

**REPORT OF THE STATEWIDE SINGLE AUDIT OF THE
COMMONWEALTH OF KENTUCKY**

VOLUME II

**For the Year Ended
June 30, 2021**



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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

June 23, 2022

Honorable Andy Beshear, Governor
Cabinet Secretaries and Agency Heads
Members of the Commonwealth of Kentucky General Assembly

As the Assistant Auditor of Public Accounts, I am pleased to transmit herewith our report of the Statewide Single Audit of the Commonwealth of Kentucky-Volume II for the year ended June 30, 2021. Our Statewide Single Audit of the Commonwealth of Kentucky report will be transmitted in two volumes in order to meet reporting guidelines established by the American Institute of Certified Public Accountants. Volume I contains financial statement findings identified during our audit of the Annual Comprehensive Financial Report, the Schedule of Expenditures of Federal Awards (SEFA), related notes, and our opinion thereon, as well as the *Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards*. Volume I was issued under a separate cover. Volume II contains the *Report on Compliance For Each Major Federal Program and Report on Internal Control Over Compliance in Accordance With the Uniform Guidance* and federal award findings and questioned costs identified during our audit.

The Auditor of Public Accounts determines the federal programs to be audited for internal controls and compliance based on Title 2 U.S. *Code of Federal Regulations* (CFR) part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

On behalf of the Auditor of Public Accounts' Office, I wish to thank the employees of the Commonwealth for their cooperation during the course of our audit. Should you have any questions concerning this report, please contact Jason Johnson, Executive Director of the Office of State Government Audits and Technology or me.

Respectfully Submitted,

Farrah Petter, CPA
Assistant Auditor of Public Accounts

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INTRODUCTION

**COMMONWEALTH OF KENTUCKY
INTRODUCTION
FOR THE YEAR ENDED JUNE 30, 2021**

Single Audit

The Single Audit Act of 1984, subsequent amendments, and corresponding regulations, require an annual audit of the financial statements and compliance with requirements applicable to major federal programs. The Auditor of Public Accounts (APA) meets these requirements and submits audit findings required to be reported by auditing standards generally accepted in the United States of America, *Government Auditing Standards*, and *Title 2 U.S. Code of Federal Regulations part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), through our opinion on the Commonwealth's Annual Comprehensive Financial Report and through the Statewide Single Audit of Kentucky (SSWAK). Our SSWAK report is contained in two volumes as noted below.

SSWAK - Volume I contains financial reporting information based on our audit of the Annual Comprehensive Financial Report. It includes the APA's opinion on the Schedule of Expenditures of Federal Awards (SEFA) in relation to the financial statements, the *Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards*, and financial statement findings related to internal control and compliance.

SSWAK - Volume II contains elements required under the Uniform Guidance, including the *Report on Compliance for Each Major Federal Program and Report on Internal Control over Compliance in Accordance with the Uniform Guidance*, and the Schedule of Findings and Questioned Costs.

Schedule of Findings and Questioned Costs

The Schedule of Findings and Questioned Costs consists of three sections: Summary of Auditor's Results, Financial Statement Findings, and Federal Award Findings and Questioned Costs. The Summary of Auditor's Results summarizes the type of audit reports issued and lists major programs audited. The Financial Statement Findings section is reported in SSWAK Volume I. The Federal Award Findings and Questioned Costs section, presented within this report, lists findings related to federal awards. For the Federal Award Findings, material weaknesses and material instances of noncompliance are presented first, then significant deficiencies and reportable instances of noncompliance. Management responses are presented after each Financial Statement and Federal Award Finding, if provided.

Corrective Action Plans and the Summary Schedule of Prior Audit Findings

Corrective Action Plans, prepared by management of the various agencies audited, related to audit findings reported in the Schedule of Findings and Questioned Costs for fiscal year (FY) 2021, as well as the Summary Schedule of Prior Audit Findings, are included in the data collection package submitted to the Federal Audit Clearinghouse and can be found at <https://harvester.census.gov/facweb/>.

**COMMONWEALTH OF KENTUCKY
INTRODUCTION
FOR THE YEAR ENDED JUNE 30, 2021**

Audit Approach

The scope of the FY 2021 SSWAK included:

Financial

- An audit of the basic financial statements and combining financial statements;
- Limited procedures applied to required supplementary information;
- An audit of the SEFA sufficient to give an opinion in relation to the basic financial statements;
- Tests of compliance with certain provisions of laws, regulations, contracts, and grants, and tests of internal controls, where applicable; and
- Findings related to internal controls over financial reporting when noted during the audit of the Annual Comprehensive Financial Report.

Federal Awards

- An audit of compliance with the compliance requirements described in the *U.S. Office of Management and Budget (OMB) Compliance Supplement* that could have a direct and material effect on each major federal program;
- Tests of internal control over compliance in accordance with the Uniform Guidance; and
- Findings related to internal controls over compliance and on compliance when noted during the audit of major federal programs.

Component Units

The Single Audit Act Amendments permit the single audit to cover the entire operations of the entity or include a series of audits covering departments, agencies, or other organizational units expending federal awards. Component units are included in the audit of the basic financial statements but are not included in the Commonwealth's audit of major federal programs. Component units expending more than \$750,000 in federal awards obtain separate audits in accordance with the Uniform Guidance. Thus, component units are not included in the report on compliance and internal control and corresponding Schedule of Findings and Questioned Costs.

**REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM
AND REPORT ON INTERNAL CONTROL OVER COMPLIANCE IN
ACCORDANCE WITH THE UNIFORM GUIDANCE**



MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

Report on Compliance For Each Major Federal Program and
Report on Internal Control Over Compliance In Accordance With the Uniform Guidance

Independent Auditor's Report

Honorable Andy Beshear, Governor
Cabinet Secretaries and Agency Heads
Members of the Commonwealth of Kentucky General Assembly

Report on Compliance for Each Major Federal Program

We have audited the Commonwealth of Kentucky's (Commonwealth) compliance with the types of compliance requirements described in the *U.S. Office of Management and Budget (OMB) Compliance Supplement* that could have a direct and material effect on each of the Commonwealth's major federal programs for the year ended June 30, 2021. The Commonwealth's major federal programs are identified in the Summary of Auditor's Results section of the accompanying Schedule of Findings and Questioned Costs.

The Commonwealth's basic financial statements include the operations of certain agencies and component units, which expended federal awards that are not included in the Commonwealth's Schedule of Expenditures of Federal Awards for the year ended June 30, 2021. Our audit, described below, did not include the operations of these agencies and component units since they were audited by other auditors.

Management's Responsibility

Management is responsible for compliance with the requirements of federal statutes, regulations, and the terms and conditions of its federal awards applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of the Commonwealth's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 *U.S. Code of Federal Regulations (CFR) part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred.

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Report on Compliance For Each Major Federal Program and
Report on Internal Control Over Compliance In Accordance With the Uniform Guidance
(Continued)

An audit includes examining, on a test basis, evidence about the Commonwealth's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our qualified and unmodified opinions on compliance for major federal programs. However, our audit does not provide a legal determination of the Commonwealth's compliance.

Basis for Qualified Opinion on Assistance Listing Numbers (ALN) 10.565, 10.568, 10.569, and 17.225

As described in the accompanying Schedule of Findings and Questioned Costs, the Commonwealth did not comply with requirements regarding Cash Management and Special Tests and Provisions for ALN 10.565, 10.568, and 10.569 Food Distribution Cluster as described in Findings 2021-020 and 2021-021. The Commonwealth also did not comply with requirements regarding Eligibility and Special Tests and Provisions for ALN 17.225 Unemployment Insurance as described in Findings 2021-022, 2021-023, 2021-024, and 2021-025. Compliance with such requirements is necessary, in our opinion, for the Commonwealth to comply with the requirements applicable to those programs.

Qualified Opinion on ALN 10.565, 10.568, 10.569, and 17.225

In our opinion, except for the noncompliances described in the Basis for Qualified Opinion paragraph, the Commonwealth complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on ALN 10.565, 10.568, and 10.569 Food Distribution Cluster, and ALN 17.225 Unemployment Insurance for the year ended June 30, 2021.

Report on Compliance For Each Major Federal Program and
Report on Internal Control Over Compliance In Accordance With the Uniform Guidance
(Continued)

Unmodified Opinion on Each of the Other Major Federal Programs

In our opinion, the Commonwealth complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its other major federal programs identified in the Summary of Auditor's Results section of the accompanying Schedule of Findings and Questioned Costs for the year ended June 30, 2021.

Other Matters

The results of our auditing procedures disclosed other instances of noncompliance which are required to be reported in accordance with the Uniform Guidance and which are described in the accompanying schedule of findings and questioned costs as Finding 2021-046. Our opinion on each major federal program is not modified with respect to this matter.

The Commonwealth's response to the noncompliance findings identified in our audit is described in the accompanying Schedule of Findings and Questioned Costs. The Commonwealth's response was not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

Report on Internal Control Over Compliance

Management of the Commonwealth is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the Commonwealth's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Commonwealth's internal control over compliance.

Our consideration of internal control over compliance was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies, and therefore, material weaknesses or significant deficiencies may exist that have not been identified. However, as discussed below, we identified certain deficiencies in internal control over compliance that we consider to be material weaknesses and significant deficiencies.

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 with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies

Report on Compliance For Each Major Federal Program and
Report on Internal Control Over Compliance In Accordance With the Uniform Guidance
(Continued)

in internal control over compliance described in the accompanying Schedule of Findings and Questioned Costs as Findings 2021-020, 2021-021, 2021-022, 2021-023, 2021-024, and 2021-025 to be material weaknesses.

A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance. We consider the deficiencies in internal control over compliance described in the accompanying Schedule of Findings and Questioned Costs as Findings 2021-026 through 2021-049 to be significant deficiencies.

The Commonwealth's responses to the noncompliance findings and internal control over compliance findings identified in our audit are described in the accompanying Schedule of Findings and Questioned Costs. The Commonwealth's responses were not subjected to the auditing procedures applied in the audit of compliance, and accordingly, we express no opinion on the responses.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Respectfully Submitted,



Farrah Petter, CPA
Assistant Auditor of Public Accounts

June 7, 2022

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

**COMMONWEALTH OF KENTUCKY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2021**

SECTION 1 – SUMMARY OF AUDITOR’S RESULTS

Financial Statements

Financial Statements: We issued unmodified opinions on the governmental activities, business-type activities, aggregate discretely presented component units, each major fund, and aggregate remaining fund information of the Commonwealth as of and for the year ended June 30, 2021.

Internal Control Over Financial Reporting: Our consideration of the Commonwealth’s internal control over financial reporting disclosed eight material weaknesses and 11 significant deficiencies.

Compliance: In relation to the audit of the basic financial statements of the Commonwealth, the results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

Federal Awards

Compliance: We issued a qualified opinion on the Commonwealth’s compliance for the following major federal programs: ALN 10.565, 10.568, 10.569, and 17.225. An unmodified opinion was issued for the Commonwealth’s compliance for all other major federal programs. The results of our auditing procedures resulted in six findings that disclosed material noncompliances. Additionally, our procedures identified one other instance of noncompliance required to be reported under Uniform Guidance.

Internal Control Over Compliance: Our consideration of the Commonwealth’s internal control over compliance disclosed six material weaknesses and 24 significant deficiencies.

SECTION 1 – SUMMARY OF AUDITOR’S RESULTS (CONTINUED)**Identification of Major Programs**

Type B Major Programs are highlighted in gray.

CFDA	Cluster or Program Title
10.542	Pandemic EBT Food Benefits
10.551, 10.561	SNAP Cluster
10.565, 10.568, 10.569	Food Distribution Cluster
15.605, 15.626, 15.611	Fish and Wildlife Cluster
17.225	Unemployment Insurance
20.509	Formula Grants for Rural Areas and Tribal Transit Program
20.934	Nationally Significant Freight and Highway Projects
21.019	Coronavirus Relief Fund
21.023	Emergency Rental Assistance
84.027, 84.173	Special Education Cluster
84.126	Rehabilitation Services Vocational Rehabilitation Grants to States
84.424	Student Support and Academic Enrichment Program
84.425	Education Stabilization Fund
93.323	Epidemiology and Laboratory Capacity for Infectious Diseases (ELC)
93.563	Child Support Enforcement
93.569	Community Services Block Grant
93.659	Adoption Assistance
93.959	Block Grants for Prevention and Treatment of Substance Abuse
93.775, 93.777, 93.778	Medicaid Cluster
96.001	Disability Insurance Cluster
97.050	Presidential Declared Disaster Assistance to Individuals and Households - Other Needs

SECTION 1 – SUMMARY OF AUDITOR’S RESULTS (CONTINUED)

Dollar Threshold Used To Distinguish Between Type A and Type B Programs

The maximum dollar threshold used to distinguish between Type A and Type B programs was \$33,968,548.

Auditee Risk

The Commonwealth did not qualify as a low-risk auditee.

SECTION 2 – FINANCIAL STATEMENT FINDINGS

See the Report of the Statewide Single Audit of the Commonwealth of Kentucky Volume I for Financial Statement Findings 2021-001 through 2021-019.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Material Weaknesses Relating to Internal Controls and/or Noncompliances

FINDING 2021-020: The Kentucky Department Of Agriculture Failed To Adequately Document And Perform Required Annual Inventories

State Agency: Kentucky Department of Agriculture

Federal Program: ALN 10.565 – Commodity Supplemental Food Program

ALN 10.568 – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – CARES – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – FFCRA – Emergency Food Assistance Program (Administrative Costs)

ALN 10.569 – Emergency Food Assistance Program (Food Commodities)

ALN 10.569 – CARES – Emergency Food Assistance Program (Food Commodities)

ALN 10.569 – FFCRA – Emergency Food Assistance Program (Food Commodities)

Federal Award Number and Year: Various 2020-2021

Federal Agency: U.S. Department of Agriculture

Pass-Through: Not Applicable

Compliance Area: Special Tests and Provisions

Questioned Costs: \$0

The Commodity Supplemental Food Program (CSFP) and The Emergency Food Assistance Program (TEFAP) provide food commodities through the United States Department of Agriculture (USDA) for the distribution by subrecipient food banks to qualifying low-income households and individuals. The Kentucky Department of Agriculture (KDA) failed to maintain and provide sufficient documentation substantiating a complete and thorough annual physical inventory had been conducted at the two storage facilities KDA observed during fiscal year 2021. Additionally, KDA failed to reconcile the observed annual inventory with storage and inventory records maintained on file with KDA. As a result, KDA was noncompliant with federal regulations 7 CFR 247.28 and 7 CFR 250.12.

KDA did not have sufficient written policies and procedures to ensure the annual physical inventories were completed in a consistent manner, well documented, and reconciled to inventory records in accordance with federal regulations. Inventory procedures had been informally communicated and passed down to staff, and as a result the annual inventory methodology and objectives were not clearly established.

While KDA acknowledges completing a monthly book inventory reconciliation based upon subrecipient reports, the physical annual inventory serves as the standard for validating food commodities on hand are complete and accurate while assisting to identify any potential loss due to fraud, waste, abuse, or error. Failure to complete a physical inventory and reconciliation could lead to improper distribution and loss of USDA food commodities. KDA is required to report donated food losses and ensure that restitution is made for such losses when appropriate.

7 CFR 247.28 Storage and inventory of commodities, states:

- (b) What are the requirements for inventory of commodities? A physical inventory of all USDA commodities must be conducted annually at each storage and distribution site where these commodities are stored. Results of the physical inventory must be reconciled with inventory records and maintained on file by the State or local agency.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2021-020: The Kentucky Department Of Agriculture Failed To Adequately Document And Perform Required Annual Inventories (Continued)**

7 CFR 250.12 Storage and inventory management at the distributing agency level, states:

- (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.

Recommendation

We recommend KDA implement adequate internal controls and properly manage inventory control activities to ensure compliance with inventory requirements in accordance with federal regulations. KDA should establish written policies and procedures to ensure annual physical inventory procedures are consistently applied, well documented, and meet the objectives of federal regulations. KDA should consult with USDA for additional guidance when necessary.

Management's Response and Planned Corrective Action

KDA regularly monitors Food Bank inventories and conducts required annual physical inventories in compliance with federal regulations. We acknowledge that those inventories and records were not always consistently documented, especially with disruptions caused by the COVID-19 pandemic. In response to this finding, KDA will follow the guidance contained in USDA Food Distribution National Policy Memorandum FD-058, and will ensure that annual physical inventory procedures are consistently applied and well documented.

KDA has also established a standard physical inventory form, attached, that will be used for all future Food Bank annual inventories. The form includes reconciliation of the physical inventory to book records and meets federal guidelines. This form, along with records of receipts, shipments, and losses, will be retained in accordance with federal and state records retention guidelines.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2021-021: The Kentucky Department Of Agriculture Failed To Comply With Federal Cash Management Requirements**

State Agency: Kentucky Department of Agriculture

Federal Program: ALN 10.565 – Commodity Supplemental Food Program

ALN 10.568 – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – CARES – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – FFCRA – Emergency Food Assistance Program (Administrative Costs)

ALN 10.569 – Emergency Food Assistance Program (Food Commodities)

ALN 10.569 – CARES – Emergency Food Assistance Program (Food Commodities)

ALN 10.569 – FFCRA – Emergency Food Assistance Program (Food Commodities)

Federal Award Number and Year: Various 2020-2021

Federal Agency: U.S. Department of Agriculture

Pass-Through: Not Applicable

Compliance Area: Cash Management

Questioned Costs: \$0

The Food and Nutrition Services (FNS) of the United States Department of Agriculture (USDA) entered into agreements with the Kentucky Department of Agriculture (KDA) to support the Commodity Supplemental Food Program (CSFP) and The Emergency Food Assistance Program (TEFAP), which comprise the Food Distribution Cluster. The agreements allow for the distribution of USDA foods and provide funding for the administrative costs incurred in operating the programs. KDA failed to comply with federal cash management requirements for the state to minimize the time between the drawdown and subsequent disbursement of funds for federal program purposes in accordance with 31 CFR 205.33.

Inquiry with KDA management and analysis of financial activity pertaining to the Food Distribution Cluster programs revealed KDA generally completes a cash drawdown of federal funds closer to when funds are made available, operating off of any excess funds until more funding is made available and necessary. Additionally, KDA indicated that it could not directly identify which payments to subrecipients supported and reconciled to the amount of each federal drawdown.

KDA failed to implement adequate internal controls to ensure the drawdown of federal funds was in compliance with federal regulations. While a written procedure existed, it did not provide adequate detail to ensure compliance with federal cash management requirements. Additionally, available funding for the Food Distribution Cluster programs is not immediately known or communicated to KDA until later in a federal fiscal year. This complicates the administration and planning of program related activity, including determining the distribution and subsequent drawdown of federal funds.

KDA was noncompliant with federal cash management requirements as no mechanism was in place to ensure that drawdowns were for the actual and immediate cash need for federal program purposes. Any excess federal funding receipts not needed to reimburse allowable costs would be due back to the federal government. While the current process of cash management at KDA makes this determination difficult, compounded by program activities crossing fiscal years, it does appear that subrecipients had sufficient

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2021-021: The Kentucky Department Of Agriculture Failed To Comply With Federal Cash Management Requirements (Continued)**

costs that were supported and eligible for reimbursement in excess of what was available for federal reimbursement.

31 CFR 205.33 How are funds transfers processed?, states:

- (a) A state must minimize the time between the drawdown of Federal funds from the Federal Government and their disbursement for Federal program purposes. A Federal program agency must limit a funds transfer to a state to the minimum amounts needed by the State and must time the disbursement to be in accord with the actual, immediate cash requirements of the State in carrying out a Federal assistance program or project. The timing and amount of funds transfers must be as close as is administratively feasible to a State's actual cash outlay for direct program costs and the proportionate share of any allowable indirect costs. States should exercise sound cash management in funds transfers to sub-grantees in accordance with OMB Circular A-102 (For availability, see 5 CFR 1310.3.).
- (b) Neither a State nor the Federal Government will incur an interest liability under this part on the transfer of funds for a Federal assistance program subject to this subpart B.

2 CFR 200.303 states 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).

Recommendation

We recommend KDA implement adequate internal controls and properly manage grant activities to ensure compliance with cash management and grant requirements in accordance with federal regulations. KDA should consult with USDA for additional guidance as deemed necessary.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2021-021: The Kentucky Department Of Agriculture Failed To Comply With Federal Cash Management Requirements (Continued)**

Management’s Response and Planned Corrective Action

Available federal funding for the Federal Programs listed here is not immediately known or communicated to KDA by USDA until later in a federal fiscal year. For example, funds are often made available by congressional continuing resolutions. This does complicate the administration and planning of program-related activity, including determining the distribution and subsequent drawdown of federal funds. KDA will more closely monitor and complete federal funds drawdowns so that these drawdowns occur closer to an “actual, immediate cash requirement” as stated in 31 CFR 205.33. KDA will consult with USDA and FNS for additional guidance and will include this in its written procedures. Additionally, KDA already maintains separate accounts for each grant to ensure that funds are not mixed and are used for authorized purposes only, and KDA does not at any time incur an interest liability on the transfer of these federal funds.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2021-022: The Office Of Unemployment Insurance Does Not Comply With Certain Federal And State Enterprise Policies Related To System Security**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Eligibility

Questioned Costs: \$0

This finding was reported in the 2021 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as financial statement Finding 2021-004. Management's response and planned corrective action for Finding 2021-004 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below. The structure of the Federal-State Unemployment Insurance (UI) partnership is based on federal statute; however, it is implemented through state law.

The Kentucky Labor Cabinet's Office of Unemployment Insurance (OUI) did not comply with the following Commonwealth enterprise policies related to information system security as it pertains to the Kentucky Electronic Workplace for Employment Services (KEWES) during fiscal year (FY) 2021:

- CIO-093 Risk Assessment Policy
- CIO-112 Security Planning Policy
- CIO-120 Security Assessment and Authorization Policy.

Specifically noted, OUI has not developed a system security plan (SSP) for KEWES. In addition, OUI has not assigned a Security Categorization (SC) for KEWES. Also, even though the Labor Cabinet has developed a central level plan of action and milestones (POA&M), the results of an internal security assessment conducted by COT for the Salesforce application on or about February 15, 2021 were not recorded and tracked.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2021-023: The Office Of Unemployment Insurance Did Not Prevent Fraudulent Activity Within The Kentucky Electronic Workplace For Employment Services System**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Eligibility

Questioned Costs: \$0

This finding was reported in the 2021 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as financial statement Finding 2021-005. Management's response and planned corrective action for Finding 2021-005 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below. The structure of the Federal-State Unemployment Insurance (UI) partnership is based on federal statute; however, it is implemented through state law.

During fiscal year (FY) 2021, the Labor Cabinet's Office of Unemployment Insurance (OUI) did not fully implement and consistently use fraud-based services and features to curb fraudulent activity within KEWES. Products not consistently used include data analytics software and the Early Warning System. In addition, OUI also did not take advantage of all security features made available by the federal government to assist with detecting and deterring unemployment insurance (UI) fraud. This specifically relates to the Integrity Data Hub (IDH). Also, OUI has not completed required quarterly wage cross-matches for UI, Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PUEC) claims for 2020 and 2021. Furthermore, it did not appear that OUI followed their own internally developed procedures when identifying and reporting alleged or suspected UI fraud, misfeasance, malfeasance, nonfeasance, waste and program abuse, mismanagement, misconduct, and other criminal activities, which is required by the DOL Office of Inspector General (OIG) per UIPL 29-05 and UIPL 04-17.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2021-024: The Office Of Unemployment Insurance Did Not Have Policies Or Procedures In Place Governing Changes To The Kentucky Electronic Workplace For Employment Services System**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Eligibility

Questioned Costs: \$0

This finding was reported in the 2021 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as financial statement Finding 2021-007. Management's response and planned corrective action for Finding 2021-007 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below. The structure of the Federal-State Unemployment Insurance (UI) partnership is based on federal statute; however, it is implemented through state law.

The Kentucky Labor Cabinet's Office of Unemployment Insurance (OUI) did not have adequate change management policies and controls in place over the Kentucky Electronic Workplace for Employment Services (KEWES) application during fiscal year (FY) 2021. Due to a reorganization that occurred on August 16, 2020, OUI became part of the Labor Cabinet (Labor). Labor staff confirmed that at the time of the reorganization, the Education Workforce Development Cabinet (EWDC) procedures were no longer applicable. The change management process used during FY 2021 was primarily communication and coordination that was handled jointly between the information technology staff and Executive Leadership in both cabinets. The informal process resulted in Labor drafting the System Modification and Enhancement Process (SMEP), which was not in place during FY 2021. As a result, testing could not be conducted to ensure changes made to KEWES were properly authorized and securely implemented.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Material Weaknesses Relating to Internal Controls and/or Noncompliances

FINDING 2021-025: The Office Of Unemployment Insurance Inappropriately Suspended Collections As Part Of The Treasury Offset Program

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Agency: U.S. Department of Labor

Federal Award Number and Year: Various 2020-2021

Pass-Through: Not Applicable

Compliance Area: Special Tests and Provisions

Questioned Costs: \$0

This is a repeat finding as reported in the fiscal year 2020 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2020-031.

States are required to utilize the Treasury Offset Program (TOP) to recover covered unemployment compensation debts that remain uncollected one year after the debt was determined to be due. Covered unemployment compensation debts include benefit overpayments due to fraud and benefit overpayments due to a claimant's failure to report earnings. Kentucky has an agreement with the U.S. Department of the Treasury to collect these overpayments. According to the U.S. Department of the Treasury, in federal fiscal year 2021, the TOP recovered \$294.8 million for the states that participated in the unemployment insurance program.

The Office of Unemployment Insurance (OUI) suspended TOP collections on March 30, 2020, and as of the end of the fiscal year, June 30, 2021, had not resumed them. OUI indicated that the TOP restarted in January 2022.

According to TOP Technical Bulletin Number 2020:8 dated March 30, 2020, federal and state agencies who had the legal authority to suspend TOP collections due to COVID-19 were permitted to do so. The agency was required to send correspondence to the TOP on state letterhead from the Chief Financial Officer, Comptroller, head of agency, or Unemployment Insurance Director requesting the suspension of debt collection activity, including the requested date of suspension and projected date for re-starting collections.

In an April 13, 2020 email response to the Office of Unemployment Insurance's (OUI) April 9, 2020 request to suspend the TOP, the U.S. Department of Labor's Employment & Training Administration (ETA) stated that the "ETA is exploring whether there are any allowable flexibilities in this area, and will provide additional information at a later date." The ETA provided this additional information May 4, 2020 in Unemployment Insurance Program Letter (UIPL) 13-20, change 1, stating that TOP collections could not be suspended for the states that participated in the unemployment insurance program.

Participation in the TOP is a key internal control in ensuring compliance with federal law and program integrity. Therefore, this noncompliance, stemming from management's decision to suspend TOP collections, is also considered an internal control weakness.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Material Weaknesses Relating to Internal Controls and/or Noncompliances

FINDING 2021-025: The Office Of Unemployment Insurance Inappropriately Suspended Collections As Part Of The Treasury Offset Program (Continued)

Per 42 USCA 503(m):

In the case of a covered unemployment compensation debt (as defined under section 6402(f)(4) of the Internal Revenue Code of 1986) that remains uncollected as of the date that is 1 year after the debt was finally determined to be due and collected, the State to which such debt is owed shall take action to recover such debt under section 6402(f) of the Internal Revenue Code of 1986.

Per Unemployment Insurance Program Letter (UIPL) No. 13-20, Change 1 – Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA) – Reporting Instructions, Modification to Emergency Administrative Grants Application Requirement, and Questions and Answers, issued May 4, 2020:

Question: May the state suspend recovery under the Treasury Offset Program (TOP) temporarily to enable reallocation of UI resources?

Answer: No. As a condition of receiving federal funds under Title III, SSA, to administer the state's UI program, Section 303(m), SSA (42 U.S.C. section 503 (m)), the state must use TOP to recover certain covered unemployment compensation (UC) debts that remain uncollected as of the date that is one year after the debt was finally determined to be due.

Question: Is the state permitted to temporarily suspend its collection efforts related to prior overpayments?

Answer: This depends on whether a temporary suspension of collection efforts is permissible under state UC law. However, the state must continue to process benefit offsets and TOP collections.

Per UIPL No. 23-20, Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs, issued May 11, 2020:

Overpayment recovery activities are an essential function of the Benefit Payment Control (BPC) unit or designated staff. The following overpayment recovery activities are mandatory:

- Benefit Offsets
- Treasury Offset Program (TOP)
- Cross Program Offset Recovery Agreement
- Interstate Reciprocal Offset Recovery Arrangement.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2021-025: The Office Of Unemployment Insurance Inappropriately Suspended Collections As Part Of The Treasury Offset Program (Continued)**

2 CFR section 200.303 indicates that the non-Federal entity must:

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

Recommendation

We recommend the Labor Cabinet maintain TOP collections in accordance with federal guidance. The Labor Cabinet should ensure there are effective internal controls over compliance with federal regulations.

Management’s Response and Planned Corrective Action

The Labor Cabinet has received the above finding concerning the Treasury Offset Program. The Office of Unemployment Insurance worked with the U.S. Department of Treasury and the U.S. Department of Labor to ensure all requirements were met prior to resuming the Treasury Offset Program. The Commonwealth Office of Technology was included in testing to confirm the process was accurate and met U.S. Department of Treasury guidelines. Collection notices were sent to all delinquent accounts in November 2021 and the program began on January 30, 2022 after the required waiting period had passed.

Further, the State Auditor and the Office of the State Auditor are in violation of both state law and applicable auditing standards. See AICPA Code, 1.110.010.12, Conflicts of Interest for Members in Public Practice, Disclosure of a Conflict of Interest and Consent; AICPA Code, 0.300.050, Objectivity and Independence, .01-.02; GAO-21-3680, Government Auditing Standards, 3.11, Objectivity; GAO 21-3680, Government Auditing Standards, 3.15, Proper Use of Government Information, Resources, and Positions; KRS 11A.020-.030. The State Auditor is aware of, failed to disclose, and chooses to ignore this clear conflict of interest.

Auditor’s Reply

The Auditor of Public Accounts is in compliance with all applicable laws and auditing standards. The APA has safeguards in place, both statutorily and procedurally, to assure that objectivity and independence are maintained in accordance with professional auditing standards. Strong safeguards have been in place for decades at the APA to insulate the agency’s audit work from any political bias resulting from the fact that every four years, a sitting Auditor may again run for statewide office in a partisan election. These longstanding safeguards were enhanced to provide additional assurance and to mitigate the perceived conflict of interest. This information was clearly spelled out in memos addressed to the Kentucky Labor Cabinet Secretary - dated August 17, 2021 and August 30, 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-026: The Cabinet For Health And Family Services Failed To Monitor Compliance With Targeted Case Management Assessments With Managed Care Organizations

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.775 – State Medicaid Fraud Control Units

ALN 93.777 – State Survey and Certification of Health Care Providers and Suppliers Medicare

ALN 93.777 – CARES – State Survey and Certification of Health Care Providers and Suppliers Medicare

ALN 93.778 – Medical Assistance Program

ALN 93.778 – FFCRA – Medical Assistance Program

Federal Award Number and Year: Various 2020-2021

Federal Agency: U.S Department of Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Activities Allowed or Unallowed

Questioned Costs: \$0

This is a repeat finding of 2020-034 as reported in the 2020 Statewide Single Audit of Kentucky (SSWAK) Volume II.

The audit of the fiscal year (FY) 2021 Medical Assistance Program (Medicaid) (ALN 93.778), administered by the Cabinet for Health and Family Services (CHFS), tested internal controls and compliance for targeted case management services to ensure all required documentation was filed and required assessments were performed. Targeted case management services must be provided to an eligible Medicaid recipient and must include comprehensive and periodic assessments of the individual's needs, development of a care plan, referrals to help the individual obtain services, and monitoring to ensure the care plan is implemented and services meet the individual's needs.

Providers are responsible for performing assessments. CHFS did not have internal controls in place to monitor, file or obtain assessments performed by the providers covered by the Managed Care Organizations (MCO) for eight months of FY 2021. However, CHFS implemented a monitoring process on March 1, 2021. CHFS has communicated with the United States Department of Health and Human Services regarding this new process.

Additionally, the codes used in the Medicaid Management Information System (MMIS) for targeted case management children and adults are the same, even though children and adults are often billed at different rates.

CHFS does not file comprehensive assessments for all targeted case management cases. CHFS was in the process of developing internal control procedures for monitoring the targeted case management requirements for members covered by MCOs during the first eight months of FY 2021 to ensure compliance with federal and state regulations; however, these procedures were not in place until March 1, 2021.

MMIS does not have programming to distinguish between adult and child targeted case management claims.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-026: The Cabinet For Health And Family Services Failed To Monitor Compliance With Targeted Case Management Assessments With Managed Care Organizations (Continued)

Failure to ensure sufficient targeted case management monitoring procedures are in place and working effectively leaves federal funds at risk of fraud, waste, or abuse, and could lead to substantial federal noncompliance. By not documenting evidence that the assessments were performed, CHFS may be paying claims for a targeted case management service on a member that is not necessary or allowable. Internal controls or system edits were not sufficient to detect the improper procedure codes or claims paid on inactive cases.

Claims with an improper procedure codes and inadequate system edits could result in billing errors being processed for targeted case management services.

42 CFR 440.169 Case Management Services, states:

- (d) The assistance that case managers provide in assisting eligible individuals obtain services includes—
- (1) Comprehensive assessment and periodic reassessment of individual needs, to determine the need for any medical, educational, social, or other services...
 - (2) Development (and periodic revision) of a specific care plan based on the information collected through the assessment...
 - (3) Referral and related activities (such as scheduling appointments for the individual) to help the eligible individual obtain needed services, including activities that help link the individual with medical, social, and educational providers or other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan.
 - (4) Monitoring and follow-up activities, including activities and contacts that are necessary to ensure that the care plan is effectively implemented and adequately addresses the needs of the eligible individual and which may be with the individual, family members, service providers, or other entities or individuals and conducted as frequently as necessary, and including at least one annual monitoring..."

To ensure federal compliance with the Targeted Case Management Services, the Managed Care Organization contract, Appendix H. Covered Services, states:

VI. Current Medicaid Program's Services and Extent of Coverage

The Contractor shall provide covered services as required by statutes or administrative regulations. The current location of Covered Services can be found in the following regulations:

- Targeted Case Management Services (907 KAR 15:005, 907 KAR 15:040 - 15:065)

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-026: The Cabinet For Health And Family Services Failed To Monitor Compliance With Targeted Case Management Assessments With Managed Care Organizations (Continued)

907 KAR 15:040; 907 KAR 15:050; 907 KAR 15:060 Section 6 Covered Services, states:

(1) Targeted case management services covered under this administrative regulation shall:

(a) Be services furnished to assist a recipient in gaining access to needed medical, social, educational, or other services; and

(b) Include:

1. A comprehensive assessment and periodic reassessments of the recipients needs to determine the need for any medical, educational, social, or other services;
2. The development and periodic revision of a specific care plan for the recipient;
3. A referral or related activities to help the recipient obtain needed services;
4. Monitoring or follow-up activities; ...

(2)(b) A face-to-face assessment or reassessment shall be completed:

1. At least annually; or
2. More often if needed based on changes in the recipient's condition.

(5)(b) Monitoring shall:

1. Occur at least once every three (3) months;
2. Be face-to-face; and
3. Determine if:
 - a. The services are being furnished in accordance with the recipient's care plan;
 - b. The services in the recipient's care plan are adequate to meet the recipient's needs; and
 - c. Changes in the needs or status of the recipient are reflected in the care plan.

907 KAR 15:040; 907 KAR 15:050; 907 KAR 15:060 Section 9 Records Maintenance, Documentation, Protection, and Security, states:

(1) A targeted case management services provider shall maintain a current case record for each recipient...

(3)(b) Be:

1. Maintained in an organized and secure central file;
2. Furnished upon request:
 - a. To the Cabinet for Health and Family Services; or
 - b. For an enrollee, to the managed care organization in which the recipient is enrolled or has been enrolled in the past if applicable;

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-026: The Cabinet For Health And Family Services Failed To Monitor Compliance With Targeted Case Management Assessments With Managed Care Organizations (Continued)

3. Made available for inspection and copying by:
 - a. Cabinet for Health and Family Services' personnel; or
 - b. Personnel of the managed care organization in which the recipient is enrolled if applicable;
4. Readily accessible; and
5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient.

2 CFR § 200.303 indicates that the internal controls required to be established by a non-federal entity receiving federal awards should be in compliance with the guidance in “Standards for Internal Control in the Federal Government,” issued by the Comptroller General of the United States (Green Book) or the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). CHFS did not have monitoring procedures in place with the MCO to ensure compliance of the covered services, including assessments, with Targeted Case Management during the first eight months of FY 2021.

Good internal controls dictate that only accurate coding for targeted case management claims should be processed.

Recommendation

We recommend CHFS:

- Continue implementing the internal control procedures for monitoring the targeted case management requirements for members covered by the Managed Care Organizations to ensure compliance with the CFR and KARs.
- Consider updating MMIS to accurately code claimants to ensure appropriate billings.

Management's Response and Planned Corrective Action

Recommendation #1 Response:

Management's Response and Planned Corrective Action:

DMS acknowledges that a completed monitoring process for Targeted Case Management (TCM) Monitoring was not fully in place until March 2021. Since March 2021, DMS has been monitoring TCM services as outlined in regulation and have continued to hone monitoring process to be as effective and thorough as possible.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-026: The Cabinet For Health And Family Services Failed To Monitor Compliance With Targeted Case Management Assessments With Managed Care Organizations (Continued)

Management’s Response and Planned Corrective Action (Continued)

Since being implemented, monitoring has resulted in findings for providers, and DMS has initiated the recoupment process when services are not in compliance with the regulatory requirements. DMS currently conducts a first line audit at the claim level, and if there is a finding based on the initial claim review, MCOs are asked to complete a more comprehensive audit of the TCM provider with an extended lookback period with a larger sample of records. MCOs are reporting significant findings to DMS based on their reviews and also initiating recoupments. MCOs are also looking at ways to further educate providers. DMS is making significant strides in oversight for these services.

Corrective Action:

DMS Audits and Compliance Branch will continue our required monthly claim level audits, initiating recoupments when appropriate. DMS will continue sending referrals to the MCOs for an expansion of TCM audits when there are findings from our review of the initial claim.

Outlined below are the updates DMS made to the TCM Audit Tool to capture information not previously captured. The new tool captures the individual eligibility requirements for the different regulations (907 KAR 15:040, 15:050, and 15:060) to identify which regulation the member falls under to ensure DMS is auditing based off the correct regulation.

- *The new tool captures the case management credentialing requirements as laid out in each of the regulations.*
- *The new tool captures the monitoring and the monthly contacts requirement that are required by the regulations. DMS has always checked for a monitoring contact as the regulation requires one monitoring contact every three (3) months. The reimbursement regulations require four (4) or five (5) monthly contacts depending on the regulation the member falls under. DMS verified with the CHFS Department for Behavioral Health, Developmental and Intellectual Disabilities (BHDID) that the monitoring contact should address if there are any changes to the POC that need to be made whereas the other monthly contacts are more of a “check in” contact to see if the member needs any assistance. The monitoring contact can be one of the four (4) or five (5) monthly contacts; however, we do request the most recent monitoring contact to ensure it falls within every three (3) months to meet the regulatory requirement.*
- *The new tool has notated where Covid protocol has allowed for telehealth instead of face-to-face visits.*

DMS will continue to ensure quality monitoring is conducted by internal staff and by the MCOs.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-026: The Cabinet For Health And Family Services Failed To Monitor Compliance With Targeted Case Management Assessments With Managed Care Organizations (Continued)

Management's Response and Planned Corrective Action (Continued)

Recommendation #2 Response:

Management's Response and Planned Corrective Action

- *DMS implemented Change Order #33341 in MMIS to add population modifiers for child or adult when billing T2023 for Title V Claims for the Title V Provider Type with an effective date of 1/1/2022.*

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-027: The Cabinet For Health And Family Services Improperly Approved Medicaid Benefits For A Non-Citizen And Did Not Maintain Adequate Documentation For Non-Citizens

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.775 – State Medicaid Fraud Control Units

ALN 93.777 – State Survey and Certification of Health Care Providers and Suppliers Medicare

ALN 93.777 – CARES – State Survey and Certification of Health Care Providers and Suppliers Medicare

ALN 93.778 – Medical Assistance Program

ALN 93.778 – FFCRA – Medical Assistance Program

Federal Award Number and Year: Various 2020-2021

Federal Agency: U.S. Department of Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Eligibility

Questioned Costs: \$7,398

During the fiscal year (FY) 2021 Medical Assistance Program (Medicaid) audit, testing identified cases where non-citizens were inappropriately approved to receive Medicaid benefits. Medicaid eligibility determinations are made for different categories of individuals, including United States (US) citizens and qualified non-citizens (aliens). Per 8 USCA 1613, qualified aliens entering the United States on or after August 22, 1996, are not eligible for Medicaid for a period of five years, unless the alien is exempt. To comply with the five-year limitation, states maintain documentation verifying citizenship or immigration status, including adequately maintaining and documenting reliable electronic data on individuals. All non-citizens who otherwise meet the Medicaid eligibility requirements are eligible for treatment of an emergency medical condition under Medicaid, regardless of immigration status or date of entry.

A sample of 40 cases were reviewed and the following exceptions identified:

- One individual did not meet the five-year limitation requirement and was erroneously approved, resulting in questioned costs of \$7,398.
- Two individuals did not have a date of entry included in their file.
- One individual was approved for treatment of an emergency medical condition but did not have documentation in their file.

The reasons for the errors in the cases above were:

- A case worker used the “manual verification” process to override the information returned from a reliable data source, which indicated the individual was not a refugee, and therefore subject to the five-year limitation.
- Internal controls did not ensure all the necessary information was entered into the case record prior to the case being approved.
- According to CHFS, when the individual’s case was later removed, the individual’s records were also removed from the file, and therefore it could not be verified that an emergency condition occurred.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-027: The Cabinet For Health And Family Services Improperly Approved Medicaid Benefits For A Non-Citizen And Did Not Maintain Adequate Documentation For Non-Citizens (Continued)

Internal controls were not functioning to ensure compliance with eligibility requirements in accordance with federal laws and regulations. This resulted in one non-citizen being incorrectly classified as a refugee and receiving Medicaid benefits for which they were not qualified, totaling \$7,398 in questioned costs in capitation payments to a managed care organization (MCO) in state FY 2021.

In addition, when entrance into the United States is not documented in the file, it cannot be verified if non-citizens have been in the US for at least 5 years and thus would be eligible for benefits. However, one of the non-citizens was identified as a child and thus exempt from the five-year rule.

Further, one instance was identified where it could not be determined if the correct eligibility determination was made due to the lack of supporting documentation. Proper classifications and documentation of background information of non-citizens are imperative, as costs associated with improper determinations could lead to questioned costs.

8 USCA 1613 Five-year limited eligibility of qualified aliens for Federal means-tested public benefit, states, in part:

(a) In general

Notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d) of this section, an alien who is a qualified alien (as defined in section 1641 of this title) and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

42 CFR 435.956(a) Verification of Other Non-Financial Information, states, in part:

(2) The agency must-

(i) Verify immigration status through the electronic service established in accordance with § 435.949, or alternative mechanism authorized in accordance with § 435.945(k);

(ii) Promptly attempt to resolve any inconsistencies, including typographical or other clerical errors, between information provided by the individual and information from an electronic data source, and resubmit corrected information through such electronic service or alternative mechanism.

(4)

(i) The agency must maintain a record of having verified citizenship or immigration status for each individual, in a case record or electronic database in accordance with the State's record retention policies in accordance with § 431.17(c) of this chapter.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-027: The Cabinet For Health And Family Services Improperly Approved Medicaid Benefits For A Non-Citizen And Did Not Maintain Adequate Documentation For Non-Citizens (Continued)**

2 CFR § 200.303 Internal Controls, states, in part, that 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).

Recommendation

We recommend CHFS review internal controls over compliance with non-citizen eligibility. In addition, CHFS should consider providing additional staff training related to non-citizen eligibility to ensure Medicaid is executed in the most effective and efficient manner for providing services to eligible beneficiaries.

Management’s Response and Planned Corrective Action

- *The Medical Support and Benefits Branch (MSBB) will review non-citizen policy with the Medicaid Public Program Assistance Specialists (PAPS):*
 - *This will allow them to better answer questions regarding if someone meets Eligible Immigrant status; and*
 - *This will also allow them to ensure that Quality Assurance (QA) reviews are correctly exploring non-citizen information and system entries.*
- *MSBB will create training documentation (tip sheets, Family Support Memo (FSM), User Guides, etc.) for field staff explaining non-citizen policy, correct system entry, and the rare situations in which it is appropriate to use the manual verification process to override immigrant information returned from a reliable data source. Immigration documentation required for that manual verification process to be completed will also be addressed in the training documentation.*

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-028: The Cabinet For Health And Family Services Did Not Evaluate The Managed Care Organizations' Service Organization Control Reports And Ensure Corrective Action Takes Place On Reported Deficiencies**

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.775 – State Medicaid Fraud Control Units

ALN 93.777 – State Survey and Certification of Health Care Providers and Suppliers Medicare

ALN 93.777 – CARES – State Survey and Certification of Health Care Providers and Suppliers Medicare

ALN 93.778 – Medical Assistance Program

ALN 93.778 – FFCRA – Medical Assistance Program

Federal Award Number and Year: Various 2020-2021

Federal Agency: U.S. Department of Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Special Test and Provisions

Questioned Costs: \$0

This is a repeat finding of 2020-035 as reported in the 2020 Statewide Single Audit of Kentucky (SSWAK) Volume II.

During the Medical Assistance Program (Medicaid) (93.778) audit, it was noted that Cabinet for Health and Family Services (CHFS) does not evaluate the Service Organization Control (SOC) reports of the Managed Care Organizations (MCOs). SOC reports received by CHFS during fiscal year 2021 comprised reports for fiscal year 2020, which consisted of four MCOs and the delegated entities of the fifth MCO. In total, nine SOC reports were received by CHFS in fiscal year 2021.

The Medicaid program is highly dependent on extensive and complex computer systems that include controls for ensuring the proper payment of Medicaid benefits. States are required to establish a security plan for the Automated Data Processing (ADP) systems and perform periodic risk analyses to ensure proper safeguards are in place. A SOC report is an independent audit that reports controls at the service organization relevant to system security, processing integrity, confidentiality, and privacy. As part of this requirement CHFS shall obtain SOC reports from the MCOs to assess the sufficiency of the design of the organizations' controls and test their effectiveness. A SOC report may identify deficiencies that the MCO management is responsible to correct. CHFS complied with the requirement to obtain the reports from each of the MCOs; however, they did not evaluate the SOC reports after receipt. In addition, CHFS does not have procedures in place to ensure the MCOs take necessary corrective action on any issues identified in the SOC reports.

CHFS did not have procedures in place to evaluate the SOC reports after receipt and take the necessary action. CHFS is not a part of management at the MCOs; however, as a contracting agency, CHFS should be ensuring management is taking the action needed, especially on any significant deficiencies which may be identified in the SOC reports. In the absence of reviewing the SOC reports on the MCOs, indicators that something is wrong with the vendors control environment could be missed. Without monitoring and ensuring corrective action is taking place at the MCOs, CHFS is putting the Commonwealth of Kentucky and the Medicaid recipients at risk of noncompliance with ADP security.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-028: The Cabinet For Health And Family Services Did Not Evaluate The Managed Care Organizations' Service Organization Control Reports And Ensure Corrective Action Takes Place On Reported Deficiencies (Continued)**

45 CFR 95.621 ADP reviews, states:

- (f) ADP System Security Requirements and Review Process—
 - (1) ADP System Security Requirement. State agencies are responsible for the security of all ADP projects under development, and operational systems involved in the administration of HHS programs. State agencies shall determine the appropriate ADP security requirements based on recognized industry standards or standards governing security of Federal ADP systems and information processing.
 - (2) ADP Security Program. State ADP Security requirements shall include the following components:
 - (i) Determination and implementation of appropriate security requirements as specified in paragraph (f)(1) of this section.
 - (ii) Establishment of a security plan and, as appropriate, policies and procedures to address the following area of ADP security:
 - (A) Physical security of ADP resources;
 - (B) Equipment security to protect equipment from theft and unauthorized use;
 - (C) Software and data security;
 - (D) Telecommunications security;
 - (E) Personnel security;
 - (F) Contingency plans to meet critical processing needs in the event of short or long-term interruption of service;
 - (G) Emergency preparedness; and,
 - (H) Designation of an Agency ADP Security Manager.

In order to comply with the above requirement, a state may obtain a Statement for Attestation Engagements (AT) Section 801, Reporting on Controls at a Service Organization SOC report from its service organization.

Proper internal controls advise the agency to have documented policies and procedures that provide direction to staff in regard to evaluating the SOC reports and ensuring corrective action takes place, if necessary.

Recommendation

We recommend CHFS implement internal controls by documenting policies and procedures to ensure the MCO SOC reports are evaluated, and corrective action is taken if necessary.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-028: The Cabinet For Health And Family Services Did Not Evaluate The Managed Care Organizations' Service Organization Control Reports And Ensure Corrective Action Takes Place On Reported Deficiencies (Continued)**

Management's Response and Planned Corrective Action

The CHFS Department for Medicaid Services (DMS) Division of Program Quality and Outcomes (DPQO), which is charged with oversight of the six MCOs, receives the SOC reports. DPQO is creating procedures to better track and monitor the audit process, implementation of which will include the development of a SharePoint audit hub.

DPQO will take the following actions to improve monitoring of SOC reports from MCOs:

- 1. The MCO contract will be amended effective January 1, 2023 to include specific provisions related to SOC submissions and resolution of deficiencies that includes potential penalties.*
- 2. DPQO will develop and implement a SharePoint audit hub in which the monitoring process for SOC reports will be documented.*
- 3. DPQO will develop procedures that address the following:*
 - a. Ensuring receipt of the SOC reports and logging them in the SharePoint audit hub.*
 - b. Reviewing the findings of the report. If any deficiencies are noted, follow established steps to remedy a violation of the contract.*

Additionally, DMS is requesting an update from the MCOs for 2020 and 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-029: The Cabinet For Health And Family Services Did Not Maintain All Documentation Required For The Adoption Assistance Eligibility File

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.659 – Adoption Assistance

ALN 93.659 – FFCRA – Adoption Assistance

Federal Award Number and Year: 2001KYADPT-2020, 2001KYADPT-2021

Federal Agency: U.S. Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Eligibility

Questioned Costs: \$0

During the fiscal year (FY) 2021 audit of the Adoption Assistance Title IV-E Program, administered by the Cabinet for Health and Family Services (CHFS), internal controls and compliance for eligibility determinations were tested. To be eligible to receive adoption assistance benefits, participants complete a series of assessments and criteria must first be met, including the completion of a criminal registry check and a Child Abuse and Neglect (CAN) registry check. A checklist is used in each case file to ensure all procedures are complete. A sample of individuals receiving benefits during FY 2021 were reviewed and encompassed adoptions from 2004 through 2021.

During the review of 58 adoption assistance eligibility files, the following issues were noted:

- Eight files were missing form DPP-157, which is documentation of a criminal registry check, a Child Abuse and Neglect (CAN) registry check, criminal records check, Sexual Offender registry check, and National Crime Information Database (NCID) check.
- One case file did not have the adoption file checklist signed or completed.
- Eight case files did not have the adoption file checklist completed timely. The date of completion for the eight case files ranged from February 15, 2022 to February 18, 2022, and the adoptions ranged from 2003 to 2021.

CHFS did not ensure maintenance of all required documentation to support parent eligibility for receipt of benefits during FY 2021 for the Adoption Assistance Title IV-E program. Also, CHFS did not have internal controls in place to ensure timely completion of the adoption file checklist.

Without the background checks and CAN check documentation available, the eligibility status of the individual cannot be determined in compliance with federal regulations. Failure to maintain the required parent eligibility file documentation increases the risk of CHFS making payments to ineligible parents.

Not timely completing the adoption file checklist increases the risk of missing documentation which could cause subsequent issues with the adoption or compliance with federal regulations that specify maintenance of certain records.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-029: The Cabinet For Health And Family Services Did Not Maintain All Documentation Required For The Adoption Assistance Eligibility File (Continued)**

42 USC 671(a)(20) states that in order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which:

- (A) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A)1 of title 28), for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part, including procedures requiring that—
 - (i) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and
 - (ii) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and
- (B) provides that the State shall—
 - (i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-029: The Cabinet For Health And Family Services Did Not Maintain All Documentation Required For The Adoption Assistance Eligibility File (Continued)**

45 CFR 1356.30 states:

- (a) The title IV-E agency must provide documentation that criminal records checks have been conducted with respect to prospective foster and adoptive parents.
- (b) The title IV-E agency may not approve or license any prospective foster or adoptive parent, nor may the title IV-E agency claim FFP for any foster care maintenance or adoption assistance payment made on behalf of a child placed in a foster home operated under the auspices of a child placing agency or on behalf of a child placed in an adoptive home through a private adoption agency, if the title IV-E agency finds that, based on a criminal records check conducted in accordance with paragraph (a) of this section, a court of competent jurisdiction has determined that the prospective foster or adoptive parent has been convicted of a felony involving:
 - (1) Child abuse or neglect;
 - (2) Spousal abuse;
 - (3) A crime against a child or children (including child pornography); or,
 - (4) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

2 CFR 200.303 states 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).

Recommendation

We recommend CHFS ensure:

- DPP-157 forms are completed and maintained in the appropriate file for adoptive parents receiving payments through the Adoption Assistance Title IV-E program to be in compliance with applicable regulations and standards.
- The adoption file checklist is completed timely.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-029: The Cabinet For Health And Family Services Did Not Maintain All Documentation Required For The Adoption Assistance Eligibility File (Continued)****Management's Response and Planned Corrective Action**

- ***Eight files were missing form DPP-157 which is documentation of a criminal registry check, a Child Abuse and Neglect (CAN) registry check, criminal records check, Sexual Offender registry check, and National Crime Information Database (NCID) check.***

For the above mentioned eight cases, DCBS had identified the following additional information:

1. *Child was adopted in April 2005. It is noted within The Workers Information System (TWIST) that a DPP-157 was obtained in November 2001. It is also documented in the system that the annual strengths needs was completed with all forms filled out, signed and thumbprint obtained.*
2. *Child was adopted in April 2003. It is noted within TWIST that a DPP-157 was obtained in October 2001. It is also documented in the system that annual strengths needs was completed with background checks on October 18, 2001.*
3. *Child was adopted in April 2016. It is noted within TWIST that a DPP-157 was completed in July 2013, February 2015 and July 2016. Unfortunately the case file was lost due to a natural disaster that occurred in December 2021.*
4. *Child was adopted in October 2014. It is noted in TWIST a DPP-157 was completed in May 2014.*
5. *Child was adopted in January 2015. It is noted in TWIST a DPP-157 was completed in August 2014 and September 2015.*
6. *Child was adopted in November 2011. It is noted in TWIST a DPP-157 was completed in July 2011, June 2013 and June 2015.*
7. *Child was adopted in November 2003. In accordance with the records retention schedule in the Kentucky Revised Statutes (KRS), form DPP-157 was destroyed after six years of the adoptive home's closure.*
8. *Child was adopted in April 2013. It is noted in TWIST a DPP-157 was completed in September 2011, September 2012, September 2013, September 2014 and in September 2015.*

In 2020 the Standards of Practice (SOP) was updated to outline archiving requirements for adoption cases, including deeming form DPP-157 as required documentation. DCBS is also taking additional steps to leverage technology to support retention and accessibility of these records including digitizing adoption cases and implementing the Kentucky Applicant Registry and Employment Screening System (KARES), a web portal that supports the Kentucky National Background Check Program (NBCP). KARES will provide a database for initial background checks and fingerprinting as well as rap back service.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-029: The Cabinet For Health And Family Services Did Not Maintain All Documentation Required For The Adoption Assistance Eligibility File (Continued)****Management’s Response and Planned Corrective Action (Continued)**

- *One case file did not have the adoption file checklist signed or completed.*
- *Eight case files did not have the Adoption file checklist completed timely. The date of completion for the eight case files ranged from February 15, 2022 to February 18, 2022 and the adoptions ranged from 2003 to 2021.*

The checklist was created by the Department for Community Based Services (DCBS) Division of Finance and Administration (DAFM) to help workers keep track of the forms they were receiving. While the checklist is an important element of the internal controls in place to ensure adoption assistance is carried out in compliance with pertinent regulations, it is not a mandatory form for Title IV-E. DCBS will have a meeting with the adoption workers to ensure the forms are completed in a timely fashion for each case in the future.

Auditor’s Reply

While we acknowledge CHFS’ effort to improve retention of the DPP-157 form and the utilization of the checkbox in the TWIST system, the documents themselves were not maintained to support compliance with 45 CFR 1356.30 and 42 USC 671(a)(20) for FY 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-030: The Cabinet For Health And Family Services Did Not Identify All Subrecipients Over The Single Or Program-Specific Audit Threshold

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.563 – Child Support Enforcement

Federal Award Number and Year: 2001KYCSES – 2020, 2001KYCSES - 2021

Federal Agency: U.S. Department of Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Subrecipient Monitoring

Questioned Costs: \$0

During the fiscal year (FY) 2021 audit of the Child Support Enforcement Program (CSE) (ALN 93.563), administered by the Cabinet for Health and Family Services (CHFS), internal controls and compliance for subrecipient monitoring were tested. As part of the CSE program monitoring, CHFS tracks subrecipients expending more than \$750,000 in federal awards and reviews the subrecipient's single audit report. However, CHFS was unaware one CSE subrecipient expending more than \$750,000 in federal awards did not receive the required single or program-specific audit during FY 2021.

The CSE grant has installment recoupment and payment incentive grant transactions which were not included when evaluating the subrecipients' expenditures. CHFS did not have internal controls in place to ensure all accounting transactions related to the grant were included when tracking the expenditures of subrecipients requiring a single or program specific audit. With the addition of the installation recoupment and payment incentives grant transactions, one subrecipient was identified as receiving \$798,830 in FY 2020; however, the subrecipient did not receive a single or program-specific audit. By not identifying all subrecipients requiring a single or program-specific audit, CHFS cannot ensure compliance with federal regulations.

2 CFR 200.332 (f) states:

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.

2 CFR 200.501 (a) states:

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

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-030: The Cabinet For Health And Family Services Did Not Identify All Subrecipients Over The Single Or Program-Specific Audit Threshold (Continued)

- (c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with § 200.507.

Per 2 CFR 200.303:

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 and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity’s compliance with statute, regulations and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Recommendation

We recommend CHFS re-evaluate internal controls to ensure all subrecipients requiring a single or program-specific audit are tracked and audits obtained to comply with federal regulations regarding subrecipient audit requirements.

Management’s Response and Planned Corrective Action

CSE contracts with the CHFS Division of Administration and Financial Management (DAFM) for the provision of contract monitoring services. To support their monitoring, DAFM utilizes an administrative/fiscal tool through which subrecipients are asked whether or not they expend more than \$750,000 in federal funds annually. If a subrecipient’s response indicates they will spend more than \$750,000 annually a copy of the OMB A-133 engagement letter is acquired three months prior to state fiscal year end and the single audit report is submitted to CSE upon completion. If a subrecipient attests that they will not expend more than \$750,000 in federal funds annually, they are required to sign the CMF16-119 form to affirm such. For subrecipients that sign the CMF16-119, CSE has not taken additional steps to confirm that attestation aligns with actual federal expenditures.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-030: The Cabinet For Health And Family Services Did Not Identify All Subrecipients Over The Single Or Program-Specific Audit Threshold (Continued)**

Management's Response and Planned Corrective Action (Continued)

In FY20 the Boone County Attorney's Office assumed responsibility for the Gallatin County Child Support Enforcement program. The above process was not effective in determining that Boone County met the audit requirement threshold of \$750,000 in FY20 because the federal expenditure figures totaling \$798,830 also included actual expenditure amounts remitted for Gallatin County, which was under a separate contract and therefore not included in the analysis completed during contract development.

Moving forward, CSE will run a report when the final invoices for the state fiscal year have been processed to identify counties with expenses exceeding \$750,000 and will contact those counties to confirm they are complying with the single audit requirement if an engagement letter is not on file. CSE will ensure the single audit reports for those counties are reviewed.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-031: The Cabinet For Health And Family Services Failed To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.323 – Epidemiology and Laboratory Capacity for Infectious Diseases
ALN 93.323 – CARES – Epidemiology and Laboratory Capacity for Infectious Diseases

ALN 93.323 – CRRSA – Epidemiology and Laboratory Capacity for Infectious Diseases

ALN 93.323 – PPP – Epidemiology and Laboratory Capacity for Infectious Diseases

Federal Award Number and Year: NU50CK000505 – 2020, NU50CK000505 – 2021

Federal Agency: U.S. Department of Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Procurement and Suspension and Debarment

Questioned Costs: \$0

The Cabinet for Health and Family Services (CHFS) Department for Public Health (DPH) contracts with subrecipients to assist in the testing and tracing of infectious diseases for the Epidemiology and Laboratory Capacity for Infectious Diseases (ELC) (ALN 93.323) program. DPH failed to have internal control procedures in place to ensure subrecipients contracted to participate in the ELC program were not suspended or debarred, in accordance with federal regulations and state policies, prior to awarding the contracts. Although internal control procedures were not in place, compliance testing did not identify any suspended or debarred subrecipients for ELC during fiscal year (FY) 2021.

Although the Commonwealth has a formal policy regarding federal debarment, CHFS' ELC program did not have a process in place to implement that policy by verifying contracted entities were not suspended or debarred related to federal funds in FY 2021.

Failure to comply with state and federal suspension and debarment requirements could lead to inappropriate and unallowable payments to unauthorized entities. Any unallowable transactions would be subject to repayment to the federal government, which could impact the operations and effectiveness of the ELC program.

Per 2 CFR 180.300:

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.

2 CFR 200.318 General procurement standards, states:

- (a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or sub-award. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-031: The Cabinet For Health And Family Services Failed To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred (Continued)**

The Finance and Administration Cabinet Policy FAP 111-59-00 Federal Debarment states:

- (1) Agencies initiating a procurement of \$100,000 or more, any amount of which is federally funded, shall ensure that the successful vendor is not debarred from doing business with federal agencies. This verification shall be completed prior to awarding the contract.
- (2) Verification Process: The agency shall choose one (1) or more of the following methods to verify that the vendor is not debarred from doing business with federal agencies:
 - a. Verification may be made through the federal website that is used for federal procurement and awards processes.
 - b. An agency may include in a Solicitation a statement that the vendor's signature on a Solicitation response certifies that the vendor is not debarred from doing business with federal agencies and that, if debarred during the life of the contract, the vendor shall notify the Commonwealth buyer of record within seventy two (72) hours of the federal debarment.
 - c. If the Solicitation does not contain the verification statement within the Solicitation, it shall require the vendor to submit a written certification statement on letterhead stating that it is not debarred from doing business with federal agencies and that, if debarred during the life of an extended term contract, the vendor shall notify the Commonwealth buyer of record within seventy-two (72) hours of the federal debarment. This statement shall be submitted with the vendor's Solicitation response.

2 CFR 200.303 states 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).

Recommendation

We recommend CHFS implement adequate internal controls to ensure compliance with Procurement, Suspension and Debarment requirements in accordance with state and federal regulations.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-031: The Cabinet For Health And Family Services Failed To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred (Continued)

Management’s Response and Planned Corrective Action

The CHFS Department for Public Health (DPH) agrees with the APA that a process regarding federal debarment prior to 12/1/2021 was reactive in nature. However, DPH asserts that the agency met the test outlined within 2 CFR and FAP 111-59-00 in that appropriate language was included within contracts to meet the debarment review per the options outlined in 2 CFR 180.300:

“When you enter into a covered transaction...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.*

Below is the relevant contract language that meets 2 CFR 180.300:

Language in effect as of July 1, 2020:

- **4.00.02 - Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Lower Tier Covered Transactions:** *In accordance with Federal Acquisition Regulation 42.209-4, the Contractor shall certify, by signing the Solicitation, that to the best of its knowledge and belief, the Contractor and/or its Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency. For the purposes of this certification, “Principals,” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of subsidiary, division, or business segment, and similar positions. The Contractor shall be compliant with 2 CFR 180 at the time of award and throughout the contract period.*

The contract language was enhanced as shown below as of January 2021:

- **5.00.02 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Lower Tier Covered Transaction:** *In accordance with Federal Acquisition Regulation 52.209-5, the Contractor shall certify, by signing the Solicitation, that to the best of its knowledge and belief, the Contractor and/or its Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency. For the purposes of this certification, “Principals,” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of subsidiary, division, or business segment, and similar positions. The Contractor shall be compliant with 2 CFR 180 at the time of award and throughout the contract period.*

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-031: The Cabinet For Health And Family Services Failed To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred (Continued)**

In addition, DPH sought approval to create the Grants Coordination Branch to enhance oversight of federal funds and contracts. Executive Order established the new branch effective December 1, 2021 and a proactive process was implemented to be carried out by branch staff that includes verifying registrations and entity status in Sam.gov for entities with an established relationship with the state, entities new to the state, and those with which a contract is being renewed.

Given that DPH has instituted a new, proactive process for debarment to complement the pertinent contract language no further action is needed.

Auditor's Reply

DPH contracts with vendors using Master Agreements through the Finance and Administration Cabinet as well as contracts initiated by CHFS. While the provision related to suspension and debarment is included in the contracts initiated by DPH, the language may or may not be present in Commonwealth initiated Master Agreements or solicitations utilized by DPH (the language was not present in the Master Agreement reviewed by APA). The APA acknowledges that DPH has asserted that their internal control process changed from reactive to proactive; however, this was after the end of FY 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-032: The Cabinet For Health And Family Services Reported Incorrect Amounts On The SF 425 Report For The Epidemiology And Laboratory Capacity For Infectious Diseases Program

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.323 – Epidemiology and Laboratory Capacity for Infectious Diseases
ALN 93.323 – CARES – Epidemiology and Laboratory Capacity for Infectious Diseases
ALN 93.323 – CRRSA – Epidemiology and Laboratory Capacity for Infectious Diseases
ALN 93.323 – PPP – Epidemiology and Laboratory Capacity for Infectious Diseases

Federal Award Number and Year: NU50CK000505 – 2020, NU50CK000505 – 2021

Federal Agency: U.S. Department of Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Reporting

Questioned Costs: \$0

During the fiscal year (FY) 2021 audit of the Epidemiology and Laboratory Capacity for Infectious Diseases (ELC) program, administered through the Cabinet for Health and Family Services (CHFS), the annual federal financial report (SF-425) for the federal fiscal year (FFY) 2020 was reviewed. States complete the SF-425 report each year, reporting on the expenditure, receipts, and the remaining grant funding available for the award. The FFY 2020 annual report for ELC should contain data for the grant period August 1, 2019 to July 31, 2020. However, in the SF-425 report CHFS included expenditures and receipts incurred outside of the reporting period, from August 1, 2021 through October 7, 2021.

The SF-425 for ELC is on an accrual basis of accounting. The accrual basis of accounting allows for funds obligated before July 31, 2020 to be included in the report, even though the expenditure may occur after July 31, 2020. The report from the state's accounting system used to prepare the SF-425 included both the accrued expenditures and expenditures obligated or incurred after July 31, 2020.

The receipts and expenditures on the SF 425 submitted to the federal government were not accurate for the cash receipts, cash disbursements, and federal share of expenditures amounts. Failure to ensure the accuracy of financial reports submitted to the federal awarding agency could lead to noncompliance with federal regulations.

The SF-425 instructions explain that the “accrual basis of accounting refers to the accounting method in which expenses are recorded when incurred.” SF-425 Reporting line-item instructions state:

10a. Cash Receipts -

Enter the cumulative amount of actual cash received from the Federal agency as of the reporting period end date.

10b. Cash Disbursements –

Enter the cumulative amount of Federal fund disbursements (such as cash or checks) as of the reporting period end date. Disbursements are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expenses charged to the award, and the amount of cash advances and payments made to subrecipients and contractors.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-032: The Cabinet For Health And Family Services Reported Incorrect Amounts On The SF 425 Report For The Epidemiology And Laboratory Capacity For Infectious Diseases Program (Continued)**

10e. Federal Share of Expenditures –

Enter the amount of Federal fund expenditures. ...For reports prepared on an accrual basis, expenditures are the sum of cash disbursements for direct charges for property and services; the amount of indirect expense incurred; and the net increase or decrease in the amounts owed by the recipient for (1) goods and other property received; (2) services performed by employees, contractors, subrecipients, and other payees; and (3) programs for which no current services or performance are required. ...

10f. Federal Share if Unliquidated Obligations –

... On an accrual basis, they [unliquidated obligations] are obligations incurred, but for which an expenditure has not yet been recorded. Enter the Federal portion of unliquidated obligations. Those obligations include direct and indirect expenses incurred but not yet paid or charged to the award, including amounts due to subrecipients and contractors.

Recommendation

We recommend CHFS review the SF-425 reporting procedures to ensure the accuracy of the report data.

Management's Response and Planned Corrective Action

The federal government allows CHFS to include expenditures with service dates within the budget period that were paid after the budget period. CHFS agrees that the SF-425 included some expenditures paid after the budget period that should not have been reported because their service dates were after the budget period.

CHFS will modify the eMARS SF-425 report to include the service dates on the detail tab. CHFS will review the service dates for all expenditures paid after the budget period to determine if they can be included on the SF-425 and assure all expenses are reported in the correct period.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-033: The Cabinet For Health And Family Services Did Not Have Adequate Policies And Procedures In Place Over Subrecipient Allowable Costs For The Child Support Enforcement Program**

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.563 – Child Support Enforcement

Federal Award Number and Year: 2001KYCSES – 2020, 2001KYCSES - 2021

Federal Agency: U.S. Department of Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Activities Allowed or Unallowed; Allowable Costs/Cost Principles

Questioned Costs: \$0

During the fiscal year (FY) 2021 audit of the Child Support Enforcement (CSE) Program, administered by the Cabinet for Health and Family Services (CHFS), internal controls, contracts, and policies and procedures were reviewed for allowable activities and allowable costs. CHFS contracts with county attorneys (subrecipients) to administer the CSE program at the local level, establishes budget amounts in contracts, and monitors the subrecipients to ensure compliance with federal regulations. The salaries and benefits of employees working in the subrecipient offices may be fully or partially funded by the CSE program if the employee works on CSE activities. Title 2 of the Code of Federal Regulations (CFR) 200.430 requires compensation for employees funded by federal grants to be reasonable, which is defined as being “consistent with that paid for similar work in other activities.” In addition, the CSE contracts require that no employee of contracting officials may receive a higher rate of pay for child support activities than received for non-child support activities.

During the audit, two issues were identified:

- CHFS did not have an internal control system in place to ensure compliance with the federal regulation or the contract requirements related to the compensation of employees in the subrecipient offices.
- CHFS’s internal policies and procedures do not provide specific information related to the monitoring of compensation for the subrecipient’s CSE employees to ensure compliance with 2 CFR 200.430. While the CSE program’s Guidelines for Reimbursement document, provided to contracting officials, contains information related to employee compensation, the guidelines do not contain the provision that employee compensation for CSE should be consistent with that paid for work in other activities.

Additionally, in FY 2021, the CHFS CSE program awarded the funding to the subrecipients based on the prior year funding amounts. The contract amounts are carried forward each fiscal year for multiple fiscal years. CHFS does not have a policy or methodology in place to re-evaluate the amounts awarded in the subrecipient contracts each fiscal year based on any other criteria. Instead, subrecipients may request additional funding or, if a subrecipient has a surplus, the funds may be re-allocated to another subrecipient.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-033: The Cabinet For Health And Family Services Did Not Have Adequate Policies And Procedures In Place Over Subrecipient Allowable Costs For The Child Support Enforcement Program (Continued)**

CHFS does not have internal controls in place to detect noncompliance with the compensation requirements. CHFS has written procedures related to allowable expenses, but the procedures do not specifically address a method to ensure CSE staff in the subrecipients' offices are not paid more or provided more benefits than other staff in the subrecipient offices. CHFS has not developed or documented a methodology to determine the allocation amounts from one year to the next and relies on the subrecipient to request additional funds or provide surplus funds, if available.

Without an adequate internal control system and policies and procedures in place to adequately monitor compliance with federal regulations, there is an increased risk of reimbursement of unallowable costs. In addition, CHFS could be considered noncompliant with 2 CFR 200.430 requiring compensation for employees funded by federal grants to be consistent with compensation paid for similar work by other employees.

Without re-evaluating the amounts provided to the subrecipients annually, some subrecipients could be overfunded and other subrecipients underfunded. Consistently providing the same funding to each office may incentivize some offices to spend any extra funds on unnecessary items to ensure there is no surplus of funds.

2 CFR 200.430 states:

- (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. 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...
- (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.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-033: The Cabinet For Health And Family Services Did Not Have Adequate Policies And Procedures In Place Over Subrecipient Allowable Costs For The Child Support Enforcement Program (Continued)**

In addition, 2 CFR 200.303 states:

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 and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity’s compliance with statute, regulations and the terms and conditions of Federal awards.

Section 10.03 – Design of Appropriate Types of Control Activities, within the Standards for Internal Control in the Federal Government states, in part:

Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. The documentation may appear in management directives, administrative policies, or operating manuals, in either paper or electronic form. Documentation and records are properly managed and maintained.

Contracts should be properly developed and utilized to formalize agreements and ensure each party has a clear understanding of their roles and responsibilities, including ensuring CSE employees and other employees receive the same pay and benefits for performing similar job duties. The contract language states:

10. Assistant County Attorneys shall not receive a higher rate of pay for child support activities than they receive for non-child support functions in the Second Party's office. Reimbursement for time worked by an Assistant County Attorney on the Title IV-D Child Support Program shall not to exceed \$55 per hour. The Second Party shall disclose Assistant County Attorney reimbursement rates for non-child support functions at the beginning of the contract term;
11. Other staff members in the employ of the Second Party shall not receive a higher rate of pay for child support activities than they receive for non-child support functions in the Second Party's office. The second party shall disclose reimbursement rates of other staff members for non-child support functions at the beginning of the contract term...

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-033: The Cabinet For Health And Family Services Did Not Have Adequate Policies And Procedures In Place Over Subrecipient Allowable Costs For The Child Support Enforcement Program (Continued)

Written policies and procedures reduce the risk of mistakes, noncompliance, and inconsistency treatment of accounting transactions. Good internal controls dictate the procedures address issues that could potentially result in noncompliance with Federal requirements.

The Guideline for Reimbursement state:

Salaries and wages are allowable for reimbursement for the time spent working for the Child Support program. [...]

2. The rate of pay for the employee shall be the rate of pay reported in the Employee area of MIP. If the employee's actual rate of pay is less than the rate of pay shown in MIP, the reimbursement must be reduced accordingly.
If the employee's actual rate of pay is more than the rate of pay shown in MIP, a thorough explanation is required.

Proper internal controls dictate that policies and procedures should be created and documented to provide direction to staff regarding budgets in contracts. These policies and procedures should guide staff in determining the amount of funding to the subrecipients.

Recommendation

We recommend CHFS document policies and procedures and re-evaluate internal controls to ensure the CSE employees are receiving the same pay and benefits for CSE and non-CSE work, as well as being paid consistently with other employees performing comparable work in the county attorney offices, and thus ensure compliance with federal regulations. We further recommend CHFS re-evaluate and document the policy of carrying forward the same amount of funding annually to ensure subrecipients are receiving appropriate funding.

Management's Response and Planned Corrective Action

- *CHFS did not have an internal control system in place to ensure compliance with the Federal regulation or the contract requirements related to the compensation of employees in the subrecipient offices.*
- *CHFS' internal policies and procedures do not provide specific information related to the monitoring of compensation for the subrecipient's CSE employees to ensure compliance with 2 CFR 200.430. While the CSE program's Guidelines for Reimbursement document, provided to contracting officials, contains information related to employee compensation, the guidelines do not contain the provision that employee compensation for CSE should be consistent with that paid for work in other activities.*

Section 3 of the current contract with subrecipients (county attorneys) does address rate of pay for Assistant County Attorneys as follows:

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-033: The Cabinet For Health And Family Services Did Not Have Adequate Policies And Procedures In Place Over Subrecipient Allowable Costs For The Child Support Enforcement Program (Continued)**

Management’s Response and Planned Corrective Action (Continued)

“Assistant County Attorneys shall not receive a higher rate of pay for child support activities than they receive for non-child support functions in the Contracting Official’s office. Reimbursement for time worked by a full time Assistant County Attorney on the Title IV-D Child Support Program shall not to exceed \$65 per hour. The Contracting Official shall disclose Assistant County Attorney reimbursement rates for non-child support functions at the beginning of the contract term annually and/or upon request.”

CSE acknowledges the need to address rate of pay for staff working in capacities other than Assistant County Attorney. In addition, CSE acknowledges that current policies and procedures are not sufficient to ensure compensation rates for the CSE program do not exceed that paid for work in other activities. CSE has developed a proposed solution, which has been presented to the U.S. Department of Health and Human Services (HHS) for review and consideration. CSE management had a conference call with HHS 5/12/22 to discuss the proposed solution. CSE is awaiting feedback from HHS to finalize the modifications to policy and procedures to be implemented. While the timeline for receipt of that guidance is not certain, CSE will act promptly upon receipt to put the improved policy and procedures in place.

- ***Additionally, in FY 2021, the CHFS CSE program awarded the funding to the subrecipients based on the prior year funding amounts.***

Per legislation to take effect in July 2022, a new Division of Fiscal Management will be established within the Department of Income Support. The new division will include a branch dedicated to overseeing fiscal policy and budget for the CSE program. This modification to the organizational structure will result in enhanced oversight of, and support for, the CSE program. The director of the new division will be tasked with review and analysis of current policies and procedures and implementation of improvements. Review of the CSE program’s methodology for arriving at funding levels, including funding carry forwards, to ensure appropriateness will be a significant component of that review process. Opportunities to improve the methodology will be identified by 12/31/22 for implementation in state fiscal year 2024 (effective 7/1/23).

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-034: The Cabinet For Health And Family Services Processed An Unreasonable Subrecipient Reimbursement Request For The Child Support Enforcement Program**

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.563 – Child Support Enforcement

Federal Award Number and Year: 2001KYCSES – 2020, 2001KYCSES - 2021

Federal Agency: U.S. Department of Health and Human Services

Pass-Through: Not Applicable

Compliance Area: Allowable Costs/Cost Principles

Questioned Costs: \$1,727

During the fiscal year (FY) 2021 audit of the Child Support Enforcement (CSE) program (ALN 93.563), administered by the Cabinet for Health and Family Services (CHFS), the subrecipient reimbursement internal control process and compliance were reviewed. County attorneys submit invoices and supporting documentation through the Monthly Invoice Processing System (MIPS) for reimbursement of expenditures relating to the CSE program.

During the review, the following issues were noted related to one county attorney's reimbursement request for postage on the March 2021 invoice:

- The reimbursement request indicated the contracting official purchased \$1,727 in postage. Stockpiling of supplies is not in compliance with federal regulations.
- The Department of General Accounting (DGA) processed the reimbursement with the understanding that the request had been preapproved by CHFS' CSE program staff. However, it was later determined the request had not been pre-approved.

In addition, the policy and procedure manual does not address internal controls related to pre-approval between CSE program staff and DGA. There was not a consistent method of documenting and communicating pre-approvals by CSE program staff for large purchases.

At the start of FY 2021, the monthly invoice review process was revised so instead of CHFS's CSE program staff authorizing reimbursement of the county attorneys' expenditures through MIPS, CHFS's DGA staff were given the responsibility for reviewing and approving the reimbursement requests. Although DGA reviews and approves the monthly reimbursement requests, the contracting officials are required to obtain prior approval for large purchases from the CSE program staff.

The CSE program reimbursed the county attorney office even though the postage account had an extremely large balance, beyond the reasonable need of the office. Thus, the reimbursement of \$1,727 will be considered questioned costs since CHFS was not in compliance with federal regulations related to reasonable costs which prohibit stockpiling of supplies beyond a reasonable need. In addition, internal controls did not identify that the reimbursement request was not previously approved. Without policies and procedures in place to communicate preapproved transactions there is an increased risk that reimbursement of unallowable costs and could occur.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-034: The Cabinet For Health And Family Services Processed An Unreasonable Subrecipient Reimbursement Request For The Child Support Enforcement Program (Continued)

2 CFR 200.404 states, in part:

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded.

2 CFR 200.303 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 and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity’s compliance with statute, regulations and the terms and conditions of Federal awards.

Written policies and procedures reduce the risk of mistakes, noncompliance, and inconsistent treatment of accounting transactions. Good internal controls dictate the procedures address issues that could potentially result in noncompliance with Federal requirements.

The Guideline for Reimbursement state:

11. Prepayments are allowable only in the amounts and timeframes required in the normal course of business.

Many expenses are paid at the beginning of the month for use during that month. This is allowable. [...]

Any other prepayments require preapproval by CSE.

The costs for offices supplies are allowable. [...]

Notes:

Office supplies must be reasonable and allowable in type and in quantity.

Recommendation

We recommend CHFS:

- Contact the U.S. Department of Health and Human Services regarding the questioned cost.
- Re-evaluate internal controls to ensure compliance with requirements related to the pre-approval of large purchases.
- Consider updating the policies and procedures manual to ensure compliance with federal regulations related to stockpiling of supplies beyond a reasonable need.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-034: The Cabinet For Health And Family Services Processed An Unreasonable Subrecipient Reimbursement Request For The Child Support Enforcement Program (Continued)****Management’s Response and Planned Corrective Action**

CSE updated the Contracting Official Guidelines Manual in September 2021 including specifically addressing supplies and postage. The updates to the manual included internal controls related to the stockpiling of supplies beyond a reasonable need and established a 90-day threshold for stock. Should an office exceed their allowed amount, the reimbursement will be disallowed unless they obtained prior approval from CSE. The new 90-day threshold and required approval for exceeding it complements the standing policy that requires pre-approval of all postage or supply purchases over \$500.

The current manual contains the language below related to this subject:

“Costs must meet the following general criteria to be allowable under Federal grant awards: 1. Be necessary and reasonable for proper and efficient performance and administration of the applicable award or grant. (Stockpiling/Bulk Buying - CHFS has determined that counties shall not maintain more than 90 days stock of postage and supplies on hand as determined by a three-year average of categorized expenses submitted in MDPS. Stockpiling of supplies beyond the 90 days threshold is not a reasonable need and will be disallowed, unless approval is received from CSE and submitted in MDPS.) 2 CFR 200.404 - Reasonable Costs. a. Bona fide Need Rule (Federal Principle): The bona fide needs rule is a rule of appropriations law. It mandates that a fiscal year’s appropriations be obligated only to meet a legitimate-or bona fide – need arising in the fiscal year for which the appropriation was made. 2. Be allowable and allocable under the grant guidelines, terms and conditions, and addendums. 3. Be allowable under the provisions of 2 CFR 200 Subpart E, 45 CFR 75, 45 CFR 304 and conform to any limitations or exclusions set forth therein.”

CSE management will contact the U.S. Department of Health and Human Services regarding the questioned cost.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-035: The Cabinet For Health And Family Services Did Not Maintain Supporting Documentation For The Performance Report and Household Report

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.568 – Low Income Home Energy Assistance Program

ALN 93.568 – CARES – Low Income Home Energy Assistance Program

Federal Award Number and Year: 2001KYE5C3

Federal Agency: U.S. Department of Health and Human Services

Pass-Through: Not applicable

Compliance Area: Reporting

Questioned Costs: \$0

This is a repeat finding of 2020-038 as reported in the 2020 Statewide Single Audit of Kentucky (SSWAK) Volume II.

For the Low-Income Home Energy Assistance Program (LIHEAP), the Cabinet for Health and Family Services (CHFS) submits a Performance Report and a Household Report. The reports, which contain both financial and performance information, are prepared using various data sources.

- For federal fiscal year (FFY) 2020, the Performance Report was not available to be reviewed.
- For the FFY 2020, the Household Report was available, but the supporting documentation provided did not agree to the report.

For the FFY 2020 the Performance Report was unable to be located, and the Household Report's supporting documentation did not agree to the report. Without maintaining a copy of the Performance Report, the submission of the report and the information in the report cannot be verified. As a result, compliance with federal requirements to submit the Performance Report cannot be determined. Since the supporting documentation does not agree to the Household report, amounts on the report are not accurate.

Sound internal controls dictate supporting documentation be maintained to ensure the completeness and accuracy of amounts reported in the federal reports. 2 CFR 200.303 requires non-Federal entities to establish and maintain effective internal control over the Federal awards. "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)."

Standards for Internal Control in the Federal Government Section 10.03 indicates management should design appropriate types of internal control systems and that control activities should help management fulfill responsibilities and address risks. Several common activities are listed, including:

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-035: The Cabinet For Health And Family Services Did Not Maintain Supporting Documentation For The Performance Report and Household Report (Continued)***Appropriate documentation of transactions and internal control*

Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. The documentation may appear in management directives, administrative policies, or operating manuals, in either paper or electronic form. Documentation and records are properly managed and maintained.

2 CFR 200.302 Financial Management further states:

(b) The financial management system of each non-Federal entity must provide for the following: [...]

(3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

2 CFR 200.334 Retention requirements for records states:

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient.

Recommendation

We recommend CHFS maintain copies of the Performance and Household Reports and supporting documentation used in preparation of the reports to verify report submission as well as the accuracy of the report data.

Management's Response and Planned Corrective Action

- ***For federal fiscal year (FFY) 2020, the Performance Report was not available to be reviewed.***

The Performance Report has been located in an email and is currently stored on a secure shared drive. See attached report. The report was mistakenly not saved onto the shared drive originally. In March 2020 this was transitioned from a hardcopy filing system to an electronic filing system. Since March 2020, the program specialist and supervisor/branch manager have been working closely to ensure reports are stored for easy access for leadership to locate reports and back up files. The reports are dated to ensure the most recent copies are stored.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-035: The Cabinet For Health And Family Services Did Not Maintain Supporting Documentation For The Performance Report and Household Report (Continued)**

Management’s Response and Planned Corrective Action (Continued)

- ***For the FFY 2020, the Household Report was available, but the supporting documentation provided did not agree the report.***

After States submit Household Reports to ACF, a policy analyst from Applied Public Policy Research (APPRISE) reviews reports on behalf of ACF and commonly revisions are recommended. APPRISE recommended revisions to Kentucky’s FFY 2020 HH report in an email. In addition, revisions were made to the report via phone and virtual meetings. Ongoing the program specialist will request the information from meetings be sent in written form and will save correspondence on the shared network. In addition, APPRISE emails will also be saved on the shared drive. Program specialist and management are currently reviewing historical data to ensure all documentation is stored.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-036: The Kentucky Department Of Agriculture Failed To Follow Established Internal Controls To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred

State Agency: Kentucky Department of Agriculture

Federal Program: ALN 10.565 – Commodity Supplemental Food Program

ALN 10.568 – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – CARES – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – FFCRA – Emergency Food Assistance Program (Administrative Costs)

ALN 10.569 – Emergency Food Assistance Program (Food Commodities)

ALN 10.569 – CARES – Emergency Food Assistance Program (Food Commodities)

ALN 10.569 – FFCRA – Emergency Food Assistance Program (Food Commodities)

Federal Award Number and Year: Various 2020-2021

Federal Agency: U.S. Department of Agriculture

Pass-Through: Not Applicable

Compliance Area: Procurement and Suspension and Debarment

Questioned Costs: \$0

The Kentucky Department of Agriculture (KDA) contracts with subrecipients to assist in the distribution of USDA food commodities. KDA failed to ensure subrecipients contracted to participate in the Commodity Supplemental Food Program (CSFP) and The Emergency Food Assistance Program (TEFAP) were not debarred prior to awarding the contracts in accordance with 2 CFR 200.318 and the Commonwealth's policy FAP 111-59-00. While procedures were not followed, it should be noted that none of the contracted subrecipients for CSFP and TEFAP were federally suspended or debarred.

While a policy was formalized for the Commonwealth, there was confusion on who was responsible to verify contracted entities were not debarred when involving federal funds. FAP 111-59-000 identifies the agency is responsible for ensuring compliance with established requirements. KDA confirmed they had not adhered to the established policy or implemented internal controls and procedures to comply with state and federal regulations.

Failure to comply with state and federal suspension and debarment requirements could lead to inappropriate and unallowable payments to unauthorized entities. Any unallowable transactions would be subject to repayment to the federal government, which would severely impact the operations and effectiveness of the impacted programs. The greatest impact would be to program participants who could lose access to available assistance until resolved.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-036: The Kentucky Department Of Agriculture Failed To Follow Established Internal Controls To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred (Continued)**

2 CFR 200.303 states 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).

2 CFR 200.318 General procurement standards, states:

- (a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or sub-award. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

FAP 111-59-00 Federal Debarment:

- (1) Agencies initiating a procurement of \$100,000 or more, any amount of which is federally funded, shall ensure that the successful vendor is not debarred from doing business with federal agencies. This verification shall be completed prior to awarding the contract.
- (2) Verification Process: The agency shall choose one (1) or more of the following methods to verify that the vendor is not debarred from doing business with federal agencies:
 - a. Verification may be made through the federal website that is used for federal procurement and awards processes.
 - b. An agency may include in a Solicitation a statement that the vendor’s signature on a Solicitation response certifies that the vendor is not debarred from doing business with federal agencies and that, if debarred during the life of the contract, the vendor shall notify the Commonwealth buyer of record within seventy-two (72) hours of the federal debarment.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-036: The Kentucky Department Of Agriculture Failed To Follow Established Internal Controls To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred (Continued)

- c. If the Solicitation does not contain the verification statement within the Solicitation, it shall require the vendor to submit a written certification statement on letterhead stating that it is not debarred from doing business with federal agencies and that, if debarred during the life of an extended term contract, the vendor shall notify the Commonwealth buyer of record within seventy-two (72) hours of the federal debarment. This statement shall be submitted with the vendor's Solicitation response.

Recommendation

We recommend KDA implement adequate internal controls and properly manage grant activities to ensure compliance with Procurement, Suspension and Debarment requirements in accordance with state and federal regulations.

Management's Response and Planned Corrective Action

KDA has adequate internal controls and properly manages grant activities to ensure compliance with Procurement, Suspension and Debarment requirements in accordance with State and federal regulations. Per FAP 111-59-00, KDA has included the statement below on all of our contracts moving forward:

SUSPENSIONS AND DEBARMENT

By signing this Agreement for an amount in excess of One Hundred Thousand Dollars (\$100,000) in federal funds, the Second Party certifies by its signature that the Second Party and its principals are not suspended or debarred from federal or state procurement. If it is found that the Second Party or any principal of the Second Party is suspended or debarred before or during the Agreement period, then this Agreement shall be immediately rendered null and void. All funds paid under this Agreement to the Second Party shall be refunded by the Second Party with a two percent (2%) penalty within thirty (30) days of the Department's notification of the Agreement. If debarred during the life of the contract, the vendor shall notify the Commonwealth buyer of record within seventy two (72) hours of the federal debarment.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-037: The Kentucky Department Of Agriculture Failed To Analyze Potential Subrecipient Relationships On The Schedule Of Expenditures Of Federal Awards**

State Agency: Kentucky Department of Agriculture

Federal Program: ALN 10.565 – Commodity Supplemental Food Program

ALN 10.568 – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – CARES – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – FFCRA – Emergency Food Assistance Program (Administrative Costs)

ALN 10.569 – Emergency Food Assistance Program (Food Commodities)

ALN 10.569 – CARES – Emergency Food Assistance Program (Food Commodities)

ALN 10.569 – FFCRA – Emergency Food Assistance Program (Food Commodities)

Federal Award Number and Year: Various 2020-2021

Federal Agency: U.S. Department of Agriculture

Pass-Through: Not Applicable

Compliance Area: Subrecipient Monitoring

Questioned Costs: \$0

This finding was reported in the Fiscal Year 2021 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as finding 2021-014. Management's response and planned corrective action for finding 2021-014 can be found in the SSWAK Volume I. The finding also identifies matters impacting federal program compliance as described below.

The Kentucky Department of Agriculture (KDA) failed to assess if subrecipient relationships existed with its contracted entities. KDA was unaware of requirements to evaluate federal activities and make subrecipient and contractor determinations in accordance with 2 CFR 200.331. The incorrect identification of whether a subrecipient relationship exists could lead to non-compliance with federal requirements over subrecipient monitoring.

The requirements for subrecipient monitoring for subawards are contained in 31 USC 7502(f)(2) (Single Audit Act Amendments of 1996 (Pub. L. No. 104-156)), 2 CFR sections 200.330, .331, and .501(h), federal awarding agency regulations, and the terms and conditions of the award. Please refer to finding 2021-KDA-014 within SSWAK Volume 1 for additional information.

We recommend KDA complete subrecipient and contractor determinations in accordance with 2 CFR 200.331 and ensure compliance with all applicable federal regulations governing subrecipient monitoring.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-038: The Kentucky Department Of Education and Education & Workforce Development Cabinet Did Not Have Adequate Documentation Related To Submission Of The Education Stabilization Fund Annual Reports**

State Agency: Kentucky Department of Education, Education & Workforce Development Cabinet

Federal Program: ALN 84.425 – CARES – Education Stabilization Fund

Federal Award Number and Year: S425D200026 ESSER and S425C200008-GEER 05/20-09/21

Federal Agency: U. S. Department of Education

Compliance Area: Reporting

Questioned Costs: \$0

During the fiscal year 2021 audit of the Education Stabilization Fund (ESF) (ALN 84.425), the internal controls and compliance related to the required annual reports were reviewed. The Education & Workforce Development Cabinet (EWDC) is responsible for submitting the annual report for the Governor's Emergency Education Relief (GEER ALN 84.425C) Fund, and the Kentucky Department of Education (KDE) is responsible for submitting the Elementary and Secondary School Emergency Relief (ESSER ALN 84.425D) Fund. Both funds are part of the ESF. During the audit, it was noted:

1. The submission date for the ESSER annual report could not be verified.
2. There is no written documentation of review prior to submission of the ESSER annual report.
3. The submission of the GEER annual report could not be verified, and a copy of the original report was not maintained.

The ESSER annual report submission date was not available on the federal website or visible to KDE staff through the federal computer system. A written process for review of the ESSER annual report was not in place during FY 2021.

The employees preparing the GEER annual report left the EWDC and the federal website does not provide access to previously submitted annual reports, so an original copy of the submitted report was unavailable.

Without documentation of the date the ESSER annual report was submitted, compliance with federal requirements could not be verified. In addition, without a process in place to document the review of the ESSER annual report information prior to submission, errors could occur in the report data and remain undetected.

If questions arose regarding the original GEER annual report, the EWDC response could be delayed without a copy of the report. Per inquiry, an amended GEER annual report was submitted in FY 2022. However, compliance with federal reporting requirements during FY 2021 could not be verified without the original report.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-038: The Kentucky Department Of Education and Education Cabinet Did Not Have Adequate Documentation Related To Submission Of The Education Stabilization Fund Annual Reports (Continued)**

2 CFR 200.303 states:

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 the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.

Education Stabilization Fund- Elementary and Secondary School Emergency Relief Fund (ESSER I/ESSER II/ARP ESSER) Recipient Data Collection Form (OMB No. 1810-0749) states the annual report for ESSER is due on February 1, 2021 and should cover March 13,2020 through September 30, 2020.

Education Stabilization Fund- Governor’s Emergency Education Relief Fund (GEER) Recipient Data Collection Form (OMB No. 1810-0748) states the annual report for GEER should be due on February 1, 2021 and should cover March 13,2020 through September 30, 2020.

Good internal controls dictate that copies of reports submitted to the federal government be maintained.

Recommendation

We recommend:

- KDE re-evaluate the process for reviewing and submitting the ESSER annual reports to ensure proper internal controls and compliance.
- EWDC review the reporting process and ensure copies of annual reports submitted to the federal government are maintained.

Management’s Response and Planned Corrective Action

The Education and Workforce Development Cabinet (EWDC) has received the above finding. The Kentucky Department of Education (KDE) received confirmation on May 16, 2022, from the Education Stabilization Fund (ESF) Reporting Helpdesk, that the Year 1 CARES Act Annual Report was submitted by the deadline of February 1, 2021. No further action is required.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-038: The Kentucky Department Of Education and Education Cabinet Did Not Have Adequate Documentation Related To Submission Of The Education Stabilization Fund Annual Reports (Continued)**

Management’s Response and Planned Corrective Action (Continued)

Please note: The Year 1 CARES Act Annual Report system did not generate an initial successful submission confirmation notification to the submitter.

Beginning September 2021, KDE identified additional staff to assist with the Elementary and Secondary School Emergency Relief Fund and Governor’s Emergency Education Relief Fund Data Collection. The staff is responsible for developing a data collection method to obtain data from the local education agencies, review the data collected and compile the data to upload to the ESSER/GEER Annual Report systems. In August 2022, additional staff will be assigned to assist with the ESSER/GEER data collection due to the complexity of the reporting.

KDE compiles data for pass-through funds for the Governor’s Emergency Education Relief Fund (GEER). The data is compiled into the GEER upload templates and submitted to the Education Cabinet to submit as the responsibility of the grantee.

The EWDC is implementing a new process for record retention of the reports submitted by KDE as recommended by the APA.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-039: The Kentucky Department Of Fish And Wildlife Resources Failed To Ensure All Fixed Asset Inventory Records Were Complete And Accurate**

State Agency: KY Department of Fish and Wildlife Resources

Federal Program: ALN 15.605 – Sport Fish Restoration Program

ALN 15.611 – Wildlife Restoration and Basic Hunter Education

ALN 15.626 – Enhanced Hunter Education and Safety Program

Federal Award Number and Year: W45PR-52 (10/1/20-9/30/21)

Federal Agency: U.S. Department of the Interior

Compliance Area: Equipment and Real Property Management

Questioned Costs: \$0

During fiscal year 2021, the Kentucky Department of Fish and Wildlife Resources (KDFWR) failed to ensure all fixed asset inventory records were complete, accurate, and properly managed in accordance with state and federal regulations. Two out of ten fixed asset purchases reviewed, as acquired with federal funds totaling \$68,473, were not included on the agency's fixed asset inventory records. KDFWR failed to comply with 2 CFR 200.313 and the Commonwealth's policy FAP 120-20-01 over maintaining adequate fixed asset records.

KDFWR failed to implement adequate internal controls and follow established guidelines over fixed asset tracking and reporting to ensure records were updated when new fixed assets were acquired. This was compounded by the turnover of personnel in charge of managing the fixed asset records.

Failure to follow established guidelines for tracking and recording fixed assets could lead to KDFWR being unable to locate all fixed assets. This increases the likelihood that equipment could be lost due to theft or not utilized in accordance with the terms of the federal awards for which they were purchased.

2 CFR 200.303 states 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).

2 CFR 200.313 Equipment, states "(b) General. A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures."

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-039: The Kentucky Department Of Fish And Wildlife Resources Failed To Ensure All Fixed Asset Inventory Records Were Complete And Accurate (Continued)**

Commonwealth policy FAP 120-20-01 states,

2. General Provisions pertaining to Fixed Asset Records:
 - a. A state agency shall maintain current records of physical properties and equipment and make appropriate additions and deletions to fixed asset records as property is acquired or disposed.

Recommendation

We recommend KDFWR strengthen internal controls to ensure compliance with state and federal regulations over the management and reporting of fixed assets. Fixed assets should be properly tracked and accounted for when acquired and inventoried during the annual fixed asset observation process.

Management's Response and Planned Corrective Action:

As noted by the auditor, staffing changes of both the property officer and manager were factors in this error. Both assets have been entered into the accounting system. These items were purchased after the FY 2021 inventory was conducted; the oversight would have been caught during the next annual physical inventory. Additional staff will be cross trained in inventory entry when staff vacancies occur.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-040: The Kentucky Transportation Cabinet Failed To Submit Required Reports**

State Agency: Kentucky Transportation Cabinet

Federal Program: ALN 20.934 – Nationally Significant Freight and Highway Projects Discretionary Grant Program

Federal Award Number and Year: NHPPIM0757144 2021

Federal Agency: U.S. Department of Transportation

Pass-Through: Not Applicable

Compliance Area: Reporting

Questioned Costs: \$0

The Kentucky Transportation Cabinet (KYTC) entered into an agreement with the United States Department of Transportation (USDOT) for funding under the Nationally Significant Freight and Highway Projects Discretionary Grant Program (INFRA). The INFRA grant provides federal financial assistance for the I-71/I-75 Interchanges Project in Boone County.

Under the terms of the agreement, KYTC is required to submit a Federal Financial Report (SF-425 report) with each Quarterly Project Progress Report to USDOT. Inquiry during the fiscal year 2021 audit indicated KYTC had not submitted the required SF-425 reports since the inception of the program.

Internal controls were not in place to ensure KYTC created and submitted all required reports to the USDOT each quarter.

Contracts are formal agreements to ensure each party has a clear understanding of their roles and responsibilities and are enacted to adequately safeguard an entity and mitigate the risk of potential noncompliance. By not submitting the SF-425 reports, KYTC is not in compliance with the contract. This also leads to noncompliance with the federal award.

The terms of the contract signed on January 8, 2019 between KYTC and USDOT, paragraph 12(a) through (b), states:

- a) On or before the 20th day of January, April, July, and October of each year and until the Project is complete and all Fund-Obligating Agreements under this term sheet have been closed out, the Project Sponsor shall submit a Quarterly Project Progress Report for each component of the Project. But if the date of this term sheet is in March, June, September, or December, instead of submitting a Quarterly Project Progress Report covering less than one month, the Project Sponsor shall submit the first Quarterly Project Progress Report in the fourth calendar month that begins after the date of this term sheet.
- b) The Project Sponsor shall submit a Federal Financial Report (SF-425) as part of each Quarterly Project Progress Report.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-040: The Kentucky Transportation Cabinet Failed To Submit Required Reports (Continued)**

2 CFR section 200.300 – Statutory and national policy requirements, paragraph (b) states, in part, “the non-Federal entity is responsible for complying with all requirements of the Federal award.”

2 CFR section 200.302 – Financial management, paragraph (b)(2) states, in part, that the non-Federal entity’s financial management system must provide “accurate, current, and complete disclosure of the financial results of each Federal award or program...”

Per 2 CFR section 200.303 – Internal Controls:

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).

Recommendation

We recommend KYTC implement internal controls to ensure SF-425 reports are submitted properly in accordance with the terms of the contract. KYTC should communicate with the USDOT concerning submission of all prior period SF-425 reports.

Management’s Response and Planned Corrective Action:

The Division of Program Management has worked with FHWA to resolve the SF-425 oversight. The only grant project that has not included a SF-425 report document with the quarterly report is the Boone INFRA project. The required SF-425 for the most recent 2022 Q1 reporting period has been submitted to FHWA, and KYTC is compiling the information for the previous quarterly reports, and will be submitting to FHWA all past SF-425 reports for the project. FHWA did not specify a deadline for KYTC to submit these past forms, but we are working planning on having them completed within the next two weeks.

In addition, we concur with APA’s finding and the Division of Program Management has worked with the Division of Accounts to develop a program level report that will capture the expenditures and revenue receipts as recorded in the eMARS accounting system, necessary to fill out the SF-425 reports and to expedite the submittal process.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-041: The Office Of The State Budget Director Did Not Have Adequate Controls In Place To Ensure Accuracy And Completeness Of Coronavirus Relief Fund Reporting**

State Agency: Office of the State Budget Director

Federal Program: ALN 21.019 – CARES – Coronavirus Relief Fund

Federal Award Number and Year: CARES Act 2020

Federal Agency: U.S. Department of the Treasury

Pass-Through: Not Applicable

Compliance Area: Reporting

Questioned Costs: \$0

Reporting requirements for the Coronavirus Relief Fund (CRF) include a Quarterly Financial Progress Report that details COVID-19 related costs incurred during the covered period which are supported by data from the recipient's accounting system. The accounting system utilized by the Commonwealth is the Enhanced Management Administrative Reporting System (eMARS). The Office of the State Budget Director (OSBD) collected eMARS data from various state agencies and departments which incurred costs pertaining to the CRF and reported those cumulatively for the Commonwealth in the portal designated by the U.S. Department of the Treasury.

The Quarterly Financial Progress Report submitted for June 30, 2021 for the CRF was not easily reconcilable to the supporting accounting records and did not provide a clean audit trail. As a result, several issues were noted including omitted expenditures, inaccurate subrecipient/beneficiary information, and lack of supporting documentation. The following exceptions were noted:

- Accounting records in eMARS contained more expenditures than were reported, as \$4,580,682 in CRF expenditures to local health departments were not included on the quarterly Financial Progress Report. Additionally, the quarterly expenditures for the North Central District Health Department were reported as expenditures for the Muhlenberg County Health Department.
- The calculations supporting the reported aggregate amounts for loans, grants, contracts, transfers, and direct payments under \$50,000, and the aggregate payments to individuals, could not be recalculated by the auditors using information from eMARS.
- The expenditures for two vendors were duplicated and reported as part of multiple line items, leading to an overstatement of \$1,021,113.

Supporting documentation from eMARS was improperly consolidated, with information being omitted and/or reported inaccurately. Internal controls over the compilation of the Financial Progress Reports were inadequate and failed to detect inaccuracies. Additionally, maintained records did not allow for an efficient reconciliation between eMARS and data reported on the quarterly Financial Progress Reports.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-041: The Office Of The State Budget Director Did Not Have Adequate Controls In Place To Ensure Accuracy And Completeness Of Coronavirus Relief Fund Reporting (Continued)**

The U.S. Department of the Treasury is responsible for monitoring the receipt, disbursement, and use of CRF payments, which relies on submitted quarterly reports from prime recipients to acquire data necessary to fulfill its oversight objectives. Failure to upload complete and accurate information on the Financial Progress Reports impacts the U.S. Department of the Treasury's ability to provide adequate oversight which could lead to additional noncompliance with federal requirements.

OIG-CA-20-025, Coronavirus Relief Fund Reporting Requirements Update, as issued by the U.S. Department of Treasury Office of the Inspector General, outlines the prime recipients' requirements for uploading information pertaining to CRF activities. It is the responsibility of a prime recipient's authorized official to certify that the information provided in the quarterly Financial Progress Report is true, complete, and accurate.

2 CFR 200.303 (a) states the non-federal entity must:

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

Recommendation

We recommend OSBD submit corrections to the Financial Progress Report submitted for the quarter ending June 30, 2021 as allowable and outlined by U.S. Department of the Treasury reporting guidance. OSBD should develop and strengthen internal controls and processes for reporting for the CRF and other federal programs which require similar reports and reporting elements. Supporting documentation should be maintained and easily traceable to submitted reports with reconciliations maintained where appropriate to ensure reports are complete and accurate.

Management's Response and Planned Corrective Action

Once all the background basis for the detailed items has been confirmed, the Office of State Budget Director will confer with the U.S. Department of Treasury on the mechanics of correcting the April-June 2021 quarterly report and act on that advice in a subsequent reporting period. A review and improvement of the internal controls on converting financial management system data to the unique reporting scheme for the Coronavirus Relief Fund will be implemented.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-042: The Office Of Unemployment Insurance Does Not Have Adequate Technical Documentation Associated With The Kentucky Electronic Workplace For Employment Services System**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Eligibility

Questioned Costs: \$0

This finding was reported in the 2021 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as financial statement Finding 2021-018. Management's response and planned corrective action for Finding 2021-018 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below. The structure of the Federal-State Unemployment Insurance (UI) partnership is based on federal statute; however, it is implemented through state law.

This is a repeat finding as reported in the fiscal year 2020 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2020-032. Complete system documentation describing processing, data entry, system validations, edits, audits, and errors established within the Kentucky Electronic Workplace for Employment Services (KEWES) was not maintained by the Kentucky Labor Cabinet's Office of Unemployment Insurance (OUI) during fiscal year 2021. KEWES is the system used by OUI to process Unemployment Insurance (UI) for the Commonwealth of Kentucky. This includes mainframe batch jobs and schedules maintained by the Commonwealth Office of Technology (COT).

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-043: The Office Of Unemployment Insurance Did Not Ensure The Kentucky Electronic Workplace For Employment Services System Was Properly Secured**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Eligibility

Questioned Costs: \$0

This finding was reported in the 2021 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as financial statement Finding 2021-017. Management's response and planned corrective action for Finding 2021-017 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below. The structure of the Federal-State Unemployment Insurance (UI) partnership is based on federal statute; however, it is implemented through state law.

The Office of Unemployment Insurance (OUI) did not properly secure the Kentucky Electronic Workplace for Employment Services System (KEWES) during fiscal year 2021. Six users were granted access to the Siebel Administrator account, SADMIN. Since multiple users have access to one account, there is no way to track or identify who is actually using the account. Further noted, KEWES has not been configured to require periodic changes of passwords. Also, Mainframe KEWES sessions are set to automatically terminate after 10 hours of inactivity.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-044: The Office Of Unemployment Insurance Failed To Ensure Adequate Internal Controls Were In Place For Federal Reports

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: UI-34714-20-55-A-21 2020

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Reporting

Questioned Costs: \$0

This is a repeat finding for the Office of Unemployment Insurance relating to required federal reports as reported in the fiscal year (FY) 20 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2020-042.

The following reporting issues were not corrected from the prior year:

- The Unemployment Insurance Financial Transaction Summary Report (ETA 2112) is a monthly summary of transactions, which accounts for all funds received by, passed through, or paid out of the State Unemployment fund. The Office of Unemployment Insurance did not have an internal process for a supervisory or second level review of the report prior to submission and verify the accuracy of the ETA 2112 data. Overstatement errors totaling \$2,347,840 were noted in the FY21 ETA 2112 reports. OUI started the process of correcting the FY 2021 reports after the APA brought the errors to the agency's attention.
- The Financial Status Report (ETA 9130) is a quarterly report used to report program and administrative expenditures for each grant awarded to OUI, including UI. There was no segregation of duties in the submission and certification procedures.

Further issues were identified in additional reports during the FY21 audit:

- The Time Lapse Of All First Payments Except Workshare Report (ETA 9050) provides monthly information on first payment time lapse. This report concerns the time it takes states to pay benefits to claimants for the first compensable week of unemployment. Inquiry with the report preparer indicates OUI did not have an internal process for a second individual to verify the accuracy of the ETA 9050 data prior to submission. Misstated headcounts were identified in two of the four ETA 9050 reports reviewed.
- The Nonmonetary Determination Time Lapse Detection Report (ETA 9052) provides monthly information on the time it takes states to issue nonmonetary determinations from the date the issues are first detected by the agency. Single-claimant and multi-claimant nonmonetary determinations are included in the report. Inquiry with the report preparer indicates OUI did not have an internal process for a second individual to verify the accuracy of the ETA 9052 data prior to submission.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-044: The Office Of Unemployment Insurance Failed To Ensure Adequate Internal Controls Were In Place For Federal Reports (Continued)**

- The Appeals Case Aging Reports (ETA 9055L and ETA 9055H) provides monthly information on the inventory of lower authority (9055L) and higher authority (9055H) single claimant appeals cases that have been filed but not decided. Inquiry with the report preparer indicates OUI did not have an internal process for a second individual to verify the accuracy of the ETA 9055L and 9055H data prior to submission.
- The Reemployment Services and Eligibility Assessment (RESEA) Workload Report (ETA 9128) provides quarterly information on RESEA activities of claimants who are most likely to exhaust their UI benefits and are selected to participate in the RESEA program. RESEAs provide services to support the development of individualized reemployment plans, the provision of appropriate labor market information, and referral to reemployment services. While there was a process to review the report prior to submission according to the agency, there was no documentation retained indicating the review occurred.
- The RESEA Outcomes Report (ETA 9129) provides quarterly information on the UI and reemployment outcomes of claimants who are selected for RESEA activities. While there was a process to review the report prior to submission according to the agency, there was no documentation retained indicating the review occurred.

Explanation of reorganization and timing

For fiscal year 2020, OUI staff at the Education and Workforce Development Cabinet compiled the ETA 2112, ETA 9050, ETA 9052, ETA 9055, ETA 9128, ETA 9129, and ETA 9130 reports for Unemployment Insurance activity. Beginning in August 2021 (FY 22), due to reorganization, the Kentucky Labor Cabinet assumed oversight of the compilation of these reports specific to ALN 17.225 Unemployment Insurance.

The causes for the issues in this finding are as follows:

- For the ETA 2112, ETA 9050, ETA 9052, and ETA 9055 reports, internal controls for a second individual to verify the accuracy of the data prior to submission were not in place.
- For the ETA 9128 and ETA 9129 reports, a procedure is in place that requires a supervisory review of the reports, but this procedure did not include evidence these reviews were performed.
- For the ETA 9130 report, a procedure is in place for supervisory certification of the report, but there was no segregation of duties in the submission and certification procedures.

Federal reports were submitted in FY 2021 with errors that went undetected by OUI. Without adequate review of the reports to verify the accuracy of the data, the risk of inaccurate reporting is increased. Failure to ensure the accuracy of financial reports submitted to the United States Department of Labor (U.S. DOL) and not segregating the submission and certification duties could lead to noncompliance with federal regulations.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-044: The Office Of Unemployment Insurance Failed To Ensure Adequate Internal Controls Were In Place For Federal Reports (Continued)**

2 CFR section 200.300 – Statutory and national policy requirements, paragraph (b) states, in part, “the non-Federal entity is responsible for complying with all requirements of the Federal award.”

2 CFR section 200.302 – Financial management, paragraph (b)(2) states, in part, that the non-Federal entity’s financial management system must provide “accurate, current, and complete disclosure of the financial results of each Federal award or program...”

2 CFR section 200.303 – Internal Controls indicates that the non-Federal entity must:

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

2 CFR 200.334 - Retention requirements for records states:

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency ...

The GAO Green Book, Section 10.03 – Design of Appropriate Types of Control Activities, states, in part:

Management designs appropriate types of control activities for the entity’s internal control system. Control activities help management fulfill responsibilities and address identified risk responses in the internal control system...Management divides or segregates key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud.

The GAO Green Book, Section 10.12 – Segregation of Duties, states, in part, “Management considers segregation of duties in designing control activity responsibilities so that incompatible duties are segregated and, where such segregation is not practical, designs alternative control activities to address the risk.”

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-044: The Office Of Unemployment Insurance Failed To Ensure Adequate Internal Controls Were In Place For Federal Reports (Continued)**

Recommendation

We recommend OUI implement adequate internal controls to ensure the federal reports are reviewed for accuracy before submission to the U.S. DOL. We also recommend documentation of this review be retained in accordance with federal regulations.

Management's Response and Planned Corrective Action

The Labor Cabinet has received the above finding related to the accuracy of federal reports submitted to the U.S. Department of Labor. The Cabinet continues to strengthen internal controls and review processes to ensure all requirements are met.

Regarding report ETA 2112, OUI's Quality Control branch will be implementing a process to have the OUI Trust Fund unit compile the report as all data utilized in the report is coming from the 4 cashbooks: Tax Cashbook, Trust Fund Cashbook, Benefits Cashbook, Reimbuser Cashbook. The Trust Fund unit has created formulas within each cashbook to ensure the right data is being pulled and calculated for the monthly ETA 2112. Their formulas are reviewed during reconciliation of the cashbooks to verify accuracy. Once the Trust Fund staff have completed their reconciliations, the Quality Control branch manager will review each cashbook's formulas to further ensure accuracy and report the data in the U.S. DOL SUN system. Prior to submission, management will be adding a sign off line to the internal ETA 2112 spreadsheet showing the dates of Trust Fund reconciliations, Quality Control management review of formulas date and signature of confirmed accuracy.

Pertaining to ETA reports 9050, 9052, 9055; Quality Control will be implementing a new process that allows staff Program Compliance Specialist II to compile the report and submit to management via email prior to submission to ETA. Management will then reconcile/confirm the data within the reports and respond with feedback or confirmation. Once staff has received confirmation from management, the report will be complete within the U.S. DOL SUN system for submission. Emails will be maintained in the files as documentation.

Concerning ETA reports 9128, 9129; Quality Control has determined that the compilation of these reports should be done by RESEA staff that have first knowledge of the data being used; who are with the Career Development office, not the Office of Unemployment Insurance. A new process is being reviewed to train RESEA staff on compiling this data. Once RESEA staff have compiled the reports, they will be required to submit their information to the Quality Control branch manager for review and confirmation. Once all data has been reconciled, the manager will submit the completed report to ETA through the U.S. DOL SUN system. Emails will be maintained in the files as documentation.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-044: The Office Of Unemployment Insurance Failed To Ensure Adequate Internal Controls Were In Place For Federal Reports (Continued)**

Management’s Response and Planned Corrective Action (Continued)

We have sought funding from the Kentucky General Assembly to expand the number of OUI employees and the General Assembly has repeatedly denied those requests.

Further, the State Auditor and the Office of the State Auditor are in violation of both state law and applicable auditing standards. See AICPA Code, 1.110.010.12, Conflicts of Interest for Members in Public Practice, Disclosure of a Conflict of Interest and Consent; AICPA Code, 0.300.050, Objectivity and Independence, .01-.02; GAO-21-3680, Government Auditing Standards, 3.11, Objectivity; GAO 21-3680, Government Auditing Standards, 3.15, Proper Use of Government Information, Resources, and Positions; KRS 11A.020-.030. The State Auditor is aware of, failed to disclose, and chooses to ignore this clear conflict of interest.

Auditor’s Reply

The Auditor of Public Accounts is in compliance with all applicable laws and auditing standards. The APA has safeguards in place, both statutorily and procedurally, to assure that objectivity and independence are maintained in accordance with professional auditing standards. Strong safeguards have been in place for decades at the APA to insulate the agency’s audit work from any political bias resulting from the fact that every four years, a sitting Auditor may again run for statewide office in a partisan election. These longstanding safeguards were enhanced to provide additional assurance and to mitigate the perceived conflict of interest. This information was clearly spelled out in memos addressed to the Kentucky Labor Cabinet Secretary - dated August 17, 2021 and August 30, 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-045: The Office Of Unemployment Insurance Failed To Charge At Fault Employer Accounts For Payments Made To Ineligible Claimants**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Special Tests and Provisions

Questioned Costs: \$0

Certain employers are liable for unemployment insurance and pay unemployment insurance tax to the Commonwealth, based on their annual calculated contribution rate. Employer benefit reserve accounts collect these funds, which are used to pay for unemployment compensation (UC) benefits to eligible claimants who had worked for that employer. If a claimant is later determined to be ineligible, a separate benefit pool account is charged for the benefits paid instead of the specific employer's benefit reserve account. However, if payments were made to an ineligible claimant because the employer failed to respond to OUI timely or adequately, and the employer has established a pattern of failing to respond timely or adequately, then the employer would be considered "at fault" and the employer's own benefit reserve account would be charged for the payments.

The contribution rate is an unemployment insurance tax rate assigned to employers, established separately for each employer annually. Calculating the contribution rate involves using a combination of data, including the benefit charges to the employer's benefit reserve account. These calculations are completed for different types of employer groups. The contributory employers group is the largest type, representing approximately 80% of the unemployment insurance contributions in fiscal year (FY) 2021.

As a result of the COVID-19 pandemic, in March 2020, the U.S. Department of Labor (U.S. DOL) granted states the flexibility to not charge contributory employer accounts for benefits paid to eligible claimants. The U.S. DOL reiterated in their policy (UIPL 13-20) that "states must not relieve an employer of charges (noncharging) when the employer, or agent of the employer, is both at fault for failing to respond timely or adequately to the request of the state agency for information relating to a claim for UC benefits that was subsequently overpaid and has established a pattern of failing to respond timely or adequately."

OUI elected to take advantage of the flexibility offered and did not charge contributory employer reserve accounts for any unemployment benefits paid out during the fiscal year; however, this included payments that were made to ineligible claimants due to an "at fault" employer. A review also revealed that all Fiscal Year (FY) 2021 payments, even if the employer was "at fault," were excluded from the Calendar Year (CY) 2022 contribution rate calculations for all employer types. In addition, the CY 2021 contribution rate calculation for contributory employers excluded all benefits payments for the second quarter of 2020. The agency was unable to provide an estimate of the "at fault" charges that were excluded from the calculations.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-045: The Office Of Unemployment Insurance Failed To Charge At Fault Employer Accounts For Payments Made To Ineligible Claimants (Continued)

The COVID-19 pandemic created unprecedented stress on employers across the Commonwealth. In an attempt to ease the burden on employers, the Office of Employment Insurance (OUI) implemented a blanket policy of not charging any employer's benefit reserve account for any unemployment benefits paid out during FY 21. This affected the calculations for the CY 2021 and CY 2022 contribution rates.

Since employer benefits reserve account data is used in the calculation of each employer's contribution rate, the non-charging policy allowed "at fault" employers to be assigned a lower contribution rate than they should be paying. Federal law prohibits relieving "at fault" employers of charges for payments made to ineligible claimants.

26 USCA 3303(f)(1) provides, in part, that:

...an employer's account shall not be relieved of charges to a payment from the State unemployment fund if the State agency determines that –

(A) the payment was made because the employer ...was at fault for failing to respond timely or adequately to the request of the agency for information relating to the claim for compensation; and

(B) the employer or agent has established a pattern of failing to respond timely or adequately to such requests.

Recommendation

We recommend OUI reconsider its blanket non-charging policy for "at fault" employers and determine employer noncharging status on a case-by-case basis and in accordance with TAAEA guidelines.

Management's Response and Planned Corrective Action

The Labor Cabinet has received the above finding regarding "At-Fault Employers". As mentioned in the finding, the U.S. Department of Labor granted the states the flexibility to not charge contributory employer accounts for benefits paid to eligible claimants and the Office of Unemployment chose to follow this guidance, as many other states did. During the beginning of the pandemic, many businesses were struggling to determine how to continue business. OUI realized it would have created an additional hardship for many Kentucky employers who were not open during this time and did not have the staff available to respond to these requests.

Additionally, OUI disagrees with this finding and the Auditor of Public Accounts' assumption that OUI did not follow requirements for charging "at fault" employers. During the review, the APA was unable to locate any employer accounts that were at fault for not responding to a Notice of Potential Claim in a timely manner. The APA assumed because OUI did not have a way to pull a list of employers for examples that this process was not completed; however, OUI followed all U.S. DOL requirements.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-045: The Office Of Unemployment Insurance Failed To Charge At Fault Employer Accounts For Payments Made To Ineligible Claimants (Continued)**

Management’s Response and Planned Corrective Action (Continued)

Further, the State Auditor and the Office of the State Auditor are in violation of both state law and applicable auditing standards. See AICPA Code, 1.110.010.12, Conflicts of Interest for Members in Public Practice, Disclosure of a Conflict of Interest and Consent; AICPA Code, 0.300.050, Objectivity and Independence, .01-.02; GAO-21-3680, Government Auditing Standards, 3.11, Objectivity; GAO 21-3680, Government Auditing Standards, 3.15, Proper Use of Government Information, Resources, and Positions; KRS 11A.020-.030. The State Auditor is aware of, failed to disclose, and chooses to ignore this clear conflict of interest.

Auditor’s Reply

The APA made no assumptions in this finding. There is no question that OUI did not charge “at fault” employers. OUI relieved all contributory employers of all benefit charges during FY21, whether they were “at fault” or not. This was evident in testing and is stated on OUI’s website. As stated in the criteria, U.S. DOL prohibits relieving “at fault” employers of charges except in certain circumstances. Even if there were no “at fault” employers that should have been charged in FY21, the policy should be revised to allow for charging these employers when required.

The Auditor of Public Accounts is in compliance with all applicable laws and auditing standards. The APA has safeguards in place, both statutorily and procedurally, to assure that objectivity and independence are maintained in accordance with professional auditing standards. Strong safeguards have been in place for decades at the APA to insulate the agency’s audit work from any political bias resulting from the fact that every four years, a sitting Auditor may again run for statewide office in a partisan election. These longstanding safeguards were enhanced to provide additional assurance and to mitigate the perceived conflict of interest. This information was clearly spelled out in memos addressed to the Kentucky Labor Cabinet Secretary - dated August 17, 2021 and August 30, 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-046: The Office Of Unemployment Insurance Failed To Record Overpayments And Penalties In KYIMS And To Notify Claimants Of Overpayments**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

ALN 97.050 – Presidential Declared Disaster Assistance to Individuals and Households – Other Needs

Federal Award Number and Year: 4497DRKYSPLW 2020; UI-34714-20-55-A-21 2020

Federal Agencies: U.S. Department of Labor; U.S. Department of Homeland Security

Pass-Through: Not Applicable

Compliance Area: Special Tests and Provisions

Questioned Costs: \$127,415

The Kentucky Information Management System (KYIMS) is used to manage the unemployment compensation and disaster relief programs. Auditing of fiscal year 2021 KYIMS data revealed that some overpayments and associated penalties had not been recorded in KYIMS for the Lost Wages Assistance (LWA) and Federal Pandemic Unemployment Compensation (FPUC) programs.

FPUC is a U.S. Department of Labor (U.S. DOL)-managed unemployment compensation program that provided additional benefits to all eligible claimants receiving at least \$1 of traditional unemployment compensation or a number of other federal unemployment compensation programs. There were two versions of FPUC. The first provided a federal benefit of \$600 per week for claim weeks ending April 4, 2020 through July 31, 2020. The second program, providing \$300 per week, started after December 26, 2020, and ended on September 6, 2021.

Federal law requires that FPUC overpayments be established when individuals received amounts to which they were not entitled. If the overpayment was due to fraud committed by the individual, a 15% penalty must be assessed. U.S. DOL guidance only required states to assess penalties on fraudulent FPUC overpayments established after May 5, 2021.

LWA is a Federal Emergency Management Agency (FEMA)-managed disaster relief program that provided \$400 per week to eligible claimants. This benefit was payable for weeks of unemployment ending on or after August 1, 2020 through weeks of unemployment ending before December 27, 2020, or earlier.

The Commonwealth assumed responsibility in their State Administrative Plan with FEMA for recovering LWA payments from individuals obtained fraudulently. FEMA did not require the Commonwealth to assess penalties on fraudulent overpayments in the LWA program.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-046: The Office Of Unemployment Insurance Failed To Record Overpayments And Penalties In KYIMS And To Notify Claimants Of Overpayments (Continued)

Review of a sample of 32 fraudulent and non-fraudulent overpayments identified for each program revealed that OUI failed to record overpayments and penalties in KYIMS and notify the claimant as required by federal law. The number of testing exceptions and amounts associated with those exceptions are detailed below.

Benefit Program	Overpayment Not Recorded		Penalty Not Recorded	
	Number of Exceptions	Amount	Number of Exceptions	Amount
LWA	8	\$ 15,200	N/A	N/A
FPUC	16	\$ 107,400	5	\$ 4,815

The chart above reflects the questioned costs associated with this finding in the amount of \$127,415.

The COVID-19 pandemic created unprecedented unemployment across the Commonwealth. This dramatically increased both the number of unemployment claims and the percentage of these claims that were fraudulent. These issues decreased OUI's ability to prevent overpayments from being made and increased the time it took to identify overpayments that required the application of a penalty.

Once overpayments were identified by OUI, recording these overpayments was delayed for the LWA and FPUC programs. This was caused by the need to reprogram KYIMS to allow these overpayments to be recorded.

The recording of overpayments and penalties associated with the LWA and FPUC programs has been delayed until KYIMS can be reprogrammed. An estimate of when this reprogramming will be completed was not available. In the interim, OUI maintains a list of these overpayments. Since this information is not in KYIMS, this overpayment information will not be available to OUI staff through their normal processes. In addition, the KYIMS system will be delayed in producing and mailing claimant notification letters related to these overpayments and penalties. Due to the nature of the issue, it is not possible to identify the full extent of potential questioned costs for payments that have not been recorded in KYIMS.

Section 2104(f)(2) Emergency Increase In Unemployment Compensation Benefits of the CARES Act states, "REPAYMENT. —In the case of individuals who have received amounts of [FPUC] to which they were not entitled, the State shall require such individuals to repay the amounts of such [FPUC] to the State agency,..."

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-046: The Office Of Unemployment Insurance Failed To Record Overpayments And Penalties In KYIMS And To Notify Claimants Of Overpayments (Continued)

The Trade Adjustment Assistance Extension Act of 2011, Section 251 Mandatory Penalty Assessment on Fraud Claims, paragraph a. (2) states:

(a) ... At the time the State agency determines an erroneous payment from its unemployment fund was made to an individual due to fraud committed by such individual, the assessment of a penalty on the individual in an amount of not less than 15 percent of the amount of the erroneous payment...

(b) Application to Federal Payments – (1) IN GENERAL. – As a condition for administering any unemployment compensation program of the United States...as an agent of the United States, if the State determines that an erroneous payment was made by the State to an individual under any such program due to fraud committed by such individual, the State shall assess a penalty on such individual...

Per 44 CFR Part 206.120(f)(5) – Federal Disaster Assistance, State administration of other needs assistance, “The State is responsible for recovering assistance awards from applicants obtained fraudulently...”

Recommendation

We recommend OUI complete the reprogramming needed to record overpayments and penalties and issue overpayment notifications in accordance with federal law.

Management’s Response and Planned Corrective Action

The Labor Cabinet has received the above finding on overpayment recording errors. The new programs created for COVID funding caused a need for new processing and application coding. The Cabinet is working with a vendor to reprogram an application to add the additional function codes to create the overpayments for the new Federal Pandemic Unemployment Compensation (FPUC) and Lost Wages Assistance (LWA) programs. Once this programing has completed; which is estimated to be September 1st, 2022, staff will begin working the overpayment claims and send notification to claimants. We have sought funding from the Kentucky General Assembly to expand the number of OUI employees and the General Assembly has repeatedly denied those requests.

Further, the State Auditor and the Office of the State Auditor are in violation of both state law and applicable auditing standards. See AICPA Code, 1.110.010.12, Conflicts of Interest for Members in Public Practice, Disclosure of a Conflict of Interest and Consent; AICPA Code, 0.300.050, Objectivity and Independence, .01-.02; GAO-21-3680, Government Auditing Standards, 3.11, Objectivity; GAO 21-3680, Government Auditing Standards, 3.15, Proper Use of Government Information, Resources, and Positions; KRS 11A.020-.030. The State Auditor is aware of, failed to disclose, and chooses to ignore this clear conflict of interest.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-046: The Office Of Unemployment Insurance Failed To Record Overpayments And Penalties In KYIMS And To Notify Claimants Of Overpayments (Continued)**

Auditor's Reply

The Auditor of Public Accounts is in compliance with all applicable laws and auditing standards. The APA has safeguards in place, both statutorily and procedurally, to assure that objectivity and independence are maintained in accordance with professional auditing standards. Strong safeguards have been in place for decades at the APA to insulate the agency's audit work from any political bias resulting from the fact that every four years, a sitting Auditor may again run for statewide office in a partisan election. These longstanding safeguards were enhanced to provide additional assurance and to mitigate the perceived conflict of interest. This information was clearly spelled out in memos addressed to the Kentucky Labor Cabinet Secretary - dated August 17, 2021 and August 30, 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-047: The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Special Tests and Provisions

Questioned Costs: \$0

The Office of Unemployment Insurance (OUI) uses the Benefits Accuracy Measurement (BAM) program as a quality control to assess the accuracy of both paid benefit claims and denied claims. The BAM program and requirements are designed by the United States Department of Labor (U.S. DOL) and distributed to states in a Benefit Accuracy Measurement State Operations Handbook. The BAM program is used to identify payment errors and to extrapolate those payment errors to estimate both a payment error rate and estimate the dollar amount of improperly paid or denied claims. These results of each state's BAM reviews are reported by U.S. DOL as required by the Improper Payments Information Act and the Improper Payments Elimination and Recovery Act.

States are required to select samples of paid and denied claims to investigate each week, and to complete the review of these cases by a federally determined time limit. OUI received approval from the U.S. DOL to suspend investigations of denied cases in fiscal year (FY) 21. BAM case investigations are completed by selecting a sample of claims each week and reviewing records as well as communicating with claimants, employers, and third parties regarding the facts and circumstances of that sample of claims. The BAM results also identify how and where an error occurred in the claims process, if there was one. During FY21, OUI completed 443 BAM reviews of claims paid.

Auditors tested internal controls over compliance with federal requirements by reviewing a sample of completed BAM reviews for accuracy and completeness. A list of all BAM reviews completed in the fiscal year under audit was requested. Initially OUI provided auditors with the list of cases but added 63 files after auditors had completed testing. In seven of the nine files reviewed, auditors found that OUI did not maintain all the required documentation in the case file for the BAM review. In addition, seven reviews lacked evidence that the BAM case file was signed off by a supervisor. When auditors requested the BAM-24 case summary forms that were missing from the files, OUI provided forms that had been signed and dated long after the review had been completed. Failure by OUI to provide a complete population of BAM reviews when requested and failure to maintain complete and accurate review files are indicative of absent or ineffective internal controls.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-047: The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards (Continued)**

The following items were noted as a result of compliance testing:

- In one of 13 BAM reviews sampled, OUI documented the incorrect lowest wage per hour on the BAM review coding sheet.
- In four of the 13 BAM reviews sampled, OUI did not document how they calculated the lowest wage per hour when the claimant- and employer-provided information were not in agreement with each other.
- In one of 13 BAM reviews sampled, OUI incorrectly coded amounts for Key Week (KW) Earnings Before and Key Week Earnings After in the BAM investigation form. OUI documented \$289 when it should have been zero.
- OUI failed to meet the timeliness standard for paid claims reviewed under BAM for fiscal year 2021. Based on the information provided, OUI completed review of 17.5% of the sampled paid claims cases within 90 days. The BAM program standard is to complete review of 95% of the sampled paid claims cases within 90 days.

OUI did not follow U.S. DOL requirements for maintaining file documentation. OUI did not ensure internal controls over compliance were effective and able to prevent and detect errors in BAM review documentation.

Failure to implement effective internal controls over compliance led to errors in the supporting documentation for BAM reviews. These errors could create inaccurate BAM determinations on individuals' claims, potentially establishing improper overpayments. Prompt completion of investigations is important to ensure the integrity of the information being collected by questioning claimant and employers before the passage of time adversely affects recollections. Prompt entry of associated data is necessary for both the State Workforce Agency and the U.S. DOL to maintain current databases. Failure to complete reviews in a timely manner undermines these goals and leads to noncompliance with federal program requirements.

2 CFR section 200.303 indicates that the non-Federal entity must:

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

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-047: The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards (Continued)**

According to the Benefit Accuracy Measurement State Operations Handbook published by the U.S. DOL:

Chapter IV Part B – Claimant Information:

The first source for this data element [lowest hourly wage that the claimant was willing to accept during the Key Week] is the claimant’s response on the claimant questionnaire. This information must be verified with either the base period employer or the separating employer. The BAM investigator must resolve any discrepancies between the claimant’s statement and the employer information.

Chapter IV Part F – Benefit Payment History:

Key Week Earnings Before and After Investigation should “not include income such as pensions, holiday pay, vacation pay, pay in lieu of notice, separation pay, etc.”

Chapter VI, paragraph 13 states:

Therefore, 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.

Chapter VII, paragraph 2 – Documentation:

Each file must contain, at a minimum, a copy of all agency documents from the claimant’s original claim file in addition to any documents pertaining to the BAM investigation that were utilized.

20 CFR 602.21: 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;
- (e) Make and maintain records pertaining to the QC program and make all such records available in a timely manner for inspection, examination, and audit by such Federal officials as the Secretary may designate or as may be required or authorized by law.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-047: The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards (Continued)**

Per 20 CFR Section 602.30(a), “The Department shall establish required methods and procedures (as specified in 602.21 of this part); and provide technical assistance as needed on the QC process.”

Recommendation

We recommend OUI establish and maintain effective internal controls over federal award compliance as required by federal guidelines. We recommend OUI follow the U.S. DOL procedures when investigating BAM cases. This includes filing all required documentation in the BAM case folder. OUI should also update their internal procedures regularly to ensure all necessary documentation is included in the case folder.

We also recommend OUI to review the case folder for discrepancies in the claimant’s and employer’s provided information on wages. If discrepancies are found, OUI should follow U.S. DOL guidance and document their determination for the proper wage amount.

Additionally, we recommend OUI work to ensure the BAM timeliness standards are met in accordance with federal standards.

Management’s Response and Planned Corrective Action

The Labor Cabinet has received the above finding relating to the Benefits Accuracy Measurement (BAM) program. OUI is currently reviewing case development procedures and strengthening internal controls in an effort to achieve consistency and evaluate current staff knowledge. Plans are in place to convert current procedures into more modern and efficient electronic methods. Duties outside the scope of the normal job requirements for investigators are being reevaluated to ensure the maximum amount of focus and effort can be put into the program. U.S. DOL requirements will be followed and integrated within the policies and procedures.

Additionally, OUI is actively seeking to fill four vacant investigator positions. Once filled, the additional staff will require training and acclimation but will improve overall effectiveness, accuracy and timeliness of the program. Moreover, plans to hire a new supervisor and fill the vacancy for the program will help ensure advancement and improvement. We have sought funding from the Kentucky General Assembly to expand the number of OUI employees and the General Assembly has repeatedly denied those requests.

Further, the State Auditor and the Office of the State Auditor are in violation of both state law and applicable auditing standards. See AICPA Code, 1.110.010.12, Conflicts of Interest for Members in Public Practice, Disclosure of a Conflict of Interest and Consent; AICPA Code, 0.300.050, Objectivity and Independence, .01-.02; GAO-21-3680, Government Auditing Standards, 3.11, Objectivity; GAO 21-3680, Government Auditing Standards, 3.15, Proper Use of Government Information, Resources, and Positions; KRS 11A.020-.030. The State Auditor is aware of, failed to disclose, and chooses to ignore this clear conflict of interest.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-047: The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards (Continued)**

Auditor's Reply

The Auditor of Public Accounts is in compliance with all applicable laws and auditing standards. The APA has safeguards in place, both statutorily and procedurally, to assure that objectivity and independence are maintained in accordance with professional auditing standards. Strong safeguards have been in place for decades at the APA to insulate the agency's audit work from any political bias resulting from the fact that every four years, a sitting Auditor may again run for statewide office in a partisan election. These longstanding safeguards were enhanced to provide additional assurance and to mitigate the perceived conflict of interest. This information was clearly spelled out in memos addressed to the Kentucky Labor Cabinet Secretary - dated August 17, 2021 and August 30, 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-048: The Office Of Unemployment Insurance Paid Unemployment Benefits To Claimants Who Became Ineligible Due To Not Participating In RESEA**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – CARES – Unemployment Insurance

ALN 17.225 – FFCRA – Unemployment Insurance

Federal Award Number and Year: Not Applicable

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Special Tests and Provisions

Questioned Costs: \$6,372

During the Federal compliance audit of the Commonwealth of Kentucky, the Career Development Office's (CDO) Reemployment Services and Eligibility Assessment (RESEA) program was reviewed to determine whether it met Worker Profiling and Reemployment Services (WPRS) standards.

The objective of these programs is to identify, from a pool of claimants receiving Unemployment Compensation (UC) benefits, those individuals whose unemployment duration could be shortened through providing reemployment services. Once identified and invited to participate in the program, Kentucky law requires the claimant to participate in the reemployment services program to remain eligible for UC benefits.

Individuals selected for participation in RESEA are sent a notification that details the date, time, and location of an orientation event. The notice includes the RESEA candidate's eligibility condition, requirements, benefits, and clear warnings regarding the consequences of failing to complete required elements. Each participant meets with RESEA personnel biweekly, and RESEA personnel note in the participant's file if there have been any changes to the participant's eligibility. Non-participation in the RESEA program would result in the claimant's unemployment benefits being stopped for non-eligibility.

A review of 26 RESEA participants revealed ten did not participate as required. Of these cases, nine of the case files were not updated to show that the participant had not reported as directed or participated in the required RESEA activities.

Seven of the non-updated files did not have stops on their claims and could have erroneously received benefits, but only three individuals actually received benefits. These three individuals received a total of \$6,372 in benefits after they did not participate as required in fiscal year (FY) 21.

Local area centers were physically closed and operations were suspended in FY 21 in response to the pandemic, until April 1, 2021. When the centers were reopened, RESEA staff shortfalls and turnover prevented the timely recording in KEWES of the non-participation of RESEA selectees. Without this input, a non-eligibility determination could not be rendered. As a result, ineligible claimants continued to receive benefits.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-048: The Office Of Unemployment Insurance Paid Unemployment Benefits To Claimants Who Became Ineligible Due To Not Participating In RESEA (Continued)**

The number of individuals selected to participate in RESEA in FY 21 was 1,413. As noted earlier, three of the selectees in the sample of 26 continued to receive UC benefit payments, even though they did not participate as required in the program, due to RESEA staff not updating the selectees' files timely. These selectees continued to receive payments into FY 22. Since eligibility determinations have not been made and recorded in the system, and overpayments have not been established for all 1,413 RESEA selectees, the auditor was unable to identify the potential questioned costs, beyond the \$6,372 identified in the auditors' sample, for payments to selectees who may have failed to participate in the RESEA program.

Per 42 USCA 503(j)(1):

(j)(1) The State agency charged with the administration of the State law shall establish and utilize a system of profiling all new claimants for regular compensation that—

- (A) identifies which claimants will be likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;
- (B) refers claimants identified pursuant to subparagraph (A) to reemployment services, such as job search assistance services, available under any State or Federal law;
- (C) collects follow-up information relating to the services received by such claimants and the employment outcomes for such claimants subsequent to receiving such services and utilizes such information in making identifications pursuant to subparagraph (A); and
- (D) meets such other requirements as the Secretary of Labor determines are appropriate.

Per Unemployment Insurance Program Letter No. 13-21, [FY] 2021 Funding Allotments and Operating Guidance for Unemployment Insurance (UI) [RESEA] Grants, paragraph 8. C – Claimant Participation in RESEA Activities and Rescheduling – “Once the state notifies a claimant that s/he has been selected to participate in the RESEA program, participation in RESEA is mandatory as a condition of UC eligibility.”

Recommendation

We recommend CDO continue its efforts to increase the RESEA staff's ability to administer the RESEA participation process. OUI should review the non-participating individuals that continued to receive UC benefits to determine if the individuals need to repay the amounts received. This effort should include the timely recording of RESEA selectee non-participation.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-048: The Office Of Unemployment Insurance Paid Unemployment Benefits To Claimants Who Became Ineligible Due To Not Participating In RESEA (Continued)****Management’s Response and Planned Corrective Action**

The Labor Cabinet has received the above finding concerning the RESEA program. Due to the COVID pandemic, the program was put on hold and restarted in April 2021. At that time, staff focused on helping Kentuckians with in-person UI appointments. As mentioned in the finding, low staffing created challenges. To alleviate such challenges, CDO has begun extensive hiring to address the low staffing issues. This in turn will assist with verifying the RESEA program requirements are followed, updates on accounts are made timely and mitigate participants receiving unwarranted UI benefits. Internal controls are being strengthened to ensure all steps are made in a timely manner and participates complete the required steps. Additionally, two program coordinators were on-boarded to assist local RESEA staff and to work RESEA claims when there is not a RESEA staff in a certain local area. With the assistance from OUI staff, back claims are currently under review to target and determine potential errors. The anticipated completion date is July 31, 2022. Additionally, we have sought funding from the Kentucky General Assembly to expand the number of OUI employees and the General Assembly has repeatedly denied those requests.

Further, the State Auditor and the Office of the State Auditor are in violation of both state law and applicable auditing standards. See AICPA Code, 1.110.010.12, Conflicts of Interest for Members in Public Practice, Disclosure of a Conflict of Interest and Consent; AICPA Code, 0.300.050, Objectivity and Independence, .01-.02; GAO-21-3680, Government Auditing Standards, 3.11, Objectivity; GAO 21-3680, Government Auditing Standards, 3.15, Proper Use of Government Information, Resources, and Positions; KRS 11A.020-.030. The State Auditor is aware of, failed to disclose, and chooses to ignore this clear conflict of interest.

Auditor’s Reply

The Auditor of Public Accounts is in compliance with all applicable laws and auditing standards. The APA has safeguards in place, both statutorily and procedurally, to assure that objectivity and independence are maintained in accordance with professional auditing standards. Strong safeguards have been in place for decades at the APA to insulate the agency’s audit work from any political bias resulting from the fact that every four years, a sitting Auditor may again run for statewide office in a partisan election. These longstanding safeguards were enhanced to provide additional assurance and to mitigate the perceived conflict of interest. This information was clearly spelled out in memos addressed to the Kentucky Labor Cabinet Secretary - dated August 17, 2021 and August 30, 2021.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-049: The Office Of Unemployment Insurance Did Not Maintain Adequate Supporting Documentation For Submitted Reports And Did Not Submit All Required Reports Relating To The Lost Wages Assistance Program**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 97.050 – Presidential Declared Disaster Assistance to Individuals and Households – Other Needs

Federal Award Number and Year: 4497DRKYSPLW 2020

Federal Agency: U.S. Department of Homeland Security

Pass-Through: Not Applicable

Compliance Area: Reporting

Questioned Costs: \$18,734

During the COVID-19 pandemic, the Lost Wages Assistance (LWA) program was created by the Federal Emergency Management Agency (FEMA) to provide additional unemployment benefits to claimants affected by the pandemic in August 2020 and September 2020. The Commonwealth's Office of Unemployment Insurance (OUI) was responsible for disbursing these benefits set out in an award letter with FEMA signed in August 2020. The terms in this award letter required OUI to submit quarterly financial reports (SF-425) and weekly programmatic performance reports (PPRs) to FEMA.

The SF-425 reports provided FEMA information on the total federal revenues received and expenditures paid during the quarter. This report also presented the total federal funds remaining for this program. OUI submitted three SF-425 reports in fiscal year 2021. The audit noted that OUI incorrectly reported the administrative costs as covered by FEMA. OUI reported \$74,936 of the administrative costs as part of FEMA's share, yet only 75%, or \$56,202, was allowable, a difference of \$18,734 that is being considered a questioned cost. In addition, it was noted that the SF-425 reports contained mathematical errors relating to the state's obligated amount.

The PPRs were submitted weekly to FEMA showing the cumulative claims paid by the program for each eligible LWA claim week. OUI submitted nine of these reports from August 2020 through November 2020. The audit noted OUI did not have sufficient supporting documentation to support the amounts reported to FEMA. OUI provided auditors with a list of LWA claimants as support for the reports, but the information provided could not be reconciled with the reports. Without adequate supporting documentation, auditors were unable to determine if the reports submitted to FEMA were complete and accurate. In addition, OUI did not submit all of the required PPRs. Weekly reports for December 2020 to February 2021 were not submitted to FEMA, even though OUI's last payment of claims was in February 2021 for the LWA program.

OUI did not ensure internal controls over compliance were effective and able to prevent and detect errors in the reports. OUI staff did not review the SF-425 reports to ensure the reports were complete and accurate. In addition, OUI did not maintain adequate supporting documentation for the creation of the PPRs.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2021-049: The Office Of Unemployment Insurance Did Not Maintain Adequate Supporting Documentation For Submitted Reports And Did Not Submit All Required Reports Relating To The Lost Wages Assistance Program (Continued)

Federal LWA reports submitted in FY 2021 had errors that went undetected by OUI. Without adequate review of reports to verify the completeness and accuracy of the data, the risk of inaccurate reporting is increased. Failure to ensure the accuracy of reports and that all required reports are submitted to FEMA could lead to noncompliance with federal regulations.

2 CFR Section 200.303 indicates that the non-Federal entity must:

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

2 CFR 200.334 - Retention requirements for records states:

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency ...

Regarding the SF-425s, the signed FEMA-State agreement with Kentucky states, “...FEMA will pay to the State 75 percent of the total Other Needs Assistance payments to individuals and households and actual administrative costs in accordance with Section 408 of the Stafford Act (codified as amended at 42 U.S.C. § 5174) and 44 C.F.R. § 20.120.”

Regarding the PPRs, the OUI signed Award Letter with FEMA states:

Weekly program status reports are required in addition to final reports as required by 2 C.F.R. Part 200.328. Program status reports must include:

- The number and dollar amount of applications approved weekly
- The number of individuals eligible to receive assistance under this award, broken out by the programs identified in Section 4(d)(i) of the August 8, 2020 Presidential memorandum;
- The amount of assistance disbursed weekly, and
- The number of appeals received.

The recipient must also comply with all reporting requirements in the State of Kentucky Administrative Plan.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-049: The Office Of Unemployment Insurance Did Not Maintain Adequate Supporting Documentation For Submitted Reports And Did Not Submit All Required Reports Relating To The Lost Wages Assistance Program (Continued)**

In addition, FEMA provided the following guidance on their website for PPRs: “The Lost Wages Weekly Report should have been provided to FEMA and are required until all claims were paid.”

Recommendation

We recommend OUI establish internal controls over their federal reporting process for LWA and any new federal programs to ensure compliance with federal guidelines. This includes establishing processes for OUI staff to review and maintain supporting documentation with the prepared reports prior to submission. We also recommend OUI verify all reports related to the LWA program have been submitted and resubmit any reports which contained errors.

Management’s Response and Planned Corrective Action

The Labor Cabinet has received the above finding relating to the Lost Wage Assistance (LWA) program reporting. Cabinet staff have worked with FEMA to ensure all reports submitted were accurate and timely. Perimeters and requirements for the reports changed over the course of time since this is a unique program run by FEMA due to the COVID pandemic. Thus, amended reports were needed based off FEMA’s changes. As was explained to the auditors, the information for this program changed daily based on the parameters the data was using and the amount of overpayments processed for that day. For this reason, the numbers on the reports could not be recreated.

FEMA has communicated with the Cabinet that all required reports have been submitted and no additional information is due at this time. We will continue to work with FEMA if this changes and additional information is needed. We have sought funding from the Kentucky General Assembly to expand the number of OUI employees and the General Assembly has repeatedly denied those requests.

Further, the State Auditor and the Office of the State Auditor are in violation of both state law and applicable auditing standards. See AICPA Code, 1.110.010.12, Conflicts of Interest for Members in Public Practice, Disclosure of a Conflict of Interest and Consent; AICPA Code, 0.300.050, Objectivity and Independence, .01-.02; GAO-21-3680, Government Auditing Standards, 3.11, Objectivity; GAO 21-3680, Government Auditing Standards, 3.15, Proper Use of Government Information, Resources, and Positions; KRS 11A.020-.030. The State Auditor is aware of, failed to disclose, and chooses to ignore this clear conflict of interest.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2021-049: The Office Of Unemployment Insurance Did Not Maintain Adequate Supporting Documentation For Submitted Reports And Did Not Submit All Required Reports Relating To The Lost Wages Assistance Program (Continued)**

Auditor's Reply

The Auditor of Public Accounts is in compliance with all applicable laws and auditing standards. The APA has safeguards in place, both statutorily and procedurally, to assure that objectivity and independence are maintained in accordance with professional auditing standards. Strong safeguards have been in place for decades at the APA to insulate the agency's audit work from any political bias resulting from the fact that every four years, a sitting Auditor may again run for statewide office in a partisan election. These longstanding safeguards were enhanced to provide additional assurance and to mitigate the perceived conflict of interest. This information was clearly spelled out in memos addressed to the Kentucky Labor Cabinet Secretary - dated August 17, 2021 and August 30, 2021.

APPENDIX

**COMMONWEALTH OF KENTUCKY
APPENDIX
FOR THE YEAR ENDED JUNE 30, 2021**

This report is available on the Auditor of Public Accounts' website, auditor.ky.gov. The Commonwealth's FY 2021 Annual Comprehensive Financial Report is available on the Finance and Administration Cabinet's website, finance.ky.gov.

The following is a list of individuals by state agency to contact regarding federal award findings listed in the Schedule of Findings and Questioned Costs.

Agency	Contact
Cabinet for Health and Family Services	Kelli Hill, Director Division of General Accounting Cabinet for Health and Family Services 275 East Main Street 4E-A Frankfort, KY 40601 Phone: (502) 564-8890
Department of Fish & Wildlife Resources	Melissa Trent, Assistant Director Department of Fish & Wildlife Resources 1 Sportsman's Lane Frankfort, KY 40601 Phone: (502) 892-4483
Department of Workforce Investment	Cora McNabb, Executive Director 500 Mero Street, 4 th Floor Frankfort, KY 40601 Phone: (502) 782-3402
Department of Education	Karen Wirth, Director Division of Budget and Finance 300 Sower Blvd. Suite 524 Frankfort, KY 40601 Phone: (502) 564-1979
Kentucky Transportation Cabinet	Teri Harmon, Assistant Director Division of Audit Services 200 Mero Street – 4 th Floor East Frankfort, KY 40601 Phone: (502) 782-4073

Agency	Contact
Department of Agriculture	Dana Feldman, Executive Director Office for Consumer & Environmental Protection 107 Corporate Drive Frankfort, KY 40601 Phone: (502) 573-0282
Finance and Administration Cabinet	Brian Thomas, Executive Director Finance & Administration Cabinet Office of General Counsel 200 Mero Street, 5 th Floor Frankfort, KY 40604 Phone: (502) 564-6660
Office of Unemployment Insurance	Buddy Hoskinson, Executive Director Office of Unemployment Insurance 500 Mero Street, 4 th Floor Frankfort, KY 40601 Phone: (502) 564-2900
Office of the State Budget Director	John Hicks, State Budget Director 702 Capitol Avenue Room 284, Capitol Annex Frankfort, KY 40601 Phone: (502) 564-7300