcement agency.

(c) If there is reason to believe that a beneficiary has abused the Medicaid program, the agency must conduct a full investigation of the abuse.

455.16. Resolution of full investigation.

A full investigation must continue until –

(a) Appropriate legal action is initiated;

(b) The case is closed or dropped because of insufficient evidence to support the allegations of fraud or abuse; or

(c) The matter is resolved between the agency and the provider or beneficiary. This resolution may include but is not limited to –

(1) Sending a warning letter to the provider or beneficiary, giving notice that continuation of the activity in question will result in further action;

(2) Suspending or terminating the provider from participation in the Medicaid program;

(3) Seeking recovery of payments made to the provider; or

(4) Imposing other sanctions provided under the State plan.

Title 42 U.S. Code of Federal Regulations Part 456, Utilization Control, Subpart A – General Provisions, states in part:

456.1. Basis and purpose of part.

(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 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.

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;

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.

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.

456.5. Evaluation criteria.

The agency must establish and use written criteria for evaluating the appropriateness and quality of Medicaid services.

Title 42 U.S. Code of Federal Regulations Part 456, Utilization Control, Subpart B – Utilization Control: All Medicaid Services, states in part:

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.

Office of Management and Budget, 2 CFR Part 200, Appendix XI, Compliance Supplement, Medicaid Cluster, states in part:

N. Special Tests and Provisions

1. Utilization Control and Program Integrity

Compliance Requirements The state plan must provide methods and procedures to safeguard against unnecessary utilization of care and services. In addition, the state must have (1) methods of determining criteria for identifying suspected fraud cases; (2) methods for investigating these cases; and (3) procedures, developed in cooperation with legal authorities, for referring suspected fraud cases to law enforcement officials (42 CFR parts 455, 456, and 1002). Suspected fraud must be referred to the state MFCUs (42 CFR part 455.21). See Special Test #6, MFCU.

Audit Objectives Determine whether the state has established and implemented procedures to: (1) safeguard against unnecessary utilization of care and services, including long term care institutions; (2) identify suspected fraud cases; (3) investigate these cases; and (4) refer those cases with sufficient evidence of suspected fraud cases to law enforcement officials. Consider testing in conjunction with Special Test #6, MFCU.

Suggested Audit Procedures

a. Obtain the procedures used by the SMA to conduct utilization reviews and identify suspected fraud.

   (1) Evaluate the qualifications of the personnel conducting the reviews and identifying suspected fraud. Ascertain that the individuals possess the necessary skill or knowledge by considering the following:

      (a) professional certification, license, or specialized training;

      (b) the reputation and standing of licensed medical professionals in the view of peers if relevant; and (c) experience in the type of tasks to be performed.

2020-049 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 93.777 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:	Department of Health and Human Services
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions — Inpatient Hospital and Long-Term Care Facility Audits
Known Questioned Cost Amount:	None

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.9 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 $14.3 billion in federal and state funds during fiscal year 2020.

In fiscal year 2020, the state Medicaid program paid about $291 million to hospitals for inpatient services.

The Health Care Authority (Authority) pays for inpatient services to hospitals through the use of rates that are economic, efficient and in accordance with the state plan. The federal grantor requires the State Medicaid Agency to provide for the periodic audits of 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.

Description of Condition

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.

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.

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

Cause of Condition

The Authority did not know of the requirements in the state plan. Therefore, management had not established policies and procedures to ensure periodic audits of cost report data, hospital billings, and other financial and statistical records were performed for inpatient hospital services.

Effect of Condition

By not ensuring that periodic audits of cost report data, hospital billings, and other financial and statistical records are performed, 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 and long-term care facility audit requirements.

Authority's Response

It is the Authority's understanding that federal and state laws require a cost settlement process for the hospitals paid on a cost basis, under the Certified Public Expenditure (CPE) and Critical Access Hospital (CAH) programs. The Authority performs detailed reconciliations under both an

interim and final cost settlement process, outlined in the State plan. The cost settlement process uses information from the CMS hospital cost reports which are subject to desk reviews and audits by CMS and their Medicare Administrative Contractors.

In order to prevent duplicate audit activities and inefficient use of resources, the Authority will pursue potential changes (or clarifications) to the State plan, and/or implement additional policies and procedures to ensure compliance with federal requirements for this area (42 CFR section 447.253).

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:
>
> **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.

42 CFR § 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.

Medicaid (Title XIX) 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.

2020-050 The Health Care Authority did not have adequate internal controls over and did not comply with requirements to report Medicaid Fraud Control Division overpayment recoveries 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 93.777 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/Contract Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Special Tests and Provisions – Medicaid Fraud Control Unit
Questioned Cost Amount:	$78,028

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.9 million eligible low-income Washington residents who otherwise might go without medical care. Medicaid is Washington's largest public assistance program and accounts for about one-third of the State's federal expenditures. The program spent over $14.3 billion in federal and state funds during fiscal year 2020.

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. Any overpayment recoveries resulting from the MFCD actions are reported on the CMS-64 report.

The CMS-64 is the quarterly statement of expenditures for the Medicaid Program used by agencies to report their 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 recovers overpayments, it creates accounting adjustments to record the revenue. After completing the adjustments, MFCD provides the supporting documentation to the Authority. The Authority batches adjustments monthly to record the federal portion of the recovery received and reports it on the CMS-64 report as a credit.

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 report the MFCD overpayment recoveries on the CMS-64 report.

The Authority did not create the monthly batches of adjustments or report recoveries on the CMS-64 report as credits. The Authority did not have policies or procedures in place that described the process for creating the monthly batches or for reporting the MFCD overpayment recoveries on the CMS-64 report.

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

Authority staff were transitioning to new positions in the Medicaid Accounting Unit and were being trained on their new responsibilities. Reporting the MFCD overpayment recoveries on the CMS-64 report is a manual process, in which staff have to seek the information to report, and it was missed during the employee transition.

Effect of Condition and Questioned Costs

MFCD overpayment recoveries totaled $78,028 from October 2019 through June 2020. Because the funds were not returned to CMS as required by federal regulation, we are questioning the costs of $78,028.

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 overpayment recoveries are properly reported 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 and has completed the journal voucher to report the overpayment recoveries prior to the conclusion of the audit. The federal reporting will be current with quarter ending March 31, 2021.

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 *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.

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.

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 sample 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.

2020-051 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 Supplies (Title XVIII) 93.778 Medical Assistance Program (Medicaid; Title XIX)
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
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:	$291,364,627

Background

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.9 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 $14.3 billion in federal and state funds during fiscal year 2020.

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. 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 those programs 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 2020, the state Medicaid program paid about $588 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. A Person-Centered Service Plan (PCSP) is developed from this assessment 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 settlement

Providers are required to prepare and submit a cost report at the end of each calendar year, with each cost report covering the last 6 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 information to the Legislature and the Department for budget development and policy decisions; and
- Provide accountability and transparency for the use of public funds.

In the Home and Community-Based Services waiver, the Department states it reconciles purchased support services with provided support services for the calendar year. Using the cost report, settlements are calculated by the Department to determine if the provider received more reimbursement for instruction and support service (ISS) care than what the provider paid to its employees who provided the client care. Department policy states that when the Department 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 matches the ProviderOne payment report;
c. The report conforms with generally accepted accounting principles; and
d. The report meets the requirements of the provider's contract.

If the provider does not spend all ISS reimbursement funds on costs to provide direct care to clients, then the provider is required to pay the Department back the difference.

In the Home and Community-Based Services waiver, the Department states that there is no settlement for administrative or indirect client support costs.

Cost report audit

The Department conducts annual desk audits of the cost report for selected providers to determine the accuracy and reasonableness of the self-attested expenditures reported on the cost report. Before a cost report audit is conducted, the Department requires the provider to submit supporting documentation, including detailed payroll cost support for two to three months of the year. The cost report audit reviews the provider detailed support that shows ISS funds received from the Department are only used to provide ISS. The DDA Residential Reimbursement Process guide outlines the audit process and the documents providers must maintain to support expenditures recorded on the cost report. 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 provider is responsible for demonstrating how their records tie to the amounts reported on the cost report
- If a payroll summary does not match amounts reported on the cost report, then additional months up to the entire year would be reviewed

Provider documentation requirements

According to Department policy, providers are required to maintain detailed payroll records to verify the cost of services provided to clients. The providers must provide to DSHS upon request 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.

Quality assurance reviews

Supported living providers are contractually obligated to provide the services outlined in each client's PCSP. The PCSP outlines the care the provider is required to give the client. The Department conducts quality assurance reviews to ensure clients are receiving the support in the PCSP. During a review, DDA staff will visit selected clients' homes under the care of a supported living provider to observe the support being provided. DDA staff will also meet with the caregiver providing the support and the supported living client. A written report of what was reviewed is supplied to the provider. If issues are identified, the provider is required to submit a plan of correction.

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. The finding numbers were 2019-054, 2018-058, 2017-044, 2016-041, 2016-045, 2015-049, 2015-052, 2014-041, 2014-042, 2013-036, 2013-038 and 12-39.

After the most recent 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.

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, 2019

Cost reports and settlements

Of the 131 cost reports that should have been collected, reconciled and settled, 18 were not received by the Department prior to the end of the audit period and an additional 15 were received, but not reviewed by that date. With no additional monitoring, the Department did not have evidence to support payments made to providers were for allowable activities and met the cost principles.

Cost reports and settlements - completed during audit period

Of the 131 cost reports DDA reconciled and settled, 75 were completed during the audit period and did not receive a cost report audit. For calendar year 2019, the Department did not require documentation to support the self-attested provider costs. With no other sufficient monitoring activity, we determined the cost report reconciliation and settlement process was not sufficient to ensure payments made to providers were for allowable activities and met cost principles.

Cost report audits

During the audit period, the Department performed a cost report audit for calendar year 2019 for 23 providers. We randomly selected seven of the 23 to review and found:

- Six did not include detailed payroll expenditure information as required.
- Seven did not have documentation to verify DDA reconciled cost report amounts to supporting documentation.
- Seven did not have a review to ensure they were completed correctly and accurately
- One provider had handwritten notes to support expenditures. Handwritten documentation is not acceptable for payroll support.
- For one provider, bonuses were paid ranging from $250 to $4,000 per employee. DDA policy states rates are payments for costs that are necessary, ordinary, and related to the provision of residential program instruction and support. We do not consider bonuses of this amount to be necessary or reasonable and they do not meet requirements outlined in policy.

We also identified additional issues in the cost report audit process performed by DDA staff:

- The cost report audits reviewed only cover three to four percent of all months of payments in calendar year 2019. This is not sufficient coverage in our judgment.
- DDA allowed overtime payroll expenditures to be included as support for cost reports. We do not believe this is appropriate as allowing overtime dollars to be considered the same as regular pay dollars does not accurately reflect services being provided to clients.

We do not consider these audits to be effective at ensuring expenditures self-attested on the cost report were allowable and supported.

January 1 to June 30, 2020

Because cost reports and cost report audits are prepared on a calendar year basis, the Department had not collected the reports and performed audits for 2020 by the end of the audit period. No other systematic review of these expenditures was performed and therefore we determined the Department did not have sufficient controls over this requirement during this period.

Quality assurance reviews

In order to determine whether the quality assurance reviews give the Department assurance that contracted services were provided to the client, we reviewed this process. While these reviews do inform the Department that services are provided, we determined this process reviewed less than 3 percent of clients during the audit period. This is not sufficient coverage to ensure federal dollars were spent appropriately.

There were 16 (12 percent) out of 131 supported living providers that received a quality assurance review in state fiscal year 2020. We randomly selected and reviewed six and determined that five of the six reviewed had issues that required a Corrective Action Plan. There was no documentation of DDA following up with the agency to confirm the corrective action was completed. In addition, there was no analyses of whether any of these issues should have resulted in an overpayment due to contracted services not being provided.

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

Cause of Condition

The Department believed that when it switched to using a tiered rate system, the level of monitoring it was conducting was sufficient to meet federal requirements.

Cost reports and settlements

The Department does not require supporting documentation to be submitted with the cost reports and instead allows self-attested payroll expenditures as adequate support for the cost report settlement.

Cost report audits

The Department stated that the pandemic affected the Department's ability to conduct detailed cost report audits. Based on feedback received from providers, the Department made the decision to only require a payroll summary as adequate expenditure support to ease the burden on them. Additionally, the cost report deadline was extended to May 31st, two months later than the normal submission deadline.

Quality assurance reviews

The Department stated the pandemic limited the number of quality assurance reviews that could be conducted in state fiscal year 2020.

Effect of Condition and Questioned Costs

Without establishing an adequate payment review process, the Department had little assurance that program funds were used only for allowable purposes and payments were adequately supported.

We are questioning:

Payments made from July 1, 2019, through December 31, 2019

Cost reports and settlements

- $109,332,307 in ISS payments made to 75 providers with cost reports reconciled and settled during the audit period. The federal share of these questioned costs is $54,666,153. The total payments for these providers was known, but we were unable to separately identify the ISS and non-ISS portions at the provider level. We were able to use data provided by the Department to identify the average percentage of ISS costs and applied that percentage to the total payments. Therefore this amount is an estimate.
- $92,472,187 in ISS and non-ISS payments made to 33 providers with cost reports not reconciled and settled during the audit period. The federal share of these questioned costs is $46,236,093.

Cost report audits

- $10,076,777 in ISS payments for six providers that did not have adequate documentation to support payroll expenditures on the cost report audits we tested. We used a nonstatistical sampling method and are reporting likely questioned costs of $33,109,410. The federal share of these questioned costs is $5,038,389 known and $16,554,705 likely.

Payments made from January 1, 2020 through June 30, 2020

We are questioning all $329,935,929 in supported living payments during this period. The federal share of these questioned costs is $185,423,992.

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
Cost reports reconciled during the audit period	$109,332,307	$54,666,153	$109,332,307	$54,666,153
Cost reports not reconciled during the audit period	$92,472,187	$46,236,093	$92,472,187	$46,236,093
Cost reports with audits conducted	$10,076,777	$5,038,389	$33,109,410	$16,554,705
Cost reports	$329,935,929	$185,423,992	$329,935,929	$185,423,992
Totals	**$541,817,199**	**$291,364,627**	**$564,849,832**	**$302,880,944**

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
- Ensure DDA staff follow cost report audit procedures and require detailed payroll support
- Add detailed cost report audit procedures to policy
- Consult with its grantor about whether the questioned costs identified in the audit should be repaid

Department's Response

The Department does not concur with the finding.

The State Auditor's Office has questioned virtually all of the Department's reimbursements for instruction and support services to supported living clients. This would suggest the SAO believes that none of these services occurred. This implausible conclusion is completely inaccurate.

The SAO's requirements for Department oversight and monitoring of supported living services are not reasonable or appropriate given these services are reimbursed using a per diem rate. This methodology has been approved by CMS. The point of this reimbursement methodology is to allow service providers flexibility in the provision of services that best meets the clients' complex needs. Clients' needs vary by day, and this service methodology allows providers to meet these changing needs. Requiring hourly documentation of services for each client to justify services were provided is not appropriate. This is because the per diem service methodology does not carry the expectation that a set number of hours will be provided to each client each day. Nevertheless, it appears the SAO has applied this kind of documentation standard to this audit, and it has resulted in the inaccurate conclusion that the Department was not justified in most of the FY20 reimbursement for these services.

The Department has a number of significant oversight and monitoring strategies that are detailed below. The Department agrees there are areas where these strategies could be bolstered and improved. Following are the Department's oversight and monitoring strategies:

- ***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 (please see next bullet). Also, the work of case managers and resource managers is checked. Supervisors perform these checks, as well as the DDA headquarters Community Residential Services program manager.

- ***Verification and approval process***

  Case managers complete the DDA assessment (contained in the CARE application). The assessment generates a residential support level based on the support needs identified in the assessment.
  Resource managers complete the rate assessment. The rate assessment process applies multiple efficiencies to achieve cost effectiveness. 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 ProviderOne, 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.

- ***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 Reporting and Evaluation (CARE), Residential Rates for Developmental Disabilities (RRDD), and Provider One. ALTSA 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 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). In fiscal year 2020, the Department granted an extension of two months to the cost report submission date due to the declared emergency caused by the COVID-19 pandemic.

- ***Audit of a sample of provider payroll records***

  A sample of providers is required to submit payroll records that support the instruction and support services (ISS) expenses claimed on the cost report. Approximately 30 provider agencies are randomly sampled annually. The sample is 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.

  The analyst may request additional information or correction on all or part of these reviews if inaccuracies are identified. Due to the COVID-19 pandemic, many provider offices closed in compliance with the Governor's Stay Home, Stay Healthy order. Therefore, the Department allowed providers to submit payroll summaries in lieu of detailed documentation.

- ***Quality Assurance Review***

  DDA's Residential Quality Assurance section has one employee who visits certified community residential settings to provide technical assistance. 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 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 in-home reviews of the quality and quantity of service in relation to individuals' assessed needs across ten domains of the Comprehensive Assessment, Review & Evaluation (CARE) tool (the tool which contains the algorithm that drives the tiered rate).

  Reviews are conducted for approximately two providers per month. During FY20, 15 providers were reviewed. Reviews include a sample of clients across multiple homes and different service levels. Due to the COVID-19 pandemic, in FY20 not all providers were reviewed as scheduled.

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. It is also a best practice for client funds management. This includes reviewing detailed client funds documentation for a sample of clients. Client financial losses may be discovered during this process.

The quality assurance staff provides thorough, written feedback following both types of reviews, and requests a written plan documenting the provider's plan for correction. The quality assurance staff monitors to ensure all providers submit the written plan. For client financial losses discovered by the quality assurance staff, the provider must provide proof of reimbursement.

- ***Residential Care Services (RCS) certification process***

  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 investigate 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 compliance with plans outlined in providers' 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 manager's 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 visit clients' homes when performing the annual DDA assessment. CRMs monitor that clients are receiving the services according to their person-centered service plan and for needed changes to address health and welfare needs. 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 the services, 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.

- ***COVID-19 Impact***

  In the latter part of fiscal year 2020 (January to June 2020), the Department allowed providers various flexibilities due to the declared emergency caused by the COVID-19 pandemic. The SAO disregarded the flexibilities that the Department approved under its authority. For example, the Department allowed additional time for cost report submission and review, yet the SAO commented that cost reports were not submitted or reviewed in a timely manner.

Auditor's Remarks

Broadly, one of the goals of the single audit is one of fiscal accountability – to assure the federal government that programs follow the federal government's regulations for how to spend the money, and can evidence it did so. This year's audit, like the previous eight years' audits, found the Department did not comply with requirements to ensure Medicaid payments to supported living providers were allowable and adequately supported. Last year, the federal government also said the state's process for reviewing those payments was inadequate, and even requested the state repay $114 million of the federal funds because of this.

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 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 states:

> *The SAO's requirements for Department oversight and monitoring of supported living services are not reasonable or appropriate given these services are reimbursed using a per diem rate. This methodology has been 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 August 6, 2020 that addressed the prior year finding the Department received for this same issue (2019-054). In this letter, CMS stated:

> *CMS requests that within 30 days the state provide documentation that shows an adequate payment review process was implemented that occurs more frequently than once a year. The state should also ensure federal funds paid to providers are used only for allowable purposes and are adequately supported with documentation. CMS also request within 30 days the state verify supported living providers are complying with costs report preparation instructions and refund the questioned costs of $114,435,961 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 settlement 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, but we did not

require hourly documentation of services for each client. We did, however, test 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 polices 6.02 and 6.04.*"

It is not possible to check for accuracy and completion without having supporting documentation to compare to the cost report. 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. The only time the Department reviews provider supporting documentation is for the cost report audits. 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.*

In state fiscal year 2020 the Department completed audits for only 23 out of 131 providers and, for the samples we tested, the Department reviewed summary level payroll expenditures that in almost all cases did not include the required level of detail. Therefore, the Department is not evaluating support for the actual expenses and the stated purpose of the cost report is not being met. What is being determined is whether the provider was paid the correct daily rate, which does not ensure payments were spent on allowable activities.

The Department mentions the following oversight and monitoring strategies:

- Medicaid service verifications
- Segregation of duties
- Verification and approval process
- Quality Assurance Review
- Residential Care Services (RCS) certification process
- Contract Monitoring

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.

We recognize that the COVID-19 pandemic has disrupted government processes and timelines, but the requirements to ensure federal funds are only spent on allowable activities and were adequately supported remained in effect. The Department has the authority to grant an extension of the provider cost report submission deadline. However, CMS has already informed the

Department that yearly review of the cost reports was not sufficient. Even if the cost reports were all received timely, the Department would be noncompliant with federal law.

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 200.53 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 sample 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:

(e) *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, states in part:

C. Rates are payments for costs that are necessary, ordinary, 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.

DD. Provision of Services

1. The service provider must provide residential services identified in the client's person-centered service plan

2. 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 and employer paid taxes and benefits within each calendar year will be reconciled to the contracted rate through the cost reporting system on an annual basis. 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 Residential Reimbursement Process guidance, states in part:

ISS Payroll Verification

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

2020-052 The Department of Social and Health Services did not have adequate internal controls over and did not comply with federal requirements to ensure providers of the Medicaid program were properly screened, licensed, and enrolled.

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:	Department of Health and Human Services
Federal Award Number:	1905WA5MAP; 1905WA5ADM; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity:	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

Medicaid is a jointly funded state and federal partnership providing coverage for about 1.9 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 $14.3 billion in federal and state funds during fiscal year 2020.

The Department of Social and Health Services (Department) is responsible for ensuring Medicaid social service providers are eligible to render services to recipients of the program. Providers are to remain in good standing with eligibility requirements in order to continue receiving payments under the program. Washington had over 68,000 active providers during fiscal year 2020. During that time, the Department paid nearly $3.9 billion to providers for direct client services.

The Department initiates and revalidates the enrollment of Medicaid providers through its contracting process. Individual providers contract provider terms are four years, and contracting requirements are screened by a contract specialist within the Department's Aging and Long-Term Support (ALTSA) and Developmental Disabilities (DDA) Administrations. Contracts are also

screened by Area Agencies on Aging (AAA) offices. A valid Washington state driver's license or other valid picture identification and either a Social Security card or proof of authorization to work in the United States must be checked during the initial contract or revalidation for individual providers (IPs). Nursing facility contract expiration dates are open ended, but the contract unit revalidates nursing facility enrollment every five years. Contracting requirements are screened by the Department's contract unit.

When a new provider is enrolled or a provider's contract is revalidated, contract staff review the application packet, including picture identification and proof of authorization to work in the United States for IPs, and a contract file is created in the Department's Agency Contracts Database (ACD). Once the application is marked approved in ACD, the Automated Provider Screening (APS) system automatically screens the provider through the following federal databases the following day:

- List of Excluded Individuals/Entities (LEIE)
- Excluded Parties List System (EPLS), now called System for Awards Management (SAM)
- SSA Limited Access Death Master File (DMF)

Prior to October of 2018 the APS was not a part of this process and the federal database checks were triggered through ACD. Contract unit staff are notified by email if the screening resulted in a match and staff then manually verify if the match was legitimate.

The Department is responsible for performing measures appropriate for the provider type at application and initial enrollment. In March 2011, a new federal regulation required state Medicaid agencies to revalidate the enrollment of all Medicaid providers at least every five years. In January 2016, the Centers for Medicare and Medicaid Services (CMS) issued guidance to states that requires the revalidation of all providers, enrolled on or before March 25, 2011, to be completed by September 25, 2016. After this deadline, all providers must be revalidated every five years from their initial enrollment date. Federal law also requires that in between revalidation periods, state Medicaid agencies are to determine the exclusion status of providers, including any person with ownership, controlling interest, or acting as an agent or managing employee of the provider, no less frequently than monthly by performing checks of LEIE and SAM.

The process for provider enrollment and revalidation are very similar. The first step in enrolling or revalidating a provider 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. In addition, certain provider behaviors require a provider 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 federal database checks to ensure providers continue to meet the enrollment criteria for their provider type.

If a provider is assessed at a moderate risk, onsite visits are also required to be conducted for those not already conducted as part of their enrollment with Medicare. According to federal regulation, state Medicaid agencies must adjust the categorical risk level of a particular provider from limited or moderate to high when any of the following situations occurs:

- A Medicaid agency imposes a payment suspension on a provider based on credible allegation of fraud, waste, or abuse. The provider's risk level remains high for ten years after the date the payment suspension was issued.
- A provider that, upon applying for enrollment or revalidation, is found to have an existing state Medicaid plan overpayment.
- The provider has been excluded by the Office of Inspector General or another state's Medicaid program in the previous ten years.
- A Medicaid agency or CMS, in the previous six 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 any time within six months from the date the moratorium was lifted.

A high-risk provider, or a person with a five percent or more direct or indirect ownership in the provider, is subject to the fingerprint check requirement. The deadline to fully implement a fingerprint-based criminal background check process was June 1, 2018.

In response to the COVID-19 pandemic, the Authority obtained flexibilities under CMS approved blanket waivers effective March 1, 2020 through the end of the emergency declaration. These included the waiving of provider application fees, fingerprint-based criminal background checks, and site visits. It also allowed for the postponement of all revalidation actions and for the expedited processing of any pending and new provider applications. Additionally, the Department of Health announced a temporary extension for professional licenses, which are due for renewal between April 1 and September 30, 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 Department did not have adequate internal controls over and did not comply with requirements to ensure providers were revalidated every five years or that

screening and fingerprint-based criminal background check requirements were met. The prior finding numbers were 2019-062, 2018-057.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements to ensure providers of the Medicaid program were properly screened, licensed, and enrolled.

The Department did not have a process to adjust risk levels for providers during the audit period as required. It also did not implement a fingerprint-based criminal background check process. Both of these activities are required by federal regulations.

We used a statistically valid sampling method to randomly select and examine 59 out of a total population of 19,170 combined new and revalidated provider contracts that were executed during the audit period to determine if the Department had properly screened the provider based on their enrollment status and correctly determined their eligibility status. We examined the 59 selected contracts to determine if the Department took proper steps when conducting provider enrollment and revalidation. We found:

- Two instances where the Department could not provide the individual provider's contract. As a result, we were unable to determine:
  - If the contracts were reviewed or signed by Department staff
  - Whether the Department verified the individual providers were authorized to work in the United States
  - Whether the individual providers had valid picture identification
  - Whether the federal database checks were performed before the contracts were signed

Additionally, we randomly selected and examined 59 out of a total population of 47,514 existing individual ALTSA and DDA contracts that were active during the audit period but executed prior to the audit period. We examined the selected contracts to determine if the Department took proper steps when conducting provider enrollment and revalidation. We found:

- One instances where the Department could not provide the individual provider's contract. As a result, we were unable to determine:
  - Whether the Department verified the individual provider was authorized to work in the United States
  - Whether the individual provider had valid picture identification
  - Whether the federal database checks were performed before the contract was signed

- Five instances where the individual provider contract was signed prior to completion of federal database checks.

We also used a non-statistical sampling method to randomly select and examine 19 out of a total population of 167 nursing facilities contracts that were active during the audit period. We examined the selected contracts to determine if the Department took proper steps when conducting provider enrollment and revalidation. We found five instances where NPPES database checks for nursing facilities were not completed at revalidation. We did confirm that the checks were performed between 6 months and 23 months after the most recent revalidation was performed.

We found the Department had performed monthly SAM database checks, but management did not establish internal controls to ensure a review of all data match results was performed by staff. In addition, the Department did not have a documented process or procedure in place to ensure they terminate the provider applications or revalidations that are ineligible.

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

Cause of Condition

Management did not ensure it established a process, policy or written procedures to screen and adjust revalidating providers to a "high" risk category, or to ensure these providers underwent the required fingerprint-based criminal background check, when applicable. The Department said it has established a risk adjustment process and a fingerprint-based back ground check process after the end of the audit period.

The Department said that it was unable to obtain the missing contracts, identification, and proof of authorization to work in the U.S. due to limited staff at field offices as a result of COVID-19. Regarding the contracts that were signed prior to the required federal database checks being performed, the Department asserted this was an acceptable practice.

In November 2017, the Department developed a process to screen and track each nursing facility contract to ensure validation and revalidation occurs within the five-year requirement. It was not until September of 2018 that the nursing facility screenings were completed due to delayed response, and the return of required forms, by the nursing facilities.

Effect of Condition

By not conducting required licensing, screening, and enrollment processes in a timely manner, the Department is at risk of not detecting or preventing ineligible providers from receiving federal Medicaid funds. Payments to providers who are suspended or debarred would be unallowable, and the Department could be required to repay the grantor for any such payments.

Recommendation

We recommend the Department:

Establish internal controls designed to bring it into material compliance with the provider revalidation process

- Complete required SAM checks at least monthly.
- Properly adjusts provider screening risk level
- Implement a process to conduct fingerprint-based criminal background checks for high–risk providers

Department's Response

The Department partially concurs with these findings.

The Department concurs we did not have comprehensive documentation outlining the entire process for the termination of provider applications or revalidations that are ineligible. However, the Department did terminate providers when necessary. The Department will codify the internal controls that are currently in place into a policy document to ensure continued compliance.

The Department concurs that initially the Department was not aware that NPPES checks for any nursing facility contracted on or before March 25, 2001 were required to be conducted at least every five years with a completion date of September 25, 2016. The Department became aware of this requirement in 2018 and effective October 2018, has implemented and performed nursing facility NPI validations every five years in compliance with the requirement. In addition, the department has reviewed and completed revalidations for all nursing facilities that should have been revalidated during the period from September 2016 through October 2018. The Department is aware that this subset of revalidations were not completed timely and that the finding will persist through September 2021 or until these facilities are revalidated at the end of the subsequent five-year period.

The Department also concurs we did not provide the contract for two individual providers. Staff have been working remotely during the Covid-19 pandemic. Once it is safe for contract staff to return to the office, a thorough search will be conducted to locate these contracts. If the contracts are not located, then the Department will determine the next steps to ensure compliance.

The Department does concur that it needs to implement a fingerprint-based criminal background check process for high-risk providers. A work group will be identified to develop a policy and procedure to complete fingerprint based criminal background checks for high-risk providers. Subsequently, a stakeholder workgroup will be convened to provide an overview of rules and requirements. Once the policy and procedure are finalized, a training plan for all affected providers and staff will be established.

The Department does not concur that management did not establish internal controls to ensure a review of all data match results were performed by staff. The SAM check (formerly EPLS) is checked monthly and the Department takes appropriate actions when necessary. This process has been in place since 2014. To ensure continued compliance, this process will be codified in the policy document noted above.

Auditor's Remarks

We thank the Department for its cooperation and assistance throughout the audit. During our audit we determined that the Department had no policies or procedures assigning responsibilities over this process and management stated they relied on staff to perform this function without management review. We reaffirm our 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:
>
> > (f) *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 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 455.434 Criminal background checks

The State Medicaid agency -

(a) As a condition of enrollment, must require providers to consent to criminal background checks including fingerprinting when required to do so under State law or by the level of screening based on risk of fraud, waste or abuse as determined for that category of provider.

(b) Must establish categorical risk levels for providers and provider categories who pose an increased financial risk of fraud, waste or abuse to the Medicaid program.

(1) Upon the State Medicaid agency determining that a provider, or a person with a 5 percent or more direct or indirect ownership interest in the provider, meets the State Medicaid agency's criteria hereunder for criminal background checks as a “high” risk to the Medicaid program, the State Medicaid agency will require that each such provider or person submit fingerprints.

(2) The State Medicaid agency must require a provider, or any person with a 5 percent or more direct or indirect ownership interest in the provider, to submit a set of fingerprints, in a form and manner to be determined by the State Medicaid agency, within 30 days upon request from CMS or the State Medicaid agency.

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(2) The State Medicaid agency must require a provider, or any person with a 5 percent or more direct or indirect ownership interest in the provider, to submit a set of fingerprints, in a form and manner to be determined by the State Medicaid agency, within 30 days upon request from CMS or the State Medicaid agency.

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.

2020-053 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 federal requirements for completing recertification surveys in a timely manner.

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; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity:	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 1.9 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 $14.3 billion in federal and state funds during fiscal year 2020.

Residential Care Services, under the Department of Social and Health Services, Aging and Long-Term Support Administration, is the State's Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) survey agency. An ICF/IID is an institution with the primary purpose of providing health or rehabilitation services to people with intellectual disabilities or related conditions who receive care and services under Medicaid.

The Department must perform a federal recertification survey of each ICF/IID. The certification survey is a resident-centered inspection that gathers information about the quality of service provided in a facility to determine compliance with the participation requirements. The survey

focuses on the facility's administration and client services, as well as the outcome of the facility's implementation of ICF/IID active treatment services. The survey also assesses compliance with federal health, safety and quality standards designed to ensure clients receive safe and quality care services.

The state had five ICF/IID facilities that were Medicaid certified during state fiscal year 2020. Federal regulations require the state must complete a standard survey for each ICF/IID facility within 15.9 months after the previous survey. Additionally, the statewide average for all ICF/IID facility surveys must not exceed 12.9 months, as required by the Centers for Medicare and Medicaid Services (CMS). Federal regulations also require the calculation to be performed as of the end of the federal fiscal year. The Department uses a tracking spreadsheet to monitor and track the survey frequencies as well as the statewide average frequency to ensure it meets the statutory timeline requirements. Based on guidance from CMS, facilities that are in settlement agreements should not be included in the calculations. Due to three of the five facilities being in settlement agreements, the state had only two facilities that should be included in the calculation for federal fiscal year 2019.

If a survey uncovers deficiencies, the Department must mail a Statement of Deficiency (SOD) to the facility within 10 working days of the survey date, according to the State Operations Manual (SOM). The facility must submit a Plan of Correction (PoC) that the Department determines is acceptable within 60 calendar days of receipt or risk forfeiting its Medicaid certification. In addition to federal requirements, the Department has established its own policies and procedures requiring that it review a submitted PoC within five working days after receiving it. The Department initially created these policies and procedures for nursing home surveys. However, the Department extends the application of these policies and procedures to ICF/IID facilities. The Department uses another tracking spreadsheet to monitor and track these requirement to ensure they meet required 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 conducted timely surveys and followed up on deficiencies. The prior finding numbers were 2019-061, 2018-052, 2017-042, 2016-037, 2015-045, and 2014-046.

Description of Condition

The Department did not have adequate internal controls over and did not comply with federal requirements for completing recertification surveys in a timely manner.

We examined the two recertification surveys that were the basis for calculating the statewide average for federal fiscal year 2019. We found that the Department did not meet the 12.9 month recertification requirement, because the statewide average for recertifications was 13.6 months.

We also examined the Department's tracking spreadsheet for SODs and PoCs and found two cases when dates were not entered correctly. We also found one instance when the Department did not ensure it received a timely PoC and did not follow up with the facility, and another when the PoC was not reviewed within five working days, as required.

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

Cause of Condition

The Department did not meet the 12.9 month statewide average recertification requirement because it was incorrectly calculating the statewide average on a rolling average rather than using the federal fiscal year end, as required by federal regulations. The staff member responsible for monitoring that timelines are met was unaware that it was to be calculated and captured at the end of each federal fiscal year. Additionally, management did not monitor sufficiently to ensure that the compliance, or noncompliance, with federal survey timelines was tracked and documented at federal fiscal year end. The Department also did not adequately monitor its tracking spreadsheet to ensure dates were correctly entered and that PoC timelines were met.

Effect of Condition

By not meeting the statewide average requirement for recertification surveys, the Department has not met federal Medicaid requirements and could be subject to sanctions by the grantor.

Recommendations

We recommend the Department:

- Establish adequate internal controls to ensure compliance with facility survey timeliness requirements
- Ensure it accurately calculates the statewide average survey frequency based on the federal fiscal year end

Department's Response

The Department agrees with the audit finding.

The Department will modify its internal control used in calculating survey intervals by April 1, 2021 to ensure it accurately calculates the statewide average survey frequency based on the federal fiscal year end. In addition, the field manager and administrative staff will conduct

quarterly meetings to review the survey interval tracking spreadsheet to ensure information entered is accurate and Plan of Correction timelines are met.

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:
>
> (g) *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.
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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.

Title 42 U.S. Code of Federal Regulations, Part 442.109 Certification period for ICF/IIDs: General Provisions, states in part:

(a) A survey agency may certify a facility that fully meets applicable requirements. The State Survey Agency must conduct a survey of each ICF/IID not later than 15 months after the last day of the previous survey.

(b) The statewide average interval between surveys must be 12 months or less, computed in accordance with paragraph (c) of this section.

(c) The statewide average interval is computed at the end of each Federal fiscal year by comparing the last day of the most recent survey for each participating facility to the last day of each facility's previous survey.

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 CMS–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 submittal of the PoC can be found in subsection B.

The Department of Social and Health Services, Residential Care Services Division *Standard Operating Procedure: Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) Chapter 16C2, states in part:*

> <u>Overview</u>
>
> Following the survey process and upon receipt of the statement of deficiencies, the facility must develop a Plan of Correction (PoC) to address all stated deficiencies outlined in the Statement of Deficiencies (SOD) within 10 calendar days of receipt of the SOD. Regulations allow certification of ICF/IID Facilities with deficiencies at the standard level "only if the facility has submitted an acceptable PoC for achieving compliance within a reasonable period of time acceptable to the Secretary." Failure to submit a PoC could result in termination of the facility agreement.
>
> Decisions on acceptance of the PoC by the survey team must occur within 5 working days of receipt by RCS.
>
> <u>Procedure</u>
>
> Surveyor/Complaint Investigator will:
>
> 1. Review the PoC within 5 working days of receipt of the PoC.

2020-054 The Department of Social and Health Services, Aging and Long-Term Support Administration, did not have adequate internal controls to ensure it complied with federal requirements for completing nursing home recertification surveys in a timely manner.

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; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity:	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 1.9 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 $14.3 billion in federal and state funds during fiscal year 2020.

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 to provide 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 quality of service furnished in a facility to determine compliance with the requirements for participation. 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 services.

The Centers for Medicare and Medicaid Services (CMS) requires the state to complete standard surveys within 15.9 months after the previous survey, and the statewide average time between surveys must not exceed 12.9 months for nursing facilities. To ensure that the surveys are completed accurately and completely, a Field Manager reviews the survey documentation and signs off on a coversheet to indicate they completed their review. 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 (Ftags). The Department then individually determines that each Ftag is acceptable within 60 calendar days of receipt, or the facility risks forfeiting its Medicaid certification. The receipt of PoCs is monitored by staff members who are responsible for informing team coordinators that PoCs are ready for review.

In addition to federal requirements, the Department has established its own policies and procedures requiring that it review a submitted PoC within five working days after receiving it. The Department uses the Electronic Plan of Correction System (ePOC) to monitor and track these requirements to ensure they meet required 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.

Description of Condition

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 Department complied with federal regulations that require the Department to survey nursing homes every 15.9 months and meet a statewide average of 12.9 months. However, the tools the Department were using to track this were calculated on a rolling average instead of calculating based on the federal fiscal year end, as required by federal regulations. In addition, the Department could not provide documentation to support that it had established or used a formalized monitoring or review process to ensure it would be compliant at federal fiscal year end.

We used a non-statistical sampling method to randomly select and examine 17 of 129 nursing home surveys completed during the audit period, which also contained 548 Ftags. We found:

- One instance when the Field Manager did not sign off on the coversheet, indicating their review
- Ten instances when the Department did not have documented evidence of the notification to the team coordinator to inform them that a PoC was ready for review

- One SOD was not sent within 10 working days as required by federal law
- Eight of the 548 reviewed Ftags were reviewed late

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

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

Cause of Condition

The Department has not established written policies and procedures to identify and assign responsibility for ensuring compliance is monitored and met. While the Department provided information about monitoring controls it stated were in place, these reviews and monitoring were not documented or verifiable. In addition, the Department relied on email communications to document the notifications that PoCs were ready for review, but did not keep some of that documentation.

Effect of Condition

By not ensuring adequate internal controls are in place, the Department risks not meeting the federal Medicaid requirements and could be subject to sanctions by the grantor.

Recommendations

We recommend the Department establish and follow written policies and procedures that include the assignment of monitoring and oversight responsibilities and methods of documenting such reviews

Department's Response

The Department agrees the current monitoring practices and internal controls in place, which have resulted in compliance with federal survey interval requirements for years, is not adequately documented.

By October 2021, the Department will develop policies and procedures documenting the current survey monitoring and oversight responsibilities. Policies and procedures will include the current practice of each region and field office unit establishing master survey schedules in September and monitoring these scheduled surveys month to month to meet the statewide federal 15.9 and 12.9 averages by the end of the federal fiscal year. The Regional Administrators and Office Chief will be directed to oversee internal controls month to month to ensure the Department has met its averages.

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:

(h) *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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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.

Title 42 U.S. Code of Federal Regulations, Part 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.* 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 most recent standard survey for each participating facility to the last day of each facility's previous standard survey.

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 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 within 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

2020-055 The Department of Health did not have adequate internal controls over and did not comply with requirements to ensure it responded promptly to complaints for Medicaid hospitals.

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; 1905WAIMPL; 1905WAINCT; 2005WA5MAP; 2005WA5ADM; 2005WAIMPL; 2005WAINCT
Pass-through Entity:	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 1.9 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 $14.3 billion in federal and state funds during fiscal year 2020.

The Centers for Medicare and Medicaid Services (CMS), which administers the program at the federal level, relies on states to regulate and license hospitals that serve Medicaid clients. Medicaid coverage for hospitals is authorized only when the facility is licensed by the state and certified by either the state survey agency (for non-deemed hospitals) or an accrediting organization (for deemed hospitals). The term "deemed" means the facility has voluntarily requested and received permission from the CMS to be certified by an accrediting organization, while hospitals that are "non-deemed" have not.

The Department of Health (Department) is the state licensing agency and is also responsible for investigating hospital complaints that meet the federal-prioritization level. The Department's Office of Health Systems Oversight (OHSO) is responsible for coordinating and performing investigation surveys. The Department's Office of Investigation and Legal Services (OILS) is the front line response system for providing the intake and assignment functions for complaints from staff, patients, accrediting organizations, and the public.

Deemed hospitals are surveyed for CMS certification by their accrediting organizations. However, the Department performs an investigation survey for complaints that meet the federal-prioritization level.

Complaints can be submitted to the OILS online or by mail, email, or telephone. OILS uses the Integrated Licensing and Regulatory System (ILRS) to input, prioritize, and track complaints. OILS intake staff review all report types regardless of delivery method before entering them into ILRS. OILS checks for imminent danger and then delivers the complaint to the Office of Customer Service, where the paper file is scanned into a secure drive. Finally, the intake staff determine which Office or Commission within the Department to route the complaint to for further assessment.

In fiscal year 2020, OILS received 22,216 complaints, of which 1,173 were valid hospital complaints.

Complaints can also be submitted to OHSO as a result of an onsite investigation already being conducted by the Department, from an accrediting organization, or directly from CMS. Once a complaint has been identified as meeting the federal threshold for an investigation, the complaint is entered into the ASPEN Complaint Tracking System (ACTS). OHSO is responsible for reviewing, prioritizing, and tracking the complaints. The following table lists the four priority levels for new complaints and their respective federal response times for non-deemed hospitals:

Priority levels and response times for non-deemed hospitals

Priority Levels	Required Response
Immediate Jeopardy	Initiate onsite survey within 2 working days of receipt
Non-Immediate Jeopardy High	Initiate onsite survey within 45 calendar days of prioritization
Non-Immediate Jeopardy Medium	Must investigate no later than when the next onsite survey occurs
Non-Immediate Jeopardy Low	Must track/trend for potential focus areas during the next onsite survey

The Department has full jurisdiction for complaints received against non-deemed hospitals. However, if a hospital is deemed and certified by an accrediting organization, the Department must receive CMS regional office authorization before investigating the complaint. The following table lists the four priority levels for complaints and their respective federal response times for deemed hospitals:

Priority levels and response times for deemed hospitals

Priority Levels	Required Response
Immediate Jeopardy	Initiate onsite survey within 2 working days of receipt of regional office authorization
Non-Immediate Jeopardy High	Initiate onsite survey within 45 calendar days of receipt of regional office authorization
Non-Immediate Jeopardy Medium	Complainant is referred to the applicable accrediting organization(s)
Non-Immediate Jeopardy Low	Complainant is referred to the applicable accrediting organization(s)

In addition to the federal timelines listed above, Washington Administrative Code (WAC) 246-14-040 states in part (2) that the basic time period for initial assessment is 21 days.

The CMS State Operations Manual requires an assessment of each hospital complaint to be made by an individual who is professionally qualified to evaluate the nature of the problem based on his or her knowledge and experience of current clinical standards of practice and federal requirements. The complaints are then assigned to the field staff.

Case managers from the OHSO unit review the complaints for immediate jeopardy. If it does not identify immediate jeopardy, it prioritizes the complaint at the next weekly case management meeting. Once a decision is made that the complaint meets the federal-prioritization level for investigation, the case manager assigns the complaint to field staff or, for non-deemed hospitals, requests authorization from the regional office through ACTS to initiate an investigation.

In fiscal year 2020, the OHSO identified 94 hospital complaints meeting the federal threshold for investigation. OHSO field staff investigate the complaint and perform follow-up within the assigned priority time.

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 complaints were responded to promptly. The prior finding number was 2019-046.

Description of Condition

The Department of Health did not have adequate internal controls over and did not comply with requirements to ensure it responded promptly to complaints for CMS certified hospitals.

We found OHSO had drafted policies and procedures, which were implemented part-way through the audit period, but they were not approved and in place throughout the audit period to ensure compliance with federal timelines. Federal regulations require written policies and procedures over this requirement be in place.

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

Cause of Condition

Multiple offices were involved with the intake and processing of complaints before reaching the Department staff who made the determinations about how to properly prioritize the complaints. Management acknowledged the Department was short on intake staff, and OILS filled two positions during the audit period to catch up with the backlog of complaints. The Department also said it assigned temporary staff to assist with the backlog of complaints before being able to hire additional staff, but this only affected the compliance rates for the final three months of the audit period.

OHSO adopted policies and procedures during the audit period. However, these were still in draft form.

The lack of staff and finalized policies and procedures prevented the Department from ensuring timely responses to hospital complaints.

Effect of Condition

The Department did not comply with the requirements related to assessment of and response to complaints.

We used a statistical sampling method to randomly select 57 of 1,173 total hospital complaints received by OILS and found 19 (33 percent) complaints were not initially assessed within 21 days, as required by state rule. We observed that, after the Department became aware of this issue and assigned additional staff to help with the backlog, the noncompliance rate lowered to zero for the final six months of the audit period.

Additionally, we used a non-statistical sampling method to randomly select 15 of 94 total hospital complaints that met the federal-deficiency threshold for investigation and found one (7 percent) non-immediate jeopardy high prioritized complaint that was not investigated within the federal requirement of 45 calendar days.

When complaints are not prioritized and investigated in a timely manner, vulnerable patients are at a higher risk of abuse, neglect and substandard care.

Recommendation

We recommend the Department continue with its plan to improve its staffing and strengthen its internal controls to ensure it responds to hospital complaints, as required by state and federal regulations.

Department's Response

We appreciate the State Auditor's Office (SAO) audit of CMS hospital complaint response. DOH is committed to ensuring our programs comply with federal regulations and understand that it is SAO's point of view that we were not in compliance with the state and federal timelines. As mentioned above, the department has hired additional staff to assist with the intake process. These efforts did lower our noncompliance rate to zero in the last six months of the audit period. We are confident that this will help ensure future compliance related to timelines. During last year's audit, we reviewed our processes with CMS and received a letter stating that they agree with the processes that were currently in place. These processes were incorporated into a draft protocol that staff were utilizing during the audit period. The draft protocol is estimated to be approved by upper management in early 2021. It should be noted that the one exception for complaints not meeting federal-deficiency threshold for investigation, mention above, would have been compliant under this protocol.

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:

(i) *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.

Centers for Medicare and Medicaid, The State Operations Manual, Chapter 5 – Complaint Procedures, revised 07-19-19:

5010 – General Intake Process states in part:

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.

5075.2 – Non-Immediate Jeopardy – High Priority (for Nursing Homes and Deemed and Non-Deemed Non-Long Term Care Providers/Suppliers) states in part:

Intakes assigned this priority require an onsite survey to be initiated within 45 calendar days after intake prioritization for non-deemed providers/suppliers, and within 45 calendar days after authorization of the investigation by the RO for deemed status providers/suppliers. The RO has the discretion to request the onsite survey be initiated in less than 45 calendar days.

Washington Administrative Code WAC 246-14-040 Initial assessment of reports states:

(1) Initial assessment is the process of determining whether a report warrants an investigation and becomes a complaint. The complainant and credential holder or applicant will be notified as soon as possible after the initial assessment is complete.

(2) The basic time period for initial assessment is twenty-one days.

(3) All reports will be reviewed for imminent danger within two working days. If imminent danger is identified, the report will be immediately forwarded for processing

2020-056 The Health Care Authority improperly charged $20,000 for payments made to providers under the State Opioid Response grant.

CFDA Number and Title:	93.788, State Opioid Response
Federal Grantor Name:	U.S Department of Health and Human Services
Federal Award/Contract Number:	5H79TI080249-02; 6H79TI026803-02M001; 6H79TI026803-02M004; 1H79TI081705-01; 5H79TI081705-02; 3H79TI081705-01S1; 6H79TI081705-01M003
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs / Cost Principles
Questioned Cost Amount:	$20,000

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the State Opioid Response (SOR) program. The Authority subawards funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and recovery services. The Authority spent more than $37 million in grant funds during fiscal year 2020.

The SOR program is intended to fund services and practices that have a demonstrated evidence base and that are appropriate for the focus populations. When Authority program managers receive reimbursement requests from providers, they verify whether the provider has met the contract terms and conditions and the requests are for allowable activities and meet federal cost principles.

Once verified, the requests are forwarded to the Authority's Financial Unit for further review and disbursement. The Fiscal Unit Manager or Supervisor reviews each reimbursement request to ensure account coding, program approvals and amounts are correct and that charges are related to the appropriate 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 processed a payment to a provider for more than was allowable under contract terms.

We used a statistical sampling method to randomly select and examine 56 of 628 payments to providers. We examined the supporting documentation for each payment request and found one instance (1.8 percent) when the Fiscal Analyst notified the Program Supervisor that the requested amount exceeded the amount allowed under the contract terms. The Program submitted an updated payment request with the appropriate amount. However, the original requested amount was paid.

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

Staff followed documented procedures and identified the charges that exceeded the allowable contracted amount. However, the incorrect amount was paid.

Effect of Condition and Questioned Costs

The Authority charged $20,000 in payments to providers that exceeded the amount allowed under contract terms. We estimate the likely questioned costs to be $40,952.

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 Authority:

- Ensure payments to providers do not exceed contract terms
- 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 will work with the grantor regarding the questioned costs.

Auditor's Remarks

We appreciate the Authority's commitment to resolving this matter. We will follow-up with the Authority in 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 200.403 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 sample 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.

2020-057 The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the State Targeted Response and State Opioid Response grants received required risk assessments.

CFDA Number and Title:	93.788, State Targeted Response and State Opioid Response
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	5H79TI080249-02; 6H79TI026803-02M001; 6H79TI026803-02M004; 1H79TI081705-01; 5H79TI081705-02; 3H79TI081705-01S1; 6H79TI081705-01M003
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
Questioned Cost Amount:	None

Background

The Health Care Authority (Authority), Division of Behavioral Health and Recovery, administers the State Targeted Response (STR) and State Opioid Response (SOR) program. The Authority subawards funds to counties, tribes, nonprofit organizations and other state agencies to develop prevention programs and provide treatment and recovery services. The Authority spent more than $37 million in grant funds during fiscal year 2020. Of this amount, the Authority passed about $28.8 million to 98 subrecipients.

To determine the appropriate level of monitoring, federal regulations require the Authority 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 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 requirements to ensure subrecipients of the Opioid STR and SOR grants received the required risk assessments. The prior finding number was 2019-066.

Description of Condition

The Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subrecipients of the Opioid STR and SOR grants program received required risk assessments.

The Authority did not establish an effective monitoring process to ensure subrecipients of the SOR program received required risk assessments.

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

Cause of Condition

The oversight of the SOR program was transferred from the Department of Social and Health Services to the Authority in 2018. Since then, the Authority has established a multi-divisional work group for subrecipient monitoring. However, the Authority has not implemented an effective risk assessment process.

Effect of Condition

We reviewed the two subrecipients that should have received risk assessments during the audit period and found one (50 percent) did not receive the required risk assessment.

Without adequate monitoring procedures, the Authority cannot ensure risk assessments are performed consistently and analyze the proper criteria, which would ensure consistency in determining the appropriate amount of monitoring for each subrecipient.

Recommendations

We recommend the Authority:

- Establish internal controls and adequate monitoring procedures to ensure required risk assessments are performed
- Ensure the results of the risk assessments are used to determine how much and what type of monitoring of subrecipients will be performed, 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 is currently being scheduled.

Auditor's Remarks

We appreciate the Authority's commitment to resolving this matter. We will follow-up with the Authority in 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 200.331 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).

(c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in §200.208.

(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 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 §200.425.

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.

2020-058 The Department of Children, Youth, and Families improperly charged $135,686 for salaries and benefits to the Maternal, Infant, and Early Childhood Home Visiting grant.

CFDA Number and Title:	93.870, Maternal, Infant, and Early Childhood Home Visiting
Federal Grantor Name:	U.S. Department of Health and Human Services
Federal Award/Contract Number:	7X10MC32742-01-00, 1X10MC33616-01-00
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Activities Allowed or Unallowed Allowable Costs/Cost Principles
Questioned Cost Amount:	$135,685

Background

The Home Visiting Services Account (HVSA) was established by the state Legislature in 2010, and a portion of the funds for the HVSA are provided through the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) federal grant. The grant is managed by the Department of Children, Youth, and Families (Department).

MIECHV programs are intended to support and strengthen cooperation and coordination and to promote links between various programs that serve pregnant women, expectant fathers, young children, and families in tribal communities and result in high-quality, comprehensive early childhood systems in every community.

The Department is allowed to request federal reimbursement for salaries and benefits for MIECHV program activities. The Department established a process in which employees who spend 100 percent of their time working on the grant must submit semi-annual certification. Employees who work on multiple grants must submit timesheets to track daily activities performed for each grant. Twice a month, these employees complete and sign a timesheet and submit it to their direct supervisor for approval. The supervisor reviews and approves the employee's timesheet to ensure they are correctly charging time to the program.

The Department's Cost Allocation Unit sets up cost objectives to allocate initial payroll costs to the program based on a budgeted percentage. Each month, employees submit approved timesheets to the unit, where staff compare the percentage of the budgeted allocation to the percentage of actual hours worked for the program. Staff use the difference between the time budgeted and the

time actually worked to create accounting adjustments to ensure the payroll costs charged to the grant are based on actual hours worked.

The Department spent about $9.3 million in federal grant funds during fiscal year 2020. Of this amount, the Department claimed $680,028 in federal grant money for program salaries and benefits. This amount represented about 7 percent of total grant expenditures.

In prior audits, we reported the Department did not have adequate internal controls over and did not comply with requirements to ensure payroll costs charged to the Maternal, Infant, and Early Childhood Home Visiting grant were allowable and properly supported. The prior finding number was 2019-067. We determined finding number 2019-067 to have been resolved.

Description of Condition

The Department of Children, Youth, and Families improperly charged $135,686 in salaries and benefits to the MIECHV grant.

We found the Department established adequate internal controls to ensure it materially complied with requirements over reimbursements for salaries and benefits. However, we found the Department charged some payroll expenditures to the MIECHV grant that were not adequately supported.

Employees who charge all their time to the grant

During the audit period, the Department did not complete semi-annual certifications to ensure that two employees charging 100 percent of their time to the federal grant for the MIECHV program was allowable and properly supported.

Employees who work on multiple grants

We used a non-statistical sampling method to randomly select and examine five months from a total population of 12 months. The samples we reviewed included 12 employees, 103 timesheets and 12 journal vouchers. We found one instance when the Department used the wrong timesheet to adjust differences from the original budgeted payroll costs charged to 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. We are issuing this finding because the known questioned costs we identified exceeded this threshold.

Cause of Condition

The Department said the semi-annual certifications were not completed because of limited staffing resources. It further said that the one instance when the wrong timesheet was used was an isolated oversight.

Effect of Condition and Questioned Costs

Employees who charge all their time to the grant

For the two employees whose semi-annual certifications were not completed, we identified known questioned costs that totaled $132,178.

Employees who work on multiple grants

For the one instance when the Department used the wrong timesheet to adjust costs charged to the grant, we identified $3,508 in known questioned costs.

In total, the Department charged $135,686 in payroll to the MIECHV grant that was not adequately supported. We used a non-statistical sampling method and estimate likely questioned costs to be $140,596.

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 agrees that payroll certifications were not completed timely, but maintains that the two employees charged to the grant were allowable and that the MIECHV program staff review direct charges monthly.

In March 2020, the Washington State Governor imposed the Stay Home, Stay Healthy order requiring teleworking of all employees, including the DCYF cost allocation and grants unit that are involved in completing the payroll certifications and journal vouchers. Teleworking has created a resource issue for the cost allocation and grants unit due to the inability to process large amounts of data and journal vouchers via the state's virtual private network resulting in an increase in data transmission time and a loss of productivity.

In addition, because of the Covid-19 pandemic and economic issues, the Governor imposed a hiring freeze and furloughs on all state agencies. With already limited staffing, the cost allocation and grants unit employee resources were reallocated to manage the Covid-19 pandemic and funding related tasks. Because of this the department needed to become more agile in our everyday processes and focus resources in the most vital areas.

Auditor's Remarks

The Department's policies and procedures require the documentation of semi-annual time certifications for Department staff who work 100 percent of their time on a federal grant. By not documenting these certifications, the Department did not meet the requirements under 2 CFR 200.430(i)(1)(ii) and (v) – *Standards for documentation of personnel expenses*.

We reaffirm our 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 sample

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:

(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.

2020-059 The Health Care Authority did not have adequate internal controls to ensure payments made under the Block Grants for Prevention and Treatment of Substance Abuse program were allowable and met period-of-performance requirements.

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:	3B08TI010056-18S2, 6B08TI010056-18M002, 2B08TI010056-19, 3B08TI010056-19S1, 1B08TI083138-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Allowable Costs / Cost Principles Period of Performance
Questioned Cost Amount:	$431,797

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 $54.8 million in grant funds during fiscal year 2020.

The Authority can use grant funds only for costs that are allowable, related to the grant's purpose and incurred during the period of performance, as specified in the grant's terms and conditions. The Authority establishes new cost objectives and allocation codes to ensure expenditures are charged to the proper grants when a new federal grant is received and at the beginning of the federal fiscal year. When reimbursement requests are received, program managers are responsible for reviewing supporting documentation to determine if the services billed are for an allowable activity or cost and if they 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.

Description of Condition

The Authority did not have adequate internal controls to ensure payments made under the Block Grants for Prevention and Treatment of Substance Abuse program were allowable and met period of performance requirements.

The Authority did not establish an effective review and approval process to ensure payments from the program met period of performance requirements.

We used a statistical sampling method to randomly select and examine 57 of 869 payments to providers and contractors. Additionally, we judgmentally selected and examined 13 of 69 payments made during the 90 day grant liquidation period and 16 of 98 payments made after the liquidation period. We examined the supporting documentation for each payment to ensure they were allowable and took place during the period of performance. We found:

- One reimbursement (2 percent) did not receive program approval and occurred prior to the grant opening, which was outside of the period of performance
- Four payments (31 percent) made during the liquidation period for services and purchases that occurred after the period of performance
- Three payments (19 percent) made after the liquidation period for services and purchases that occurred after the period of performance

We consider these internal control deficiencies to be a significant deficiency.

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

Cause of Condition

The Authority said the noncompliance was due to staff errors that management did not detect, such as costs being charged to the wrong year or allocation code.

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.

We identified $431,797 in questioned costs that were paid outside the program's period of performance. Because we used a statistically valid sampling method to randomly select the payments examined in the audit, we estimate the total amount of likely improper payments paid with federal funds to be $6,477,739.

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:

- 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
- Ensure accounting adjustments are properly reviewed and approved so they meet program and period of performance requirements
- 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 will work to improve internal controls for the period of performance compliance requirements.

Auditor's Remarks

We appreciate the Authority's commitment to resolving this matter. We will follow up with the Authority in the 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 sample 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.

2020-060 The Health Care Authority did not have adequate internal controls over and did not comply with cash management 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/Contract Number:	2B08TI010056-19, 3B08TI010056-19S1, 3B08TI010056-18S2, 6B08TI010056-18M002, 1B08TI083138-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Cash Management
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 $54.8 million in grant funds during fiscal year 2020.

The Authority operates the program in accordance with federal laws and regulations, including the Cash Management Improvement Act (CMIA) agreement between the State and the U.S. Department of Treasury. The primary purpose of the CMIA agreement is to ensure states request federal funds exactly when they are needed and that no interest is gained or lost by either the federal or state governments. The agreement specifies the funding technique the Authority should use when requesting federal funds. For the Block Grants for Prevention and Treatment of Substance Abuse program, the Authority must draw funds semi-monthly, according to the state payroll schedule.

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 Health Care Authority did not have adequate internal controls over and did not comply with cash management requirements for the Block Grants for Prevention and Treatment of Substance Abuse.

When the Authority drew down federal funds, it ensured the amounts drawn were correct based on actual payments. However, the Authority did not effectively monitor its federal drawdown frequency to ensure it complied with the CMIA.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance. The issue was not reported as a finding in the prior audit.

Cause of Condition

The Authority said that a vacant staff position and the need to complete accounting adjustments for the Block Grants for Prevention and Treatment of Substance Abuse resulted in drawdowns not occurring as required.

Effect of Condition

We determined 24 semi-monthly draws should have occurred during state fiscal year 2020. However, the Authority only made 16 draws that occurred the day before a state payday. There were 8 (33 percent) paydays that did not have a corresponding draw, including no draws in October 2019 or January 2020.

Violations of the CMIA can result in the grantor denying the state payment or credit for the resulting federal interest liability or other sanctions. Delaying federal drawdown requests also results in state funds being advanced longer than necessary and lost interest revenue for the state.

By not establishing adequate internal controls, the Department cannot ensure that draw amounts are requested in a timely manner.

Recommendation

We recommend the Authority improve its monitoring to ensure cash draws are performed, as required by the state's CMIA agreement.

Authority's Response

The Authority concurs with the Cause and Effect of Condition; however, disagrees with the Description of Condition, specifically that the Authority did not have adequate internal controls to monitor the drawdowns.

In most cases, the decision not to do drawdowns was a result of monitoring the award and identifying pending adjustments that could have resulted in negative expenditures. The Authority was acting in the spirit of CMIA, which is to promote greater efficiency, effectiveness, and equity

in the transfer of funds between the federal government and states; and for neither to suffer or benefit financially as a result of transferring funds.

The Authority will work to improve the documentation around drawdown decisions to ensure compliance with federal requirements, including the CMIA.

Auditor's Remarks

We appreciate the Authority's commitment to improving its documentation to demonstrate its compliance with federal regulations. We reaffirm our finding and will follow-up on this matter in the 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 31 U.S. Code of Federal Regulations Part 205, *Uniform Rules and Procedures For Efficient Federal-State Funds Transfers* establishes the following applicable requirements:

Section 205.29 What are the State oversight and compliance responsibilities states in part:

(d) If a State repeatedly or deliberately fails to request funds in accordance with the procedures established for its funding techniques, as set forth in §205.11, §205.12, or a Treasury-State agreement, we may deny the State payment or credit for the resulting Federal interest liability, notwithstanding any other provision of this part.

(e) If a State materially fails to comply with this subpart A, we may, in addition to the action described in paragraph (d) of this section, take one or more of the following actions, as appropriate under the circumstances:

(1) Deny the reimbursement of all or a part of the State's interest calculation cost claim;

(2) Send notification of the non-compliance to the affected Federal Program Agency for appropriate action, including, where appropriate, a determination regarding the impact of non-compliance on program funding;

(3) Request a Federal Program Agency or the General Accounting Office to conduct an audit of the State to determine interest owed to the Federal government, and to implement procedures to recover such interest;

(4) Initiate a debt collection process to recover claims owed to the United States; or

(5) Take other remedies legally available.

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 2020 Cash Management Improvement Act Agreement between the State of Washington and the Secretary of the Treasury, United States Department of the Treasury, states in part:

6.2 Description of Funding Techniques, 6.2.4 The following are terms under which State unique funding techniques shall be implemented for all transfers of funds to which the funding technique is applied in section 6.3.2 of this Agreement.

Modified Direct Program Costs -Admin, Payroll, Payments to Providers (ACH Drawdown on Payroll Cycle)

The State shall request funds for all direct administrative costs and/or payroll costs, and/or payments made to providers and to support providers. The request shall be made in accordance with the appropriate Federal agency cut-off time specified in Exhibit I. The amount of the funds requested shall be based on the amount of expenditures recorded for direct administrative costs and/or payroll costs and/or payments made to providers or to support providers since the last request for funds. The State payroll cycle is payday twice a month. Draws made day before payday are for deposit on payday. The draw request will be made in accordance with cut-off time in Exhibit 1. The amount of the funds requested shall be based on the amount of expenditures recorded for direct administrative costs and/or payroll costs and/or payments made to providers or to support providers since the last request for funds. This funding technique is interest neutral.

6.3 Application of Funding Techniques to Programs, 6.3.1 The State shall apply the following funding techniques when requesting Federal funds for the component cash flows of the programs listed in sections 4.2 and 4.3 of this Agreement.

6.3.2 Programs, Below are programs listed in Section 4.2 and Section 4.3.

93.959 Block Grants for Prevention and Treatment of Substance Abuse

Recipient: 107---Healthcare Authority---HCA

% of Funds Agency Receives: 100.00

Component: Administrative costs including payroll

Technique: Modified Direct Program Costs - Admin, Payroll, Payments to Providers (ACH Drawdown on Payroll Cycle)

Average Day of Clearance: 0 Days

2020-061 The Health Care Authority did not have adequate internal controls over and did not comply with federal level-of-effort 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:	3B08TI010056-18S2, 6B08TI010056-18M002, 2B08TI010056-19, 3B08TI010056-19S1, 1B08TI083138-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Level of Effort
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 $54.8 million in grant funds during fiscal year 2020.

Federal regulations require the Authority to maintain state spending at certain levels to meet federal grant requirements. Specifically, for the Block Grants for Prevention and Treatment of Substance Abuse, the Authority must maintain state spending for:

- Treatment services for pregnant women and women with dependent children at a level that is not less than the amount spent for the same services in 1994
- Authorized activities at a level that is not less than the average of the previous two years spending for 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.

Description of Condition

The Health Care Authority did not have adequate internal controls over and did not comply with federal level-of-effort requirements for the Block Grants for Prevention and Treatment of Substance Abuse program.

To monitor state funding levels, the Authority runs reports from its accounting system each quarter to determine if current expenditures are on track to meet the level-of-effort requirements for all open grant awards. Upon closing each grant, the Authority also runs a final report to ensure the requirements were met. Throughout the year, fiscal staff did not run the reports correctly or monitor them to ensure spending level requirements were met.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance. The issue was reported as a finding in the prior audit as finding 2019-069.

Cause of Condition

Authority staff were new to and unfamiliar with some of the procedures and reports used to monitor level-of-effort requirements. The reports that were prepared used incorrect instructions, which resulted in incorrect information to reflect state spending levels. In addition, during the State's fiscal year-end adjustment period, the Authority transferred allowable state funded expenditures to the federal grant, but did not subsequently monitor final state expenditure levels to ensure they met the spending requirements.

Effect of Condition

During the audit period, the Authority was required to maintain expenditures for pregnant women and women with dependent children at not less than the calculated fiscal year 1994 base of $5,186,165. The Authority was also required to maintain state expenditures at no less than the average of the prior two fiscal year spending levels, or $115,110,693. The Authority did not meet these requirements.

The Authority spent $28,889 less than the required amount on services for pregnant women and women with dependent children and $3,444,132 less than the total amount required to be spent.

By not establishing adequate internal controls, the Authority cannot ensure it meets all level of effort requirements. By not complying with federal requirements, the Authority risks having to repay federal funds or having future federal funds withheld.

Recommendations

We recommend the Authority:

- Improve internal controls to ensure sufficient monitoring of level-of-effort requirements
- Ensure staff follow policies and procedures for monitoring spending levels

- Ensure correct information is used to monitor spending levels
- Ensure transfers of state-funded expenditures to federal awards are monitored to ensure minimum state spending thresholds are met

Authority's Response

The Authority concurs with the finding and will work to improve internal controls around the monitoring of level-of-effort requirements, including ensuring the accuracy of reports used to monitor spending levels.

The Authority is also requesting a waiver from SAMHSA for the level-of-effort requirements due to the impact on the agency resulting from the Coronavirus Pandemic. Enhanced federal rates were provided to help manage the impact of COVID-19, resulting in reduced state matching requirements. This also impacted the level of effort requirements under the block grants.

Auditor's Remarks

We appreciate the Authority's commitment to resolving this matter. We will follow-up with the Authority in the next audit.

Applicable Laws and Regulations

Title 42 United States Code 300x–30, *Maintenance of effort regarding State expenditures* establishes the following applicable requirements:

> (a) In general
>
> With respect to the principal agency of a State for carrying out authorized activities, a funding agreement for a grant under section 300x–21 of this title for the State for a fiscal year is that such agency will for such year maintain aggregate State expenditures for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

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 45 U.S. Code of Federal Regulations Part 96, *Block Grants* establishes the following applicable requirements:

> Section 96.124 Certain allocations, states in part:
>
> > (c) Subject to paragraph (d) of this section, a State is required to expend the Block Grant on women services as follows:
> >
> > > (3) For grants beyond fiscal year 1994, the States shall expend no less than an amount equal to the amount expended by the State for fiscal year 1994.
>
> Section 96.134 Maintenance of effort regarding State expenditures, states in part:
>
> > (a) With respect to the principal agency of a State for carrying out authorized activities, the agency shall for each fiscal year maintain aggregate State expenditures by the principal agency for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the two year period preceding the fiscal year for which the State is applying for the grant. The Block Grant shall not be used to supplant State funding of alcohol and other drug prevention and treatment programs.

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.

2020-062 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/Contract Number:	3B08TI010056-18S2, 6B08TI010056-18M002
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Reporting
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 $54.8 million in grant funds during fiscal year 2020.

The Authority is required to submit an SF-425 federal financial report to the federal grantor within 90 days of a grant award closing. Information contained on this report includes 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.

Description of Condition

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.

Financial information reported on the SF-425 should be obtained and supported by the Authority's accounting records.

During the year, the Authority continued to charge costs to the grant, which had already closed. This required accounting adjustments that were not completed in a timely manner. During the audit period, the federal fiscal year 2018 award closed and was reported on the SF-425 by the December 31, 2019 due date. We examined the report and found that the expenditures reported were not supported by the Authority's accounting records. Because of this, we could not determine whether the report was accurately prepared.

We consider this internal control deficiency to be a material weakness, which led to material noncompliance. The issue was not reported as a finding in the prior audit.

Cause of Condition

The Authority said that the grant is large and complex, making it difficult to balance the grant and ensure that the accounting records are accurate and complete by the reporting due date.

Effect of Condition

By not establishing adequate internal controls and ensuring accounting records are accurate and complete, the Authority increases the risk that it could misreport information to the grantor.

Inaccurate reports could affect future funding from the federal grantor.

Recommendation

We recommend the Authority improve its internal controls to ensure reports are properly supported by the accounting records.

Authority's Response

The Authority does not concur with the finding.

The required December 2019 SF-425 report reflects the full 2018 grant award amount and is not overspent, nor in need of revision. The expenditure amounts reported on the SF-425 report are allowable and supported by accounting records. Adjustments or expenditures occurring after the report date and above the grant award amount are not claimed for federal reimbursement under the grant.

The Authority will consult with the grantor on the process for adjustments not affecting the federal amount claimed, but occurring after the award close-out.

Auditor's Remarks

During the audit, the Authority provided us with the financial records that were used to prepare the SF-425 report. Those records showed that more expenditures had been charged to the program and did not reconcile to the submitted report that covered the 2018 grant award.

We reaffirm our finding and will follow-up with the Authority in 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 200.516 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 200.327 Financial Reporting, states in part:

> Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved government wide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). 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.

2020-063 The Health Care Authority did not have adequate internal controls over and did not comply with federal requirements to ensure subawards of Block Grants for Prevention and Treatment of Substance Abuse contained all required information.

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:	3B08TI010056-18S2, 6B08TI010056-18M002, 2B08TI010056-19, 3B08TI010056-19S1, 1B08TI083138-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
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 passes down federal award funds through subawards to counties, tribes, and nonprofit organizations to develop prevention programs and provide treatment and support services. The Authority spent more than $54.8 million in grant funds during fiscal year 2020. Of this amount, the Authority passed about $38.6 million to subrecipients.

When federal funds are passed down to subrecipients, federal regulation (2 CFR 200.331(a)) requires the subrecipient to be notified of all required information concerning the subaward, including all additional requirements. The Authority must clearly identify 13 subaward components to any subrecipient receiving federal funds. In addition, the Authority must notify the subrecipient that if the subrecipient spends $750,000 or more in federal awards, they are required to have an audit in accordance with Uniform Guidance.

Upon execution of a subaward for prevention or treatment services, the Authority incorporates the Federal Award Identification for Subrecipients page as an attachment to the subaward. This document contains boilerplate language containing all 13 required components. In addition, when a contract is identified as a subaward, the standard Uniform Guidance audit requirement language is included in the contract. The Authority uses the Electronic Contracts Management System (ECMS) to input all required fields into the subaward. Depending on these inputs, ECMS will

automatically be prompted to include the applicable subaward information and any other required subrecipient language.

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 federal requirements to ensure subawards of Block Grants for Prevention and Treatment of Substance Abuse contained all required information.

When the Authority executed new subrecipient contracts during the audit period, it did not have an effective process in place to ensure all the required subaward information was communicated to the subrecipient.

We consider these internal control deficiencies to be a material weakness, which led to material noncompliance. The issue was reported as a finding in the prior audit as finding 2019-070.

Cause of Condition

When the Division of Behavioral Health and Recovery transitioned to the Authority from the Department of Social and Health Services in 2018, processes were disrupted. The Division previously relied on their contracts staff to identify subrecipient status and the associated contractual requirements. This was a new responsibility for the Authority's contracts staff, who were unfamiliar with subrecipient contracts and their associated contractual requirements. The Authority's contracts staff had not been provided training at the time, therefore, were not equipped with the necessary knowledge when reviewing and approving contracts to determine if any pertinent information was excluded.

Effect of Condition

During the audit period, the Authority executed 99 subawards for the Block Grants for Prevention and Treatment of Substance Abuse program. We randomly selected and examined 15 contracts and found five (33 percent) did not contain the following required federal award identification information:

- (ii) Subrecipient's unique entity identifier
- (iv) Federal Award Date of award to the recipient by the Federal agency
- (v) Subaward Period of Performance Start and End Date
- (vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each federal award and the CFDA number at time of disbursement

(xii) Identification of whether the award is R&D

(xiii) Indirect cost rate for the federal award

We also found one contract (7 percent) did not contain the information notifying them that subrecipients that spend $750,000 or more in federal awards are required to have audits in accordance with Uniform Guidance.

Without establishing adequate internal controls, the Authority cannot ensure it is compliant with subrecipient monitoring requirements. By not clearly identifying the subaward funding period and funding amounts, the Authority risks making improper payments under the program. In addition, by not clearly identifying necessary information to the subrecipients, the Authority cannot ensure the subrecipients are adequately informed of the program requirements.

Recommendations

We recommend the Authority:

- Include all required information when issuing subawards
- Improve its internal controls to ensure compliance with requirements for federal subawards
- Ensure staff responsible for executing contracts understand subrecipient classifications

Authority's Response

The Authority concurs with the finding and we are working to improve internal controls over subaward compliance requirements.

In addition, the contracts department has already begun working on amendments to address the missing information; however, some contracts referenced by the SAO already had amendments completed with the missing information included.

Auditor's Remarks

We appreciate the Authority's commitment to resolving this matter and will follow-up on its corrective action in 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.

2 CFR Section 200.331(a) - 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 200.39 Federal Award date) of award to the recipient by the Federal agency;

(v) Subaward Period of Performance Start and End Date;

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;

(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA Number at time of disbursement;

(xii) Identification of whether the award is R&D; and

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).

(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) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f);

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's 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.

Section 200.501 Audit requirements

(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 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of 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.

2020-064 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:	6B08TI010056-18M002; 3B08TI010056-18S2; 2B08TI010056-19; 3B08TI010056-19S1; 1B08TI083138-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
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. During fiscal year 2020, the Authority spent more than $54.8 million in federal grant funds. Of this amount, the Authority passed about $38.6 million to subrecipients.

To determine the appropriate level of monitoring, federal regulations require the Authority to evaluate each subrecipient's risk of noncompliance with federal statues, 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.

Description of Condition

The 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.

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 required risk assessments. Five different units in the Authority are responsible for executing risk assessments for the program subrecipients: Prevention, Treatment, Recovery, Managed Care, and Tribal Affairs. Only two units, Treatment and Managed Care, performed risk assessments for subrecipients during fiscal year 2020. There was no uniform process to ensure all subrecipients received risk assessments when new contracts were executed.

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

When the oversight of this program transitioned from the Department of Social and Health Services to the Authority in 2018, the Authority did not have a centralized process to ensure risk assessments were completed for newly executed contracts. Each unit is responsible for performing the risk assessments for contracts they monitor. This was a new responsibility for some Authority staff, and it has taken time to develop processes. The Authority established a multi-divisional work group for subrecipient monitoring. However, the Authority has not implemented an effective risk assessment process.

Effect of Condition

The Authority executed 99 subrecipient contracts during the fiscal year.

The Prevention, Recovery, and Tribal Affairs units were responsible for performing risk assessments for 90 contracts (91 percent) during fiscal year 2020 and none were performed.

The Treatment and Managed Care units were responsible for performing risk assessments for nine contracts (9 percent) during fiscal year 2020. We randomly selected and examined five of the nine contracts and found all five had sufficient risk assessments.

Without establishing adequate internal controls and monitoring procedures, the Authority cannot ensure risk assessments are performed and analyze the proper criteria, which would ensure consistency in determining the appropriate amount of monitoring for each subrecipient.

Recommendations

We recommend the Authority:

- Establish internal controls and adequate monitoring procedures to ensure required risk assessments are performed
- Ensure the results of the risk assessments are used to determine how much and what type of monitoring of subrecipients will be performed, as required by federal law
- Continue to support its subrecipient monitoring workgroup

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 is currently being scheduled.

Auditor's Remarks

We appreciate the Authority's commitment to resolving this matter. We will follow up in the 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 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:

(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 internal controls over compliance 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.

2020-065 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:	3B08TI010056-18S2, 6B08TI010056-18M002, 2B08TI010056-19, 3B08TI010056-19S1, 1B08TI083138-01
Pass-through Entity Name:	None
Pass-through Award/Contract Number:	None
Applicable Compliance Component:	Subrecipient Monitoring
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. During fiscal year 2020, the Authority spent more than $54.8 million in federal grant funds. Of this amount, the Authority passed about $38.6 million to subrecipients.

When federal funds are passed to subrecipients, federal regulations require the Authority 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.

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. There was no uniform process to ensure all subrecipients received required monitoring.

We found the Tribal Affairs unit did not perform adequate monitoring during the audit period. The Recovery Unit did not establish consistent policies and procedures about how staff are supposed to conduct monitoring.

We determined the Prevention, Treatment, and Managed Care units had adequate controls and were in compliance with monitoring requirements.

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

When the oversight of this program transitioned from the Department of Social and Health Services to the Authority in 2018, the Authority did not have a centralized process to ensure monitoring was completed for each subrecipient. Each unit is responsible to perform monitoring activities for the subrecipients they oversee. This was a new responsibility for some Authority staff and it has taken time to develop processes. The Authority established a multi-divisional work group for subrecipient monitoring. However, the Authority has not implemented an effective monitoring process for the program.

In addition, the COVID-19 pandemic hit during the same time the Office of Tribal Affairs was in the process of working with tribes to establish effective monitoring processes. Many tribes completely shut down, so this process was delayed.

Effect of Condition

The Authority had 103 subrecipients during the fiscal year. The Tribal Affairs unit was responsible for monitoring 29 (28 percent) of the Authority's 103 total subrecipients and did not perform sufficient monitoring activities during the audit period.

The Prevention, Treatment, Recovery, and Managed Care units were responsible for monitoring 74 of the Authority's 103 total subrecipients. These units were scheduled to perform monitoring visits, virtual or in-person, for 33 of these 74 subrecipients during the fiscal year. We randomly selected and examined nine of the 33 subrecipients and found one (11 percent) subrecipient was not properly monitored by the Recovery unit.

Without establishing adequate internal controls and monitoring procedures, the Authority cannot ensure the appropriate amount of monitoring is performed to ensure subrecipients are compliant with federal regulations and subaward terms and conditions.

Recommendation

We recommend the Authority establish procedures to ensure federally required subrecipient monitoring is performed.

Authority's Response

The Authority agrees there was not a uniform process to monitor all sub-recipient desk or site visits across all units; however, many activities were performed to ensure adequate monitoring. The Authority also has a multi-division sub-recipient monitoring workgroup working to establish uniform processes across all units for sub-recipient monitoring, including tracking the desk and site-visits.

Auditor's Remarks

We appreciate the Authority's commitment to resolving this matter. We will follow-up with the Authority in 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:
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> > (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