

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

VOLUME II

**For the Year Ended
June 30, 2022**



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March 27, 2023

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, 2022. 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



CONTENTS

Page

INTRODUCTION	1
REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM AND REPORT ON INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH THE UNIFORM GUIDANCE	5
SCHEDULE OF FINDINGS AND QUESTIONED COSTS	11
SECTION 1 – SUMMARY OF AUDITOR’S RESULTS	11
SECTION 2 – FINANCIAL STATEMENT FINDINGS.....	14
SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS.....	15

Material Weaknesses Relating to Internal Controls and/or Noncompliances

<u>FINDING 2022-016:</u> The Cabinet For Health And Family Services Did Not Have Procedures In Place To Monitor American Rescue Plan Act Stabilization Funding Eligibility Determinations And Expenditures	15
<u>FINDING 2022-017:</u> The Kentucky Department Of Agriculture Failed To Comply With Federal Cash Management Requirements	17
<u>FINDING 2022-018:</u> The Kentucky Department Of Agriculture Failed To Adequately Document And Perform Required Annual Inventories	20

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

<u>FINDING 2022-019:</u> The Cabinet For Health And Family Services Did Not Identify And Correct Beneficiaries Impacted By A Classification Coding Error.....	23
<u>FINDING 2022-020:</u> The Cabinet For Health And Family Services Failed To Cease Prevention Benefits When Continued Eligibility Was No Longer Indicated	26
<u>FINDING 2022-021:</u> 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.....	29
<u>FINDING 2022-022:</u> The Cabinet For Health And Family Services Failed To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred.....	34
<u>FINDING 2022-023:</u> The Department Of Workforce Development Failed To Submit Accurate Reports	38
<u>FINDING 2022-024:</u> The Kentucky Department Of Agriculture Failed To Follow Established Internal Controls To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred. ...	41
<u>FINDING 2022-025:</u> The Office Of Unemployment Insurance Did Not Ensure The Kentucky Electronic Workplace For Employment Services Was Properly Secured	44
<u>FINDING 2022-026:</u> The Office Of Unemployment Insurance Does Not Have Adequate Technical Documentation Associated With The Kentucky Electronic Workplace For Employment Services System.....	45
<u>FINDING 2022-027:</u> The Office Of Unemployment Insurance Does Not Comply With Certain Federal And State Enterprise Policies Related To System Security.....	46

<u>FINDING 2022-028:</u> The Office Of Unemployment Insurance Did Not Comply With Certain Federal Regulations Related To Income Eligibility And Verification Systems	47
<u>FINDING 2022-029:</u> The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards	48
<u>FINDING 2022-030:</u> The Office Of Unemployment Insurance Failed To Ensure Adequate Internal Controls Were In Place For Federal Reports	53
<u>FINDING 2022-031:</u> The Office Of Unemployment Insurance Failed To Maintain Reemployment Services And Eligibility Assessment Records	58
APPENDIX	63

INTRODUCTION

**COMMONWEALTH OF KENTUCKY
INTRODUCTION
FOR THE YEAR ENDED JUNE 30, 2022**

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, presented within this report, summarizes the types 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, also 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) 2022, 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, 2022**

Audit Approach

The scope of the FY 2022 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 compliance and internal controls over 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 for Each Major Federal Program And Report on Internal Control Over Compliance in Accordance with the Uniform Guidance, and the 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

Qualified and Unmodified Opinions

We have audited the Commonwealth of Kentucky's (Commonwealth) compliance with the types of compliance requirements identified as subject to audit 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, 2022. 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, 2022. Our audit, described below, did not include the operations of these agencies and component units since they were audited by other auditors.

Qualified Opinion on ALN 10.565, 10.568, 10.569, 93.575 and 93.596

In our opinion, except for the noncompliances described in the Basis for Qualified and Unmodified Opinions section of our report, the Commonwealth complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2022.

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, 2022.



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

Basis for Qualified and Unmodified Opinions

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); 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 Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the Commonwealth and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of the Commonwealth's compliance with the compliance requirements referred to above.

Matters Giving Rise to Qualified Opinions on ALN 10.565, 10.568, 10.569, 93.575 and 93.596

As described in the accompanying Schedule of Findings and Questioned Costs, the Commonwealth did not comply with requirements regarding ALN 10.565 Commodity Supplemental Food Program, 10.568 Emergency Food Assistance Program (Administrative Costs), and 10.569 Emergency Food Assistance Program (Food Commodities) as described in finding number 2022-017 for Cash Management and finding number 2022-018 for Special Tests and Provisions. The Commonwealth also did not comply with requirements regarding ALN 93.575 Child Care and Development Block Grant and 93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund as described in finding number 2022-016 for Eligibility and Special Tests and Provisions. Compliance with such requirements is necessary, in our opinion, for the Commonwealth to comply with the requirements applicable to those programs.

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules, and provisions of contracts or grant agreements applicable to the Commonwealth's federal programs.

Auditor's Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the Commonwealth's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements

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

referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the Commonwealth's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the Commonwealth's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of the Commonwealth's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances 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 the Commonwealth's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

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 item 2022-019. Our opinion on each major federal program is not modified with respect to these matters.

Government Auditing Standards requires the auditor to perform limited procedures on the Commonwealth's response to the noncompliance findings identified in our compliance audit described in the accompanying schedule of findings and questioned costs. The Commonwealth's response was not subjected to the other auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

Report on Internal Control Over Compliance

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we did identify certain deficiencies in internal control over compliance that we consider to be material weaknesses and significant deficiencies.

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

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 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 in internal control over compliance described in the accompanying Schedule of Findings and Questioned Costs as items 2022-016, 2022-017, and 2022-018 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 items 2022-019 through 2022-031 to be significant deficiencies.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

Government Auditing Standards requires the auditor to perform limited procedures on the Commonwealth's response to the internal control over compliance findings identified in our audit described in the accompanying schedule of findings and questioned costs. The Commonwealth's response was not subjected to the other auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

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
Frankfort, Kentucky

March 3, 2023

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

**COMMONWEALTH OF KENTUCKY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2022**

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, 2022.

Internal Control Over Financial Reporting: Our consideration of the Commonwealth’s internal control over financial reporting disclosed five material weaknesses and 10 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, 93.575, and 93.596. An unmodified opinion was issued for the Commonwealth’s compliance for all other major federal programs. The results of our auditing procedures resulted in three 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 three material weaknesses and 13 significant deficiencies.

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

Type B Major Programs are highlighted in gray.

ALN	Cluster or Program Title
10.558	Child and Adult Care Food Program
10.565, 10.568, 10.569	Food Distribution Cluster
14.228	Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii
17.225	Unemployment Insurance
17.258, 17.259, 17.278	WIOA Cluster
20.205, 20.219	Highway Planning and Construction Cluster
21.023	Emergency Rental Assistance
21.027	Coronavirus State and Local Fiscal Recovery Funds
23.002	Appalachian Area Development
84.367	Supporting Effective Instruction State Grants
84.425	Education Stabilization Fund
93.044, 93.045, 93.053	Aging Cluster
93.472	Title IV-E Prevention and Family Services and Programs
93.575, 93.596	CCDF Cluster
93.775, 93.777, 93.778	Medicaid Cluster
93.958	Block Grants for Community Mental Health Services

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 \$32,486,703.

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 2022-001 through 2022-015.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Material Weaknesses Relating to Internal Controls and/or Noncompliances

FINDING 2022-016: The Cabinet For Health And Family Services Did Not Have Procedures In Place To Monitor American Rescue Plan Act Stabilization Funding Eligibility Determinations And Expenditures

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.575 – Child Care and Development Block Grant

ALN 93.575 – COVID-19 Child Care and Development Block Grant

ALN 93.596 – Child Care Mandatory and Matching Funds of the Child Care and Development Fund

Federal Award Number and Year: 2101KYCCDF – 2021

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

Pass-Through: Not Applicable

Compliance Area: Eligibility; Special Tests and Provisions

Questioned Costs: \$0

During the fiscal year (FY) 2022 audit of the Child Care Development Fund (CCDF) program, administered by the Cabinet for Health and Family Services (CHFS), internal controls over the eligibility for child care providers receiving CCDF American Rescue Plan Act (ARPA) stabilization funds were reviewed. The CHFS Division of Child Care (DCC) contracts with a consultant to determine child care provider ARPA eligibility, calculate child care provider payments, and provide technical assistance to the child care providers applying for ARPA stabilization funding. During FY 2022, DCC expended ARPA stabilization funding with no formal monitoring process to review the activities of the consultant.

Per the agreement DCC provided the consultant with a list of child care providers, the application for the child care providers to complete, and the requirements the consultant should use in the application review process (including the three tier categories). The consultant developed and implemented the application process, received and evaluated child care provider applications, and calculated the quarterly payments for each provider based on the assigned funding tier. The consultant also developed a weekly meeting agenda to discuss any problems or concerns with DCC. While DCC had weekly meetings with the consultant, there was no formal monitoring process to review the:

- applications received by the consultant or
- consultant’s eligibility determinations or
- ARPA stabilization payment calculations.

DCC did not have internal controls in place to monitor the provider application eligibility determinations or payment calculations performed by the consultant.

While the consultant provided valuable services to CHFS, failure to implement formal contract monitoring procedures could create a significant risk and opportunity for fraud or abuse. Contracts should be enacted to adequately safeguard an entity and mitigate the risk from the potential loss of resources due to the failure of a party to perform or provide funding per the agreed terms. Without internal controls in place to monitor compliance with the established contract requirements, DCC cannot ensure the child care providers are:

- eligible for funding and
- receiving the correct amount of funding based on the established tier system.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Material Weaknesses Relating to Internal Controls and/or Noncompliances

FINDING 2022-016: The Cabinet For Health And Family Services Did Not Have Procedures In Place To Monitor American Rescue Plan Act Stabilization Funding Eligibility Determinations And Expenditures (Continued)

In addition, without adequate internal controls, CHFS cannot ensure the consultant is operating according to federal regulations.

45 CFR 98.11 Administration under contracts and agreements states:

- (a) The Lead Agency has broad authority to administer the program through other governmental or non-governmental agencies. In addition, the Lead Agency can use other public or private local agencies to implement the program; however:
 - (1) The Lead Agency shall retain overall responsibility for the administration of the program, as defined in paragraph (b) of this section...
- (b) In retaining overall responsibility for the administration of the program, the Lead Agency shall:
 - (1) Determine the basic usage and priorities for the expenditure of CCDF funds;
 - (2) Promulgate all rules and regulations governing overall administration of the Plan;
 - (3) Submit all reports required by the Secretary;
 - (4) Ensure that the program complies with the approved Plan and all Federal requirements;
 - (5) Oversee the expenditure of funds by subrecipients and contractors, in accordance with 75 CFR parts 351 to 353;
 - (6) Monitor programs and services;
 - (7) Fulfill the responsibilities of any subgrantee in any: disallowance under subpart G; complaint or compliance action under subpart J; or hearing or appeal action under part 99 of this chapter; and
 - (8) Ensure that all State and local or non-governmental agencies through which the State administers the program, including agencies and contractors that determine individual eligibility, operate according to the rules established for the program.

Recommendation

We recommend DCC evaluate internal controls to ensure contractors are in compliance with contract provisions and federal regulations relating to child care provider eligibility and funding calculations.

Management's Response and Planned Corrective Action

The Division of Child Care will randomly select provider applications per quarter for further review. DCC staff will review all necessary information/documentation from the provider as well as calculations completed by PCG based on tier. For the remaining payments, DCC will complete this analysis prior to payments being issued.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2022-017: 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 10.565 – COVID-19 Commodity Supplemental Food Program

ALN 10.568 – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – COVID-19 Emergency Food Assistance Program (Administrative Costs)

10.569 – Emergency Food Assistance Program (Food Commodities)

10.569 – COVID-19 Emergency Food Assistance Program (Food Commodities)

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Agriculture

Pass-Through: Not Applicable

Compliance Area: Cash Management

Questioned Costs: \$0

This is a repeat finding as reported in the 2021 Statewide Single Audit of Kentucky (SWWAK) Volume II as finding 2021-021.

The Food and Nutrition Service (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 Food Distribution Cluster in order to minimize the time between the drawdown and subsequent disbursement of funds for federal program purposes in accordance with 31 CFR 205.33.

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.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2022-017: The Kentucky Department Of Agriculture Failed To Comply With Federal Cash Management Requirements (Continued)**

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 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 2022-017: The Kentucky Department Of Agriculture Failed To Comply With Federal Cash Management Requirements (Continued)**

Management’s Response and Planned Corrective Action

The FY2022 audit did not give KDA sufficient time to demonstrate compliance with the findings from the FY2021 audit, which resulted in these repeat findings. 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 fund drawdowns so that these drawdowns occur closer to an “actual, immediate cash requirement” as stated in 31 CFR 205.33. KDA has consulted with USDA and FNS for additional guidance. 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.

Auditor’s Reply

The FY 2021 audit report was issued in accordance with established timeframes per federal guidance and regulations. The auditor will review any implemented corrective action effective during the FY 2023 audit cycle.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2022-018: 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 10.565 – COVID-19 Commodity Supplemental Food Program

ALN 10.568 – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – COVID-19 Emergency Food Assistance Program (Administrative Costs)

10.569 – Emergency Food Assistance Program (Food Commodities)

10.569 – COVID-19 Emergency Food Assistance Program (Food Commodities)

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Agriculture

Pass-Through: Kentucky Department of Agriculture

Compliance Area: Special Tests and Provisions

Questioned Costs: \$0

This is a repeat finding as reported in the 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-020.

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 three storage facilities KDA observed during state fiscal year 2022. Additionally, KDA failed to maintain documentation that reconciled 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. In the current year under review KDA has worked with its federal partners to develop suitable policies and procedures to ensure compliance with federal regulations, which will be implemented in fiscal year 2023.

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.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Material Weaknesses Relating to Internal Controls and/or Noncompliances*****FINDING 2022-018: The Kentucky Department Of Agriculture Failed To Adequately Document And Perform Required Annual Inventories (Continued)**

7 CFR 247.28 Storage and inventory of commodities, states:

- (b) What are the requirements for storage 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.

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

The FY2022 audit did not give KDA sufficient time to demonstrate compliance with the findings from the FY2021 audit, which resulted in these repeat findings. KDA regularly monitors Food Bank inventories and conducts required annual physical inventories in compliance with federal regulations and federal timelines. KDA acknowledges 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 consulted with USDA and FNS at length on this procedure. KDA also has communicated this procedure to the Food Banks.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS*Material Weaknesses Relating to Internal Controls and/or Noncompliances***FINDING 2022-018: The Kentucky Department Of Agriculture Failed To Adequately Document And Perform Required Annual Inventories (Continued)**

Management’s Response and Planned Corrective Action (Continued)

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.

Auditor’s Reply

The FY 2021 audit report was issued in accordance with established timeframes per federal guidance and regulations. Management’s Response identified that the required annual physical inventories were conducted; however, those records were not always consistently documented. KDA should ensure future documentation is adequate to provide sufficient appropriate evidence to support compliance with federal regulations. Discussions with management identified newly implemented policies and procedures will be effective for FY 2023. The auditor will review those polices and compliance to regulations during the FY 2023 audit cycle.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-019: The Cabinet For Health And Family Services Did Not Identify And Correct Beneficiaries Impacted By A Classification Coding Error**

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 (Title XVIII) Medicare

ALN 93.777 – COVID-19 State Survey and Certification of Health Care Providers and Suppliers (Title XVIII) Medicare

ALN 93.778 – Medical Assistance Program

ALN 93.778 – COVID-19 Medical Assistance Program

ALN 93.778 – ARRA Medical Assistance Program

Federal Award Number and Year: Various

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: \$73,936

During the fiscal year (FY) 2022 Medical Assistance Program (Medicaid) audit, capitation rates and contracts were reviewed for allowable activities and allowable costs. The Cabinet for Health and Family Services (CHFS) contracts with six Managed Care Organizations (MCOs) to deliver medical services to Kentucky's population of Medicaid recipients. MCOs are compensated by capitation rates designated by assigned rate cells, and incorrectly assigned rate cells will result in incorrect capitation payments to MCOs.

Testing identified a case in which an incorrect rate cell was assigned to a Medicaid beneficiary. In this instance, there was an incongruence between the claimant's age and the predetermined capitation age category sent from Integrated Eligibility and Enrollment System (IEES) and recorded in Medicaid Management Information System (MMIS). The auditors inquired further and learned CHFS had previously identified a system coding error. The coding error was corrected during FY 2022; however, the beneficiaries impacted by the coding error were not identified and corrected, resulting in overpayments to the MCOs. According to CHFS, this error dated back to 2018 capitation payments and affected 404 individuals with a result of \$73,936 in overpayments.

Medicaid recipients were automatically assigned the incorrect rate cell when a null value was applied in place of an end date for their capitation category. This error occurred when the recipient either aged out of their former category or when they moved from one type of assistance to another. This issue was identified and fixed in the IEES and MMIS systems, but cleanup of the affected members was not performed as a part of the resolution in IEES.

Internal controls to maintain proper payments to MCOs and to ensure the actuarial soundness of capitation rates were not functioning effectively in IEES. This led to the failure to follow clean-up procedures to ensure compliance with allowed activity requirements in accordance with federal laws and regulations. Excluding a cleanup of the affected data from the coding fix resulted in incorrectly assigned rate cells and the continuation of improperly paid capitation amounts for a total of 404 Medicaid recipients. \$73,936 in funds were incorrectly expended over the course of this error for the affected individuals.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2022-019: The Cabinet For Health And Family Services Did Not Identify And Correct Beneficiaries Impacted By A Classification Coding Error (Continued)

Capitation rates should comply with contractual requirements. Capitation payments based on incorrect rate cell data are not in compliance with the contract's section 11.1 Calculation of Rates "The Capitation Rates are attached as Appendix A "Capitation Payment Rates" and shall be deemed incorporated into this Contract and shall be binding to the Contractor and the Department, subject to CMS' approval." In addition, per the contract, incorrect payments to MCOs must be either recouped (overpayments) or reimbursed (underpayments).

The regulatory authority governing payments to MCOs and the setting of capitation rates is 42 CFR 438. Section § 438.3, standard contract requirements, states, in part, that:

- (c) (1) The final capitation rate for each MCO, PIHP or PAHP must be:
 - (i) Specifically identified in the applicable contract submitted for CMS review and approval.
 - (ii) The final capitation rates must be based only upon services covered under the State plan and additional services deemed by the State to be necessary to comply with the requirements of subpart K of this part (applying parity standards from the Mental Health Parity and Addiction Equity Act), and represent a payment amount that is adequate to allow the MCO, PIHP or PAHP to efficiently deliver covered services to Medicaid-eligible individuals in a manner compliant with contractual requirements.

Section § 438.4 on actuarial soundness states, in part, that:

- (a) Actuarially sound capitation rates are projected to provide for all reasonable, appropriate, and attainable costs that are required under the terms of the contract and for the operation of the MCO, PIHP, or PAHP for the time period and the population covered under the terms of the contract, and such capitation rates are developed in accordance with the requirements in paragraph (b) of this section.
- (b) CMS review and approval of actuarially sound capitation rates. Capitation rates for MCOs, PIHPs, and PAHPs must be reviewed and approved by CMS as actuarially sound. To be approved by CMS, capitation rates must...
 - (4) Be specific to payments for each rate cell under the contract.

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). The non-Federal entity must establish and maintain effective internal control over federal awards.

Recommendation

We recommend CHFS establish internal control processes to ensure clean-up procedures are included in every error resolution and compliance with the contract and federal regulations.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-019: The Cabinet For Health And Family Services Did Not Identify And Correct Beneficiaries Impacted By A Classification Coding Error (Continued)**

Management’s Response and Planned Corrective Action

The Department strives to consistently comply with contractual requirements and state and federal regulations. The “Effect” in this finding states: “Internal controls to maintain proper payments to MCOs and to ensure the actuarial soundness of capitation rates was not functioning effectively. This led to the failure to follow clean-up procedures to ensure compliance with allowed activity requirements in accordance with federal laws and regulations. Excluding a clean-up of the affected data from the coding fix resulted in incorrectly assigned rate cells and the continuation of improperly paid capitation amounts for a total of 404 Medicaid recipients. \$73,936 in funds was incorrectly expended over the course of this error for the affected individuals.”

We disagree with this finding. IEES monthly analysis activity identified this defect prior to the auditor’s findings and TFS item 485615 was created on 6/20/2022.

In the instance of defect 485615 there was a delay in creating the corresponding data fix 498409 because the systems’ vendor team waited until they had identified all details needed to develop the data fix script before they created the TFS data fix item. We have discussed this with the system vendor, and they are taking action to ensure all team members are creating TFS items for data fixes at the time a defect is identified.

On 11/18/2022 the data fix ran, which corrected the rate cells for the impacted population. This information was sent to the MMIS system, which then took action to recoup any overpayment that occurred as a result.

Auditor’s Reply

We acknowledge CHFS identified the original error in June 2022; however, the beneficiaries impacted by the coding error were not identified and corrected, resulting in overpayments to the MCOs. Internal controls ensuring that data fixes are implemented at the time the defect is identified should result in accurate beneficiary coding in IEES and MMIS. Also please note the beneficiaries impacted were not “cleaned up” during FY 2022.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-020: The Cabinet For Health And Family Services Failed To Cease Prevention Benefits When Continued Eligibility Was No Longer Indicated**

State Agency: Cabinet for Health and Family Services

Federal Program: ALN 93.472 – Title IV-E Prevention Program

ALN 93.472 – COVID-19 Title IV-E Prevention Program

Federal Award Number and Year: 2101KYPSGP – 2021; 2201KYPSGP – 2022

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

Pass-Through: Not Applicable

Compliance Area: Eligibility

Questioned Costs: \$0

During the fiscal year (FY) 2022 audit of Title IV-E Prevention Services, administered by the Cabinet for Health and Family Services (CHFS), internal controls and compliance for eligibility determinations were tested. To be eligible to receive prevention services, participants must be assessed to meet the specific program requirements and undergo continual review to ensure they remain eligible. Every six months, CHFS completes a case plan form which indicates if the participant is continually eligible for prevention services. Once participants are deemed no longer eligible, prevention services should cease.

During the review of 25 prevention services eligibility files, it was noted that CHFS indicated on the case plan form that one participant was not eligible; however, prevention service benefits continued to be provided for over seven months after the determination.

CHFS did not have internal controls in place to ensure services are no longer provided to participants deemed ineligible per the case plan. The case plan form for one participant did not indicate continued eligibility for Title IV-E prevention services.

Without the appropriate documentation supporting ongoing prevention services, the eligibility status of the individual cannot be determined to be in compliance with federal regulations. Failure to correctly document the continued eligibility of the participant in the case file increases the risk of CHFS making payments for ineligible individuals.

Kentucky CHFS Prevention Plan, Assessment and Consultation Processes states:

Children will be assessed on an ongoing basis to determine if risk factors are still present or if they have been reduced and parental capacity has been enhanced, negating the need for prevention services. This will be achieved through ongoing provider consultation utilizing assessment tools, such as the NCFAS [North Carolina Family Assessment Scale], and ongoing frontline worker assessment and periodic case plan assessment.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2022-020: The Cabinet For Health And Family Services Failed To Cease Prevention Benefits When Continued Eligibility Was No Longer Indicated (Continued)

Kentucky CHFS Prevention Plan, Safety and Risk Assessment throughout the Course of the Investigation (4) states:

When the determination is made that a child is at immediate risk at any point during contact with the family:

1. Negotiates a prevention plan with the family clearly documenting the preventive services and interventions agreed upon with the family;
2. Utilizes Family Preservation (FPP) and other in home services to prevent removal whenever possible and documents why less restrictive alternatives were not utilized in the assessment;

Kentucky CHFS Prevention Plan, Safety and Risk Assessment throughout the Course of the Investigation (8) states, “Consults with FSOS immediately to discontinue the prevention plan when there are no remaining safety threats that require the provisions of the prevention plan.”

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 develop internal controls to ensure continued eligibility is documented in accordance with federal requirements in the case plan.

Management’s Response and Planned Corrective Action

Current controls are in place to ensure eligibility of candidates for foster care beyond 12 months. These include regional continuous quality improvement (CQI) specialists’ use of TWIST management reports to communicate to field staff when Family First Prevention Services Act (FFPSA) case planning is required to capture Child Specific Prevention Planning. These also include Standards of Practice guidance to field staff in place to ensure completion of FFPSA case planning required to capture Child Specific Prevention Planning; chapter 6, sections 1, 2, 3, and chapter 3, section 4.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-020: The Cabinet For Health And Family Services Failed To Cease Prevention Benefits When Continued Eligibility Was No Longer Indicated (Continued)**

Management’s Response and Planned Corrective Action (Continued)

Further efforts to ensure internal controls are being built currently within the state Child Welfare Information System, TWIST. These include automation of foster care candidacy end 12 months from the start when a new FFPSA case plan and Child Specific Prevention Plan is not created. This change is anticipated to be released 7/1/23.

In additional to the above, DCBS along with the Office of Application Technology (OATS) are exploring additional changes within the TWIST system to further strengthen internal controls.

Auditor’s Reply

CHFS response is centered around a 12-month eligibility and controls to be built into the TWIST system. The finding is focused on the State Plan requirement of a 6 month review that CHFS mandates to be completed. It was during one of these reviews where CHFS identified the need to cease Title IV-E Prevention Services, yet the participant continued to receive benefits.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-021: 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 – 2021, 2001KYCSES - 2022

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

This is a repeat finding as reported in the 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-033.

The Child Support Enforcement (CSE) Program, administered by the Cabinet for Health and Family Services (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 FY 2021 and FY 2022 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’ internal policies and procedures did 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.

Per CHFS, a new division was formed in FY 2023 and policies were in the process of being developed to address the issues.

Additionally, in FY 2021 and FY 2022, 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. While CHFS has implemented a new methodology for the calculation of funding awarded to subrecipients, the procedures were not in place during FY 2022.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-021: 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 did not have a methodology documented in FY 2022 to determine the allocation amounts from one year to the next and relied 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 2022-021: 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 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.
- (c) Evaluate and monitor the non-Federal entity’s compliance with statutes, 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 \$65 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 2022-021: 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 Guidelines 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 MDPS. If the employee's actual rate of pay is less than the rate of pay shown in MDPS, the reimbursement must be reduced accordingly.

If the employee's actual rate of pay is more than the rate of pay shown in MDPS, a thorough explanation is required via separate memo, as well as the approval from the CSE Commissioner both of which must be included with the MDPS submission.

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

Recommendation

We recommend CHFS continue to document policies and procedures and re-evaluate internal controls to ensure the CSE employees are receiving the same rate of pay as other employees in the CSE offices and thus ensure compliance with federal regulations. We further recommend CHFS continue to 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

Management's Response

Since the Division of Fiscal Management's (DFM) creation, positions have been filled and actively being filled. The primary goal of this division is to ensure public integrity of federal and state funding.

The FY23/24 CSE Biennial Budget for County Attorney subrecipients was based on the cost per open case for each county. For FY23, each county was appropriated the median amount of \$175/per open case which was based on FY21 data. The subrecipient contracts were re-evaluated to ensure the median amount of \$175/per open case was met for FY23. Subrecipient contracts that had not previously met the median amount received additional funding to ensure all contracts had a minimum budget of \$175/per open case.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-021: 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)

DFM did present a proposal to the Federal Office of Child Support (OCSE) to adjust the CSE equitable rate of pay calculation to include compensation for personal services that may include fringe benefits that should be allocated in proportion to the work effort given. OCSE agreed that this calculation is acceptable since it is in the 45 CFR 75.430 (a) and 2 CFR 200.430 (a) state “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.”

Corrective Action Plan

Procedures and guidance to calculate the equitable rate of pay are being developed and will be included in the third version of the County Attorney Reimbursement Guidelines.

FY24 Biennial Budget is for the second budget year therefore the median amount of \$175 per open case will be the initial budget contract amount. Efforts are currently underway to assess FY23 County Attorney reimbursements and forecasted remaining FY23 expenditures to determine the amount to be included in each of the FY24 County Attorney Contracts.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-022: 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 – COVID-19 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, Suspension, and Debarment

Questioned Costs: \$0

This is a repeat finding as reported in the 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-031.

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. DPH contracts with vendors using Master Agreements (MA) through the Finance and Administration Cabinet (FAC) as well as contracts initiated by CHFS.

During the audit, one FAC MA and one emergency procurement did not contain language related to suspension and debarment within the agreement. While a contract provision related to suspension and debarment is included in the agreements initiated by DPH, the contract language is not consistently present in Commonwealth initiated Master Agreements or solicitations utilized by DPH. Although internal control procedures were not in place, compliance testing did not identify any suspended or debarred subrecipients for ELC during fiscal year (FY) 2022. During FY 2023, DPH developed a policy and procedure manual to address suspension and debarment.

Although the Commonwealth has a formal policy regarding federal debarment, CHFS' ELC program did not have a process in place to verify all contracted entities were not suspended or debarred related to federal funds in FY 2022.

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.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-022: The Cabinet For Health And Family Services Failed To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred (Continued)**

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 subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

The Finance and Administration Cabinet Policy FAP 111-59-00 Federal Disbarment 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 (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).

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2022-022: The Cabinet For Health And Family Services Failed To Ensure Contracted Subrecipients Were Not Federally Suspended Or Debarred (Continued)

Recommendation

We recommend CHFS continue implementing internal controls to ensure compliance with Procurement, Suspension and Disbarment requirements in accordance with state and federal regulations.

Management’s Response and Planned Corrective Action

The Cabinet for Health and Family Services, Division of Procurement and Grant Oversight will implement the following requirements for all covered transactions:

1. *All CHFS issued or requested solicitations and contracts (including purchase orders resulting from Request for Quotes) that meet the federal and state requirements will contain boilerplate language stating:*

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Lower Tier Covered Transactions

In accordance with Federal Acquisition Regulation 52.209-5, 2 CFR 180.300, 2 CFR 200.318, 2 CFR 200.303, and FAP 111-59-00 the Vendor shall certify, by signing the Solicitation, that to the best of its knowledge and belief, the Vendor 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. 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.

For 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 a subsidiary, division, or business segment, and similar positions.)

2. *For applicable orders against Finance OPS issued agreements, buyers will review the solicitation and/or contract to verify that it included a statement similar to the one above to ensure it meets all requirements.*
 - a. *If the contract contains the language, the buyer will add the following statement to the Determination and Finding or add a document comment to the delivery order:*

“Vendor certified to the best of their knowledge and belief that they are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency by submitting a proposal and/or signing the contract. The vendor is required contractually to notify the Cabinet within 48 hours of an exclusion or debarment.”

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-022: 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 (Continued)

- b. *If the contract does not contain the language, the buyer will manually verify against the SAM.gov exclusions list.*
 - i. *If not excluded:*
 - 1. *The buyer will add the following statement to the Determination and Finding or add a document comment to the delivery order:
“Verified SAM.gov Exclusion List – Not Excluded”*
 - ii. *If excluded:*
 - 1. *The buyer will document the finding in the PPATS file;*
 - 2. *The order will not be placed to the vendor; and*
 - 3. *The buyer will reevaluate procurement options.*

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2022-023: The Department Of Workforce Development Failed To Submit Accurate Reports

State Agency: Department of Workforce Development

Federal Program: ALN 17.258 WIOA Adult Program

ALN 17.259 WIOA Youth Activities

ALN 17.278 WIOA Dislocated Worker Formula Grants

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Reporting

Questioned Costs: \$0

Under the Workforce Innovation and Opportunity Act (WIOA), all grantees are required to submit quarterly financial (9130) reports for each grant award they receive for the United States Department of Labor (U.S. DOL). The 9130 reports are submitted quarterly and provide U.S. DOL the financial status of each of the federal grants awarded to the Commonwealth. Review of 12 of the 176 reports that were completed and submitted during Fiscal Year (FY) 2022 indicated the Department for Workforce Development (DWD) did not submit accurate 9130 reports to U.S. DOL.

The following issues were noted in four reports out of 12 reports reviewed, some of which had more than one error:

- One report did not accurately report cash receipts and cash disbursements on the 9130 report. Cash receipts were underreported by \$1,000,000 and cash disbursements were underreported by the same amount.
- One report did not agree with accounting records for the total federal funds authorized for the program. It was overstated by a total of \$176,419.
- One report did not accurately report the cumulative federal share of expenditures. It was overstated by \$263,025.
- One report did not accurately report the cumulative administrative expenditures for the program. It was understated by a total of \$452,977.
- One report did not accurately report the total federal share of unliquidated obligations. It was understated by a total of \$1,259,975.
- Four reports did not accurately report additional obligation and expenditure data required by the 9130 report. The net error amount reported was understated by \$4,042,198.

The submitted reports did not agree to either the state's accounting system or the agency-provided support. Internal controls over the review of the 9130 reports did not detect these errors.

Federal reports were submitted in FY 2022 with errors that went undetected by DWD. 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 U.S. DOL 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 2022-023: The Department Of Workforce Development Failed To Submit Accurate Reports (Continued)

2 CFR section 200.300 – Statutory and national policy requirements, paragraph (b) states, in part, “[t]he 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 “[a]ccurate, 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 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).

Recommendation

We recommend DWD review internal controls to ensure the federal reporting process for WIOA is operating within federal reporting guidelines. This may involve establishing processes for DWD staff to review and maintain supporting documentation with the prepared reports prior to submission. We also recommend DWD resubmit corrected reports for those reports containing errors.

Management’s Response and Planned Corrective Action

The Education and Labor Cabinet (ELC) has received the above finding and recommendation. ELC has reviewed and acknowledges the identified errors within the 9130 reports for the WIOA grants. We have reached out to the U.S. Department of Labor to determine if amended reports need to be filed or if corrections are necessary. In addition, ELC staff are reviewing internal controls and procedures related to these reporting areas. Any deficiencies noted in internal processes will be strengthened to ensure further errors do not occur. ELC has already established a review process that allows the reports and supporting documentation to be reconciled to ensure accuracy prior to submitting the 9130 reports to the Department of Labor. Additionally, ELC is working to standardize a set of monthly reports for staff to review.

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 2022-023: The Department Of Workforce Development Failed To Submit Accurate Reports (Continued)**

Auditor's Reply

As noted in the FY 21 Statewide Single Audit of Kentucky, 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 State 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 2022-024: 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 10.565 – COVID-19 Commodity Supplemental Food Program

ALN 10.568 – Emergency Food Assistance Program (Administrative Costs)

ALN 10.568 – COVID-19 Emergency Food Assistance Program (Administrative Costs)

10.569 – Emergency Food Assistance Program (Food Commodities)

10.569 – COVID-19 Emergency Food Assistance Program (Food Commodities)

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Agriculture

Pass-Through: Not Applicable

Compliance Area: Procurement, Suspension and Disbarment

Questioned Costs: \$0

This is a repeat finding as reported in the 2021 Single Audit of Kentucky (SWWAK) Volume II as finding 2021-036.

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 disbarred 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 all contracted subrecipients for CSFP and TEFAP were not federally suspended or disbarred.

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 111-59-00 identifies the agency is responsible for ensuring compliance with established requirements. In the prior year KDA confirmed they had not adhered to the established policy or implemented internal controls and procedures to comply with State and federal regulations. Additionally, the prior year's finding response by KDA indicated that corrective action would not take place until FY2023.

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 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 2022-024: 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 (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).

2 CFR 200.318 General procurement standards, states in part:

- (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 subaward. 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 Disbarment 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.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2022-024: 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 Disbarment requirements in accordance with State and federal regulations.

Management's Response and Planned Corrective Action

The FY2022 audit did not give KDA sufficient time to demonstrate compliance with the findings from the FY2021 audit, which resulted in these repeat findings. 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.

Auditor's Reply

The FY 2021 audit report was issued in accordance with established timeframes per federal guidance and regulations. The additional KDA statement was not observed in contracts during FY 2022. The auditor will review any implemented corrective action effective during the FY 2023 audit cycle.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-025: The Office Of Unemployment Insurance Did Not Ensure The Kentucky Electronic Workplace For Employment Services Was Properly Secured**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – COVID-19 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 full in the 2022 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as financial statement finding 2022-011. Management's response and planned corrective action for finding 2022-011 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below.

This is a repeat finding as reported in the FY 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-043. The Office of Unemployment Insurance (OUI) did not monitor an account used by six individuals to administer the Kentucky Electronic Workplace for Employment Services System (KEWES) during fiscal year 2022. Six users were granted access to the Siebel Administrator account, SADMIN. Siebel provides a graphical interface to unemployment insurance (UI) data stored within an Oracle database. According to OUI, the purpose of the SADMIN account is to perform administrative duties associated with Siebel. However, since multiple users have access to one account, there is no way to track or identify who is using the account. While OUI staff stated the SADMIN account is used in rare circumstances to view system data, they did not log or monitor this account's activity. As such, auditors could not verify if this account was in fact being used strictly for administrative purposes. Even though this account is not used regularly by OUI staff, access to an account with elevated privileges poses a significant risk to system security.

Also, OUI did not implement the corrective actions they provided in their response to the prior year finding. OUI indicated, in their response to the prior year finding, the SADMIN account would be restricted from being used as a group account and those requiring access would be given individual accounts based on need and separation of duties. In addition, OUI stated they would set an alert to monitor the account. None of these actions were taken by the agency during FY 2022.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-026: 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 – COVID-19 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 full in the 2022 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as finding 2022-012. Management's response and planned corrective action for finding 2022-012 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below.

This is a repeat finding as reported in the fiscal year 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-042. 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 2022. KEWES is the system used by OUI to process Unemployment Insurance (UI) for the Commonwealth of Kentucky.

Claims data is sent to OUI multiple ways for entry into KEWES including fax, mail, e-mail, scan, claimant upload, and e-claimants. OUI confirmed there is not one single document that explains all of the data entry processes. Given the complexity of UI processes, all data entry methods should be documented within a single manual.

Since a complete population of system errors and security alerts could not be provided, OUI staff provided examples of system errors and security alerts that occur during processing. OUI also has files depicting the proposed flow of data for account registration, claim filing, and tracking the number of weeks in which benefits were paid to claimants. However, this documentation does not describe system functionality, edits, audits, alerts, or errors processed by the system. Edits verify the accuracy, validity, required presence, format, consistency, allowable values, and integrity of data submitted. Audits determine if there are any restrictions based on historical claims. An error message alerts users of a problem that has already occurred.

Furthermore, the Commonwealth Office of Technology (COT) Production Services Branch is responsible for production batch operations and scheduling UI job streams. These Mainframe jobs interact with KEWES to process things including UI benefits payments. The auditor was previously provided 25 schedules reflecting UI jobs running in production. These schedules run jobs daily, weekly, on weekends, or as needed. While the various jobs have a description associated with them, the schedules do not have descriptions indicating their purpose or explain why certain jobs are running as part of that schedule. One schedule may run two jobs daily while another schedule may run five jobs daily.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-027: 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 – COVID-19 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 full in the 2022 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as finding 2022-013. Management's response and planned corrective action for finding 2022-013 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below.

This is a repeat finding as reported in the fiscal year 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-022. The Kentucky Labor Cabinet's (Labor) Office of Unemployment Insurance (OUI) did not comply with certain Commonwealth enterprise policies related to information system security as it pertains to the Kentucky Electronic Workplace for Employment Services (KEWES) during fiscal year (FY) 2022.

OUI is required to follow enterprise policies established by the Commonwealth Office of Technology (COT). One of these policies, CIO-112 Security Planning Policy, requires state agencies to develop and manage system security plans (SSP) for IT systems under their control. In addition, CIO-093 Risk Assessment Policy, requires state agencies to categorize their information systems by assigning a Security Categorization (SC) and document it within the SSP. Discussions with the agency revealed OUI has not developed an SSP for KEWES, but has categorized KEWES as 'Confidential'. The SSP describes components included within a system, the environment in which a system operates, how security requirements are implemented, and relationships with or connections to other systems.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-028: The Office Of Unemployment Insurance Did Not Comply With Certain Federal Regulations Related To Income Eligibility And Verification Systems**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – COVID-19 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 full in the 2022 Report of the Statewide Single Audit of the Commonwealth of Kentucky (SSWAK) Volume I as finding 2022-014. Management's response and planned corrective action for finding 2022-014 can be found in the SSWAK Volume I. The finding also identified matters impacting federal program compliance as described below.

The Office of Unemployment Insurance (OUI) has not completed quarterly wage crossmatches for Unemployment Insurance (UI), Pandemic Unemployment Assistance (PUA), and Pandemic Unemployment Emergency Compensation (PUEC) claims for Calendar Year (CY) 2021 and CY 2022. Due to the workload created for staff because of the COVID-19 pandemic, OUI is currently running the fourth quarter cross match for CY 2021 in November of 2022. 20 CFR 603.23 (Code of Federal Regulations) requires state Unemployment Compensation (UC) agencies to crossmatch quarterly wage information with UC payment information to identify ineligibility for benefits and prevent or discover incorrect payments.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-029: 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 – COVID-19 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

This is a repeat finding as reported in the fiscal year 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-047.

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. The 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. 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 fiscal year (FY) 22, OUI completed 327 BAM reviews of paid claims and 441 BAM reviews of denied claims.

Auditors evaluated internal controls over compliance with federal requirements by interviewing OUI personnel. It was determined that OUI does not complete a supervisory review for accuracy and completeness of all BAM case investigations. In addition, during compliance testing it was noted that cases were missing the required documentation to support the BAM conclusion. The lack of a supervisory review to ensure complete and accurate BAM assessments is 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 2022-029: The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards (Continued)**

The following issues were noted during compliance testing:

- Six paid claims out of 33 reviews sampled lacked the required documentation in the case file to adequately perform the review. The files were provided to auditors in a subsequent review.
- Four denied claims out of 45 reviews sampled did not contain the required documentation in the case file to adequately perform the review. The files were provided to auditors in a subsequent review.
- OUI failed to meet the timeliness standard for paid claims reviewed under BAM for fiscal year 2022. Based on the information provided, OUI completed review of 35.59% 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 failed to meet the timeliness standard for denied claims reviewed under BAM for fiscal year 2022. Based on the information provided, OUI completed review of 82.69% of monetary denied claims, 52.56% of separation denied claims, and 61.98% nonseparation denied claims cases within 90 days. The BAM program standard is to complete review of 85% of the sampled denied claims cases within 90 days.

OUI did not follow U.S. DOL requirements for maintaining file documentation and timeliness. OUI did not ensure internal controls over compliance were effective and able to prevent and detect errors in BAM review documentation. OUI staffing levels and an increased workload may be contributing to the agency's inability to meet the timeliness deadlines.

Failure to implement effective internal controls over compliance could create inaccurate BAM determinations on individuals' claims, potentially establishing improper overpayments or underpayments. Prompt completion of investigations is important to ensure the integrity of the information being collected by questioning claimants 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 (a) 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 2022-029: 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 VI, paragraph 13 states:

Therefore, the following time limits are established for completion of all [paid] 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 VIII, paragraph 7 states:

However, due to the fact that contacting the claimant and obtaining claimant information is more difficult than in paid claims, the timeliness standards differ as the following indicates:

- a minimum of 60 percent of cases must be completed within 60 days of the week ending date of the batch, and 85 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.

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.”

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-029: The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards (Continued)**

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.

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 Kentucky Education and Labor Cabinet (ELC) has received the above finding and recommendation. Challenges with staffing and workload continued to persist throughout the fiscal year. ELC has sought funding from the Kentucky General Assembly to expand the number of OUI employees and the General Assembly has repeatedly denied those requests. Despite these challenges, ELC has increased case review rates and broadened staff knowledge by having current staff help review cases outside their normal workload. In addition, ELC has implemented a review process for each case before final submission to improve internal controls and limit typos and document omission errors. Again, internal controls have been strengthened and improvement in case review rates has occurred since the audit. Timeliness of case completions is an ongoing area of focus for improvement with existing staff. Despite being understaffed, restricted from overtime, and having increased workloads due to additional case review and internal control measures, staff are completing cases in a timely manner.

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 2022-029: The Office Of Unemployment Insurance Failed To Meet Benefits Accuracy Measurement Standards (Continued)**

Auditor's Reply

As noted in the FY 21 Statewide Single Audit of Kentucky, 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 State 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 2022-030: 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 – COVID-19 Unemployment Insurance

Federal Award Number and Year: Various

Federal Agency: U.S. Department of Labor

Pass-Through: Not Applicable

Compliance Area: Reporting; Special Tests and Provisions

Questioned Costs: \$0

This is a repeat finding as reported in the fiscal year 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-044.

As a part of the audit of the Commonwealth's federal compliance with the Unemployment Insurance (UI) program, ten report types were tested. Report descriptions and any errors identified in the testing are detailed below:

- 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. An overstatement error totaling \$1,339,548 was noted in one report out of four tested.
- 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. None of the four reports tested agreed to supporting documentation for the performance measurements.
- 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. One report out of four tested contained errors and did not agree with supporting documentation for the performance measurements.
- The Financial Status Report (ETA 9130) is a quarterly report used to report program and administrative expenditures for each grant awarded to OUI, including unemployment insurance (UI). Inquiry with the agency indicated OUI staff members shared a personal identification number in the Grant Reporting System which could not distinguish between the individuals certifying or preparing the reports.
- In the testing of two out of four UI-3 Quarterly UI Above-Base Earnings (ETA 2208a) reports submitted in FY 2022, it was discovered that one report's supporting documentation did not match the reported amount. Additionally, incorrect formulas were used to calculate amounts reported on one ETA 2208a.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-030: The Office Of Unemployment Insurance Failed To Ensure Adequate Internal Controls Were In Place For Federal Reports (Continued)**

Although the following tested reports did not contain errors, internal controls related to reviewing the reports for accuracy and completeness were not in place during FY 2022:

- The Reemployment Services and Eligibility Assessment (RESEA) Workload Report (ETA 9128) and RESEA Outcomes Report (ETA 9129) provide quarterly information on RESEA activities and outcomes of claimants who are most likely to exhaust their UI benefits and are selected to participate in the RESEA program. While there was a process to review the reports prior to submission, there was no documentation retained indicating the review occurred in FY 2022.
- The Appeals Case Aging Reports (ETA 9055L and ETA 9055H) provide 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 until June 2022.

OUI did not have an internal process for a supervisory or second level review to verify the accuracy of the ETA 2112, ETA 9050, ETA 9052, ETA 9055L, ETA 9055H, ETA 9128, and ETA 9129 reports prior to submission. In addition, there was no segregation of duties in the submission and certification procedures for the ETA 9130 report. Although there was evidence of review of the ETA 2208a, the agency's review of the report and supporting workbook was not operating effectively to detect or prevent the errors.

Federal reports were submitted in FY 2022 with errors that went undetected by OUI. Without adequate review of the reports and without OUI maintaining adequate supporting documentation, the risk of inaccurate reporting increases. Failure to ensure the accuracy of financial reports submitted to United States Department of Labor (U.S.DOL) and not segregating the submission and certification duties could lead to noncompliance with federal regulations.

2 CFR section 200.300 – Statutory and national policy requirements, paragraph (b) states, in part, “[t]he 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 “[a]ccurate, current, and complete disclosure of the financial results of each Federal award or program...”

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-030: The Office Of Unemployment Insurance Failed To Ensure Adequate Internal Controls Were In Place For Federal Reports (Continued)**

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 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.”

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 and support for the reports be retained in accordance with federal regulations. OUI should also work with U.S. DOL to obtain unique certification pin codes for each authorized reviewer to ensure adequate segregation of duties in the report review process.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-030: 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

The Education and Labor Cabinet (ELC) has received the above finding and recommendations. ELC is aware this is a repeat finding; however, the prior recommendation for correction was received on April 29, 2022 and ELC created a plan to improve, update and actively place internal controls on these reports. This plan had an implementation date of May 31, 2022 and was met by ELC staff. The present review was completed for the 2022 fiscal year and only included two months of the time period impacted by the May 2022 improvements to internal controls. Each report mentioned in the above finding is addressed below listing the corrective actions taken.

ELC is aware there are several amended returns required for the ETA 2112 report; however, due to errors on other reports that impact the 2112 report, all amendments will be addressed oldest to newest. Our intended schedule for the ETA 2112 reports is as follows:

FY2020 amendments, completed by 3/15/23

FY2021 amendments, completed by 4/15/23

FY2022 amendments, completed by 5/15/23

FY2023 amendments, completed by 6/15/23

In addition, ELC is cognizant there were four amended returns required for the ETA 9050 report during the FY 2022 audit and all were for months prior to the corrective action plan created from the previous audit. Those four amended reports have already been completed and submitted on the below dates:

August 2021 on 2/6/23

September 2021 on 2/8/23

October 2021 on 2/12/23

November 2021 on 1/28/23

The auditor’s review revealed there was one ETA 9052 report during the FY 2022 audit that needed amendment; this report error was also prior to the corrective action plan created by ELC. This report was corrected, and an amended report was filed for the October 2022 report on 02/08/23.

ELC was made aware that there was a discrepancy between the workbook provided by ELC’s Division of Fiscal Management and the submitted ETA 2208a for December 2021 on 1/31/23. ELC reviewed and recognized this data was inaccurate; however, an amended return could not be submitted to ETA based on the federal system’s limitation to amending this report after 12/31/22. ELC did ensure the correct data would not have affected the net dollar amount US DOL would have issued for above base funding.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-030: 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)

The Quality Control Branch manager of the Office of Unemployment Insurance (OUI) has updated internal instructions for this report to ensure accuracies, along with meeting with the Division of Fiscal Management to improve their review of data and adding a 2nd review of the report data prior to submission to the ETA report system. These updates will be in force by 5/1/23.

The instructions and process for ETA reports 9128 and 9129 have already changed. The Quality Control Branch manager of OUI updated the instructions and trained the Career Development Office staff working on the Reemployment Services and Eligibility Assessment (RESEA) program. RESEA staff took ownership of building the report effective 7/06/22. RESEA staff provide the report data to the Quality Control Branch manager, who then reviews the data for accuracies, asks for corrections (if needed) and submits the final report to the ETA federal report system.

Lastly, the instructions for ETA 9055 (lower and higher authority) report were updated 8/31/22, and a virtual training was held with Quality Control (QC) staff on 6/24/22. Prior to transmitting the data through the federal report system, QC staff must provide the manager with a screen shot of the entries with the data used to build it. The manager then reviews the data for accuracies, asks for corrections if needed, and informs the QC staff to submit the final report to the ETA federal report system. All review requests and approvals are done via email and saved to the report’s file.

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

As noted in the FY 21 Statewide Single Audit of Kentucky, 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 State 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 2022-031: The Office Of Unemployment Insurance Failed To Maintain Reemployment Services And Eligibility Assessment Records**

State Agency: Office of Unemployment Insurance

Federal Program: ALN 17.225 – Unemployment Insurance

ALN 17.225 – COVID-19 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: \$23,682

This is a repeat finding as reported in the fiscal year 2021 Statewide Single Audit of Kentucky (SSWAK) Volume II as finding 2021-048.

During the fiscal year (FY) 22 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. Nonparticipation in the RESEA program would result in the claimant's unemployment benefits being stopped for non-eligibility.

A review of 60 RESEA participants revealed seven did not meet program requirements. The participant case files did not contain information indicating the claimants completed the required RESEA activities. Altogether, five of the claimants received a total of \$23,682 in unemployment benefits after the required orientation date. The Office of Unemployment Insurance (OUI) was unable to provide the auditors with any evidence these claimants attended the orientation or completed the RESEA trainings; therefore, the \$23,682 is considered questioned costs.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Significant Deficiencies Relating to Internal Controls and/or Noncompliances

FINDING 2022-031: The Office Of Unemployment Insurance Failed To Maintain Reemployment Services And Eligibility Assessment Records (Continued)

RESEA staff did not follow up on all cases when claimants missed training. Without this input, non-eligibility determinations could not be rendered. As a result, ineligible claimants continued to receive benefits.

The number of individuals selected to participate in RESEA was 3,315. As noted earlier, seven participants in the sample of 60 did not have evidence of whether the participants completed the required RESEA activities or not, possibly allowing claimants to receive benefits when failure to complete the required RESEA activities should have resulted in a disqualification from receiving benefits. The total cost of potential overpayments could not be reasonably determined due to other factors that may affect the claims, beyond the benefit payments identified in the sample, totaling \$23,682, which are considered questioned costs.

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 (UIPL) No. 10-22, Fiscal Year (FY) 2022 Funding Allotments and Operating Guidance for Unemployment Insurance (UI) Reemployment Services and Eligibility Assessment (RESEA) Grants, paragraph 4.d.ii – “Once a state notifies claimants of their selection to participate in the RESEA program, participation is a mandatory condition of UC eligibility. This includes: 1) the initial RESEA; 2) any subsequent RESEAs; and 3) any reemployment services to which they are referred.”

Recommendation

We recommend CDO continue its efforts to increase the RESEA staff’s ability to administer the RESEA participation process. This effort could include the timely recording of RESEA selectee nonparticipation and sending Notices of Determination for selectees who have had an eligibility issue determined. OUI should review the nonparticipating individuals that continued to receive UC benefits to determine if overpayments need to be established on each individual’s claim.

SECTION 3 – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Significant Deficiencies Relating to Internal Controls and/or Noncompliances*****FINDING 2022-031: The Office Of Unemployment Insurance Failed To Maintain Reemployment Services And Eligibility Assessment Records (Continued)**

Management’s Response and Planned Corrective Action

The Education and Labor Cabinet has received the above finding and reviewed the recommendation. The Career Development Office (CDO) staff have strengthened internal controls to ensure errors do not occur again. Staff have reviewed processes and added additional steps for review and monitoring. Every month, RESEA staff will review the participant report and provide evidence of spot-checks for quality assurance, correct any information or follow-up as necessary. This documentation will be reviewed by CDO staff and maintained in a shared drive. Additionally, RESEA staff will complete a more extensive quarterly review to ensure the report submitted to the U.S. Department of Labor is accurate and complete.

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.

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APPENDIX

**COMMONWEALTH OF KENTUCKY
APPENDIX
FOR THE YEAR ENDED JUNE 30, 2022**

This report is available on the Auditor of Public Accounts' website, auditor.ky.gov. The Commonwealth's FY 2022 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 major programs audited for FY 2022.

Agency	Contact
Cabinet for Health and Family Services	Leesa Harrison, Director Division of General Accounting 275 East Main Street 4E-A Frankfort, KY 40601 Phone: (502) 545-8416
Department for Local Government	Billie R. Johnson, Executive Director Office of Federal Grants 100 Airport Road Frankfort, KY 40601 Phone: (502) 892-3449
Department of Workforce Development	Beth Brinly, Deputy Secretary Department of Workforce Development 500 Mero Street, 4 th Floor Phone: (502)-564-1817
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