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New State Audit Exposes Millions of Dollars of Improper Spending of Federal Pandemic Monies by State Agencies

State Auditor Mike Foley announced today the release of an audit report of the use of Federal funds disbursed to Nebraska State agencies. Each year, State agencies expend billions in federal funds with the requirement that an annual audit be conducted on the use of those monies. That report, generally referred to as the federal-single audit is then submitted to the federal government for review and possible action by them.

The federal audit requirements provide that the audit team is to identify what it refers to as “questioned costs” which could potentially result in required repayments to the federal government and / or a reduction in future federal awards to the State.

This year’s federal-single audit documents millions of federal funds as “questioned costs”.

Some of the more significant lapses identified in the report relate to monies received by the State as part of federal efforts to assist the States in their efforts to respond to the COVID pandemic. Some examples include:

- 1) **The Nebraska Military Department** was tasked with administering a pandemic related low-income rental and utility assistance program with an initial award of about \$158 million in federal funds. Ultimately most of that funding was reallocated by the State to local governments to spend leaving the balance to be disbursed by the State Military Department to eligible recipients. The federal regulations relevant to this program limit the administrative expenses to 10% of the final amount awarded.

Ultimately, the Military Department’s spending on administrative expenses was **far in excess of** what is allowable, and this was brought to the agency’s attention in last year’s audit report. Now, for the second time, the auditors have shown that the problem was not addressed. Through June 30, 2022, the agency spent about \$9.8 million on administrative expenses and the auditors calculate the allowable limit on such expenses was \$6.2 million resulting in excessive administrative expenses of roughly \$3.6 million for 2022 and **likely millions more** for 2023 based on known expenditures to date.

The audit report observes that the Military Department **is spending approximately 33%** of available funds on administrative expenses to run the program which the auditor team stated was excessive and inconsistent with federal directives.

- 2) **The Department of Correctional Services** had access to tens of millions of federal dollars specifically earmarked for the “portion of employee’s time responding to COVID-19”. The key to the federal regulations is that the allocation of state personnel expense to be charged against the federal monies is that the costs must have been incurred over and above regular personnel expenses and relate explicitly to COVID-19.

The federal regulations warn that “coverage of all roles would be overbroad compared to the workers responding to COVID-19 in actuality.”

The audit team examined personnel costs of correctional workers for overtime, shift differential, and on-call hours paid during the six-month period prior to the pandemic and noted that these expenses were almost indistinguishable from those paid during the pandemic indicating that the well-known and longstanding staffing challenges at correctional facilities were not caused primarily by COVID-19.

Moreover, the Nebraska Legislature specifically appropriated funds to cover premium pay for public health and public safety workers relating to COVID-19.

Nevertheless, the Department of Correctional Services performed accounting journal entries moving over \$20 million in payroll expenses from the State general fund to the federal grant fund.

The audit team calculated that at least **\$12 million of these personnel expenses were unrelated to COVID-19** and improperly charged off to the federal grant.

- 3) **The Department of Health and Human Services (DHHS)** administered nearly \$47 million of federal funds associated with the pandemic in an area of responsibility for epidemiology and laboratory capacity (ELC) for infectious diseases. The audit team identified over \$800,000 in “questioned costs” in this program due to inadequate accounting controls and procedures to properly track expenses, lack of documentation to show receipt of COVID-19 test kits, excessive storage costs for personal protective equipment (PPE), and poorly written contracts that did not identify the nature and anticipated cost of management and service fees.

In addition to the some \$800,000 in “questioned costs” based on limited sampling of program expenditures, the auditors noted that some \$4.3 million in additional “dollars at risk” might be identified if the program were audited in its entirety.

Another significant audit finding in this year's federal-single audit report **unrelated** to the pandemic is:

- 1) **The Department of Health and Human Services (DHHS)** administers the multi-million dollar federally-funded Child Care and Development Block Grant program. As DHHS incurs expenses in administering the program, such expenses must be charged to the grant pursuant to certain deadlines. In last year's federal-single audit report, the audit team noted that about \$100,000 in expenses were not charged off to the federal grant by the cut-off date. Now, the auditors have noted that an additional \$1.75 million in costs were not charged off by the cut-off date of the more recent grant.

Thus, roughly \$1.85 million in costs were not charged to the grant on time putting the state in the position of potentially having to absorb these costs rather than have them covered under the federal grant.