



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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December 13, 2023

Mike Hilgers
Nebraska Attorney General
2115 State Capitol
Lincoln, Nebraska 68509

Dear Mr. Hilgers:

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nebraska (State), as of and for the year ended June 30, 2023, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and we have issued our report thereon dated December 13, 2023. In connection with our engagement to audit the financial statements we considered the State's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

In connection with our engagement to audit the financial statements as described above, we noted certain internal control or compliance matters related to the activities of the Attorney General or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of the Attorney General's management, are intended to improve internal control or result in other operating efficiencies.

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

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. We did not identify any deficiencies in internal control that we consider to be material weaknesses.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider Comment Number 1 (Settlement Revenue) to be a significant deficiency.

This comment will also be reported in the State of Nebraska's Statewide Single Audit Report Schedule of Findings and Questioned Costs.

Draft copies of this letter were furnished to the Attorney General to provide management with an opportunity to review and to respond to the comment and recommendation contained herein. Where no response had been included, the Attorney General declined to respond.

The following are our comments and recommendations for the year ended June 30, 2023.

1. Settlement Revenue

In January 2023, the Attorney General received \$11,887,209 related to a legal settlement with Google, which was incorrectly recorded in the State's accounting system as "sales and charges" revenue instead of the proper "miscellaneous revenue" classification.

The Governmental Accounting Standards Board (GASB) Statement Number 37, paragraph 13, issued in June 2001, amended GASB Statement 34, paragraph 49, defining charges for services as follows:

[T]he term used for a broad category of program revenues that arise from charges to customers, applicants, or others who purchase, use, or directly benefit from the goods, services, or privileges provided, or are otherwise directly affected by the services. Revenues in this category include fees charged for specific services, such as water use or garbage collection; licenses and permits, such as dog licenses, liquor licenses, and building permits; operating special assessments, such as for street cleaning or special street lighting; and any other amounts charged to service recipients. Fines and forfeitures are also included in this category because they result from direct charges to those who are otherwise directly affected by a program or service, even though they receive no benefit. Payments from other governments for goods or services—for example, when County A reimburses County B for boarding County A's prisoners—also should be reported in this category.

Because the receipt of funds from a legal settlement does not fall within the above definition of "charges for services," the correct revenue category is "miscellaneous revenue."

Due to the incorrect recording of the \$11 million in settlement monies, an adjustment to the State's financial statements was required for the financial statements to be materially correct.

Good internal control and sound accounting practice require procedures to ensure financial transactions are recorded to the proper accounts to allow for accurate financial statement presentation. Without such procedures, there is an increased risk the financial statements will be materially misstated.

We recommend the Attorney General implement procedures to ensure all financial transactions are properly recorded in the accounting system for accurate financial statement presentation.

2. Overtime Exempt Employee Timesheets

The Attorney General's overtime exempt employees, such as salaried attorneys, recorded only leave used on timesheets and failed to acknowledge that they had worked or used leave totaling 40 hours a week, as required by State statute.

Neb. Rev. Stat. § 84-1001(1) (Reissue 2014) provides the following:

All state officers and heads of departments and their deputies, assistants, and employees, except permanent part-time employees, temporary employees, and members of any board or commission not required to render full-time service, shall render not less than forty hours of labor each week except any week in which a paid holiday may occur.

The Attorney General's payroll expenditures for the fiscal year ended June 30, 2023, totaled over \$10.9 million and included approximately 127 overtime exempt and 3 non-exempt employees.

A proper system of internal control requires documentation to support compliance with the 40-hour work week requirement of State statute. This can be accomplished by using timesheets documenting all hours worked and leave used or by the inclusion of a signed statement on the time records certifying the employee worked or used leave for at least 40 hours each week. Such documentation should be signed by both the employee and the supervisor and kept on file to provide evidence of compliance.

Without such documentation, there is an increased risk of errors or misuse of funds and noncompliance with State statute.

We recommend the Attorney General implement procedures to ensure all employees acknowledge in writing that they have rendered at least 40 hours of work (or leave used) each week to comply with State statute.

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Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Attorney General's office and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the Attorney General.

The purpose of this letter is solely to describe the scope of our testing of internal control over financial reporting and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the State of Nebraska's internal control over financial reporting or on compliance. This letter is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the State of Nebraska's internal control over financial reporting and compliance. Accordingly, this communication is not suitable for any other purposes.



Kris Kucera, CPA, CFE
Assistant Deputy Auditor