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John Arch, Speaker of the Legislature
Room 2103, State Capitol
Lincoln, NE 68509

Dear Speaker Arch:

Per 2023 Neb. Laws, L.B. 814, § 35, the Auditor of Public Accounts (APA) has been directed to provide a summary of testing performed during the Statewide Single Audit of the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF). Specifically, that legislation requires the following:

It is the intent of the Legislature that the Auditor of Public Accounts use the appropriation to this program to examine the use of funds received under the federal American Rescue Plan Act of 2021 and appropriated by the Legislature for FY2023-24 and FY2024-25. The analysis for each fiscal year shall include summaries of testing performed regarding such funds for the Statewide Single Audit during each of the previous fiscal years.

The audit work for the fiscal year ended June 30, 2024, remains ongoing, and it will be reported upon accordingly; however, testing for the fiscal years ended June 30, 2022, and June 30, 2023, has been completed, and the Statewide Single Audits were issued on March 30, 2023, and March 20, 2024, respectively. Those completed audits included examining, on a test basis, evidence regarding the State of Nebraska's compliance with Federal laws and regulations pertinent to the CSLFRF program.

It should be noted that Neb. Rev. Stat. § 84-311 (Cum. Supp. 2022) prohibits the APA from disclosing working papers, which would include the testing performed, to anyone except those individuals and entities expressly authorized by statute to access them. Because this letter constitutes a public record and must be made readily available to the public, I have included herein only the finding included in the Statewide Single Audit for the fiscal year ended June 30, 2023, on the CSLFRF grant monies. We refer you to the letter sent to you on December 6, 2023, for the findings included in the Statewide Single Audit for the fiscal year ended June 30, 2022, on the CSLFRF grant monies. The entire reports are available on the APA's web page (auditors.nebraska.gov) under the "Reports by Agency" or "By Year Issued" headings.

State of Nebraska Single Audit Report Finding 2023-061

Program: AL 21.027 – COVID-19 – Coronavirus State and Local Fiscal Recovery Funds – Allowability & Subrecipient Monitoring

Grant Number & Year: SLFRP1965, March 3, 2021, through December 31, 2024

Federal Grantor Agency: U.S. Department of the Treasury

Criteria: 31 CFR § 35.6(b) (July 1, 2022) states, in relevant part, the following:

A recipient may use funds to respond to the public health emergency or its negative economic impacts if the use meets the criteria provided in paragraph (b)(1) of this section or is enumerated in paragraph (b)(3) of this section; provided that, in case of a use of funds for a capital expenditure under paragraph (b)(1) or (b)(3) of this section, the use of funds must also meet the criteria provided in paragraph (b)(4) of this section. Treasury may also articulate additional eligible programs, services, or capital expenditures from time to time that satisfy the eligibility criteria of this paragraph (b), which shall be eligible under this paragraph (b).

(1) *Identifying eligible responses to the public health emergency or its negative economic impacts.*

(i) *A program, service, or capital expenditure is eligible under this paragraph (b)(1) if a recipient identifies a harm or impact to a beneficiary or class of beneficiaries caused or exacerbated by the public health emergency or its negative economic impacts and the program, service, or capital expenditure responds to such harm.*

(ii) *A program, service, or capital expenditure responds to a harm or impact experienced by an identified beneficiary or class of beneficiaries if it is reasonably designed to benefit the beneficiary or class of beneficiaries that experienced the harm or impact and is related and reasonably proportional to the extent and type of harm or impact experienced.*

* * * *

(3) *A recipient may use funds to respond to the public health emergency or its negative economic impacts on a beneficiary or class of beneficiaries for one or more of the following purposes unless such use is grossly disproportionate to the harm caused or exacerbated by the public health emergency or its negative economic impacts:*

* * * *

(ii) *Responding to the negative economic impacts of the public health emergency for purposes including:*

* * * *

(C) *Assistance to nonprofit organizations including programs, services, or capital expenditures, including loans or grants to mitigate financial hardship such as declines in revenues or increased costs, or technical assistance[.]*

31 CFR § 35.6(c) (July 1, 2022) states the following:

A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers that have eligible workers who perform essential work, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID–19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID–19 public health emergency if:

(1) *The eligible worker's total wages and remuneration, including the premium pay, is less than or equal to 150 percent of the greater of such eligible worker's residing State's or county's average annual wage for all occupations as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics;*

(2) *The eligible worker is not exempt from the Fair Labor Standards Act overtime provisions (29 U.S.C. 207); or*

(3) *The recipient has submitted to the Secretary a written justification that explains how providing premium pay to the eligible worker is responsive to the eligible worker performing essential work during the COVID–19 public health emergency (such as a description of the eligible workers' duties, health, or financial risks faced due to COVID–19, and why the recipient determined that the premium pay was responsive despite the worker's higher income).*

31 CFR § 35.3 (July 1, 2022) defines “premium pay,” in relevant part, as follows:

Premium pay means an amount of up to \$13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID–19 public health emergency. Such amount may not exceed \$25,000 in total over the period of performance with respect to any single eligible worker.

Additionally, the “Final Rule” was released by the U.S. Department of the Treasury on January 6, 2022.

The Final Rule, Section II. Eligible Uses, A. Public Health and Negative Economic Impacts, 1. General Provisions: Structure and Standards, a. Standards for Identifying a Public Health or Negative Economic Impact, Standards: Designating a Negative Economic Impact, states the following, in relevant part:

(Page 4344) First, there must be a negative economic impact, or an economic harm, experienced by an individual or a class. The recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID-19 public health emergency. A recipient should first consider whether an economic harm exists and then whether this harm was caused or made worse by the COVID-19 public health emergency.

* * * *

Second, the response must be designed to address the identified economic harm or impact resulting from or exacerbated by the public health emergency. In selecting responses, the recipient must assess whether, and the extent to which, the use would respond to or address this harm or impact.

* * * *

Responses must be reasonably designed to benefit the individual or class that experienced the negative economic impact or harm. Uses of funds should be assessed based on their responsiveness to their intended beneficiary and the ability of the response to address the impact or harm experienced by that beneficiary.

Responses must also be related and reasonably proportional to the extent and type of harm experienced.

The Final Rule, Section II. Eligible Uses, A. Public Health and Negative Economic Impacts, 3. Negative Economic Impacts, c. Assistance to Nonprofits, states the following, in relevant part:

(Page 4380) The interim final rule provided for, and the final rule maintains, the ability for recipients to provide direct assistance to nonprofits that experienced public health or negative economic impacts of the pandemic. Specifically, recipients may provide direct assistance to nonprofits if the nonprofit has experienced a public health or negative economic impact as a result of the pandemic. For example, if a nonprofit organization experienced impacts like decreased revenues or increased costs (e.g., through reduced contributions or uncompensated increases in service need), and a recipient provides funds to address that impact, then it is providing direct assistance to the nonprofit as a beneficiary under Subsection (c)(1) of Sections 602 and 603. Direct assistance may take the form of loans, grants, in-kind assistance, technical assistance, or other services that respond to the negative economic impacts of the COVID-19 public health emergency.

The Final Rule, Section II. Eligible Uses, A. Public Health and Negative Economic Impacts, 4. General Provisions: Other, a. Public Sector Capacity and Workforce, states the following, in relevant part:

(Page 4386) The final rule allows for an expanded set of eligible uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring.

* * * *

The final rule provides two options to restore pre-pandemic employment, depending on recipient's needs. Under the first and simpler option, recipients may use SLFRF funds to rehire staff for pre-pandemic positions that were unfilled or were eliminated due the pandemic without undergoing further analysis. Under the second option, the final rule provides recipients an option to hire above the pre-pandemic baseline, by adjusting the pre-pandemic baseline for historical growth in public sector employment over time, as well as flexibility on roles for hire.

* * * *

To pursue the second option, recipients should undergo the analysis provided below. In short, this option allows recipients to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted full-time equivalent employees (FTEs) up to 7.5 percent above its pre-pandemic employment baseline, which adjusts for the continued underinvestment in state and local governments since the Great Recession.

* * * *

Funds may be used to maintain current compensation levels, with adjustments for inflation, in order to prevent layoffs that would otherwise be necessary. Recipients must be able to substantiate that layoffs were likely in the absence of SLFRF funds and would be substantially due to the public health emergency or its negative economic impacts (e.g., fiscal pressures on state and local budgets) and should document their assessment.

* * * *

Funds may be used to provide worker retention incentives, which are designed to persuade employees to remain with the employer as compared to other employment options. Recipients must be able to substantiate that the employees were likely to leave employment in the absence of the retention incentive and should document their assessment.

* * * *

All worker retention incentives must be narrowly tailored to need and should not exceed incentives traditionally offered by the recipient or compensation that alternative employers may offer to compete for the employees. Further, because retention incentives are intended to provide additional incentive to remain with the employer, they must be entirely additive to an employee's regular rate of wages and other remuneration and may not be used to reduce or substitute for an employee's normal earnings. Treasury will presume that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as the other requirements are met.

The Final Rule, Section II. Eligible Uses, A. Public Health and Negative Economic Impacts, 4. General Provisions: Other, b. Capital Expenditures, Overview of General Standards, states the following, in relevant part:

(Page 4391) Large capital expenditures intended for general economic development or to aid the travel, tourism, and hospitality industries—such as convention centers and stadiums—are, on balance, generally not reasonably proportional to addressing the negative economic impacts of the pandemic, as the efficacy of a large capital expenditure intended for general economic development in remedying pandemic harms may be very limited compared to its cost.

The Final Rule, Footnote 230, states the following, in relevant part:

(Page 4379) Ultimately, recipients must comply with the eligible use requirements and any other applicable laws or requirements and are responsible for the actions of their subrecipients or beneficiaries.

Per 2 CFR § 1000.10 (January 1, 2023), “[T]he Department of the Treasury adopts the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, set forth at 2 CFR part 200.”

2 CFR § 200.332 (January 1, 2023) states, in relevant part, the following:

All pass-through entities must:

* * * *

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

2 CFR § 200.430(i)(1) (January 1, 2023) states, in relevant part, the following:

Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

* * * *

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

2 CFR § 200.303 (January 1, 2023) states, in relevant part, the following:

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.*

Per 2 CFR § 200.403 (January 1, 2023), costs must be necessary, reasonable, and adequately documented.

Good internal control and sound business practices requires procedures for ensuring that: 1) grants issued to beneficiaries are reasonable and proportional to the harm identified; 2) premium pay is correctly calculated; and 3) all expenditures of funds are for allowable purposes.

Condition: The State lacked procedures for ensuring that grants issued to beneficiaries for worker retention and incentives were used for such purposes. The State lacked both procedures and the requisite knowledge to ensure that the premium charged to the grant was allowable. The State lacked procedures to ensure that grants to nonprofits were proportional to the negative economic harm incurred. The State lacked subrecipient monitoring procedures. The State possibly made fraudulent payments under the State's nursing scholarship program.

Repeat Finding: No

Questioned Costs: \$23,452,594 Known

Statistical Sample: No

Context: We noted the following:

Payments to Developmental Disability Providers, Assisted-Living Facilities, and Nursing Facilities for Employee Retention and Recruitment

Nebraska Legislative Bill (LB) 1014 (2022), section 23, appropriated \$20,000,000 from the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) grant to the Department of Health and Human Services (DHHS) for state fiscal year 2023 to be used for Developmental Disability (DD) provider rate increases for the purpose of enhancing employee retention and recruitment at the DD providers. DHHS implemented a 9% rate increase for select DD services in state fiscal year 2023. During the fiscal year, DD claims were paid out using State and Federal funds in accordance with the applicable Federal matching percentage (FMAP). In June 2023, DHHS made a journal entry to transfer \$19,995,679 in expenditures from the State and Federal General Funds to the CSLFRF grant in accordance with the FMAP rates.

LB 1014, section 27, appropriated \$5,462,800 from the CSLFRF grant to DHHS for State fiscal year 2023 to be paid out to assisted-living facilities for the following: 1) "Incentives for staff members employed by the licensed assisted-living facility in order to enhance employee recruitment and retention"; and 2) "Assistance with costs for supplies and equipment purchased by the licensed assisted-living facility." DHHS paid out \$5,068,000 to assisted-living facilities during state fiscal year 2023.

LB 1014, section 28, appropriated \$20,000,000 from the CSLFRF grant to DHHS for state fiscal year 2023 to be paid out to Medicaid-certified nursing facilities. The funds were to be used to provide supplemental incentive payments for direct care staff members employed at the nursing facilities. DHHS paid out \$20,000,000 to nursing facilities during state fiscal year 2023.

During a testing of a random sample of 25 CSLFRF payments, we tested seven payments to nursing facilities, totaling \$1,304,915. We asked for documentation of how DHHS ensured that the payments were used for allowable employee retention and recruitment programs, and for any documented assessments that were required by the Final Rule for worker incentive programs. According to DHHS, the funds were paid out in accordance with the requirements of LB 1014; however, DHHS acknowledged lacking procedures to ensure that the beneficiaries were using the funds for eligible recruitment and retention purposes. Additionally, DHHS failed to provide the required documented assessments per the Final Rule. Given the lack of procedures to support that funds were being used for allowable purposes, all seven payments of the \$1,304,915 tested are considered questioned costs. Additionally, the entire \$20,000,000 paid out during the fiscal year are considered potential dollars at risk.

Additionally, we tested one \$110,400 payment to an assisted-living facility under LB 1014, Section 27. Similar to the nursing facility payments tested, DHHS lacked procedures for ensuring that the assisted-living facilities were using the funds for eligible recruitment and retention purposes. Therefore, the \$110,400 payment tested is considered a questioned cost.

Lastly, we tested the journal entries transferring \$19,995,679 in expenditures to the CSLFRF grant for DD provider rate increases. Again, DHHS lacked procedures for ensuring that the DD providers were using the funds for eligible recruitment and retention purposes. Therefore, the journal entries tested for \$19,995,679 are considered questioned costs.

We also noted that, due to an oversight error, one nursing facility that had certified Medicaid beds did not receive its proportional allocation of \$43,138. Instead, that amount was split among the other nursing facilities that received payments.

Premium Pay

LB 1014, section 12, appropriated \$3,546,602 to the Department of Veterans' Affairs (DVA) from the CSLFRF grant to be used for premium pay. In September 2022, the DVA posted journal entries to move payroll costs of \$3,546,602 to the CSLFRF grant. However, we noted that the DVA did not review the premium pay eligibility requirements, which resulted in the following errors:

- The DVA moved \$357,039 of payroll costs associated with individuals who had earnings of more than 150% of the applicable average wage for all occupations and were not exempt from the Fair Labor Standards Act overtime provisions, which is not allowable.
- \$145,205 of the payroll costs moved were for premium pay that exceeded \$25,000 per person, which is not allowable.
- The DVA moved payroll costs that were not for premium pay and were not in addition to wages the workers were already receiving. From a detail test of 25 employees, \$371,683 out of \$585,901 of payroll costs were not related to premium pay.

After the errors noted above were communicated to the DVA, the DVA recalculated the amount to charge the CSLFRF grant for premium pay, and the DVA calculated that only \$1,518,092 should have been charged to the CSLFRF grant. We verified that, for the 25 employees previously tested, the DVA's revised calculation agreed to our calculation. We verified also that the DVA's revised calculation excluded individuals whose wages exceeded 150% of the applicable average wage for all occupations, and premium pay was capped at \$25,000 for each employee. Therefore, the \$2,028,510 difference between the \$3,546,602 charged to the grant and the revised calculation of \$1,518,092 is considered a questioned cost.

Assistance to Nonprofits

LB 1014, section 46, appropriated \$100,000,000 to the Department of Economic Development (DED) from the CSLFRF grant to be used to provide grants to qualified nonprofit organizations to assist with capital projects that have been delayed due to COVID-19. In order to receive a grant, a nonprofit had to submit a grant application

attesting to have experienced negative economic harm due to the public health emergency. During our testing, we noted that DED did not require nonprofits to submit documentation to substantiate having experienced a negative economic impact due to the pandemic that was equivalent or reasonably proportional to the grant award. We also noted that, for two of the nonprofit payments selected for testing, the two nonprofits received grant awards of \$12,664,600 each to be used solely for the purpose of construction and development of sports complexes for competitive sports and economic growth. Per the CSLFRF Final Rule, large capital projects intended for general economic growth are not generally proportional responses to negative harm. Therefore, if the nonprofits had not suffered an economic harm due to COVID-19, these projects would otherwise not be an eligible use of CSLFRF funds.

We gave DED the opportunity to obtain documentation from the nonprofits to support that they experienced a negative economic impact proportional to the amount awarded. In all instances, DED was able to obtain documentation substantiating the negative economic harm in excess of the grant amounts awarded.

University of Nebraska

The University of Nebraska (University) was awarded \$86,650,000 in a subaward to be used for a number of projects, including increasing the capacity of behavioral health care and rural health care. To monitor this subaward, the Military Department (Military) received and reviewed reports from the University and would have monthly meetings to discuss updates and whether deadlines were being met. Military stated that, beyond these monthly meetings, there were no planned procedures for reviewing any expenditures to ensure they were for allowable purposes and met the requirements of the Uniform Guidance, which is set out under 2 CFR Part 200 to establish uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities.

We selected one CSLFRF expenditure recorded by the University. The payment was for \$116,670 and made to a subrecipient of the University. The subrecipient was a behavioral health provider and was used to increase telehealth capacity. During review of supporting documentation, we noted that adequate documentation was not on file to support the salary and fringe benefits charged to the CSLFRF grant for the two subrecipient employees tested. The employees' salary and fringe benefits had been allocated to the CSLFRF grant based on historical data and "prior experience with similar programs." As noted in 2 CFR § 200.430(h)(8)(viii), however, "Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards" Consequently, we consider the \$8,090 in salary and benefits charged for the two employees to be questioned costs. The total salary and fringe benefits reimbursed on the payment tested amounted to \$29,277.

Nursing Scholarships

During testing procedures, DHHS reported to us \$5,000 in payments that were made due to fraudulent nursing scholarship applications submitted to, and accepted by, DHHS. Per DHHS's subsequent review, the applicant fraudulently claimed on her application that she was enrolled in a nursing program during the spring and summer 2023 terms. DHHS has reported this to the U.S. Department of the Treasury. These \$5,000 payments are considered questioned costs.

Cause: The State had inadequate procedures to ensure that the grant was used for allowable purposes, and staff had inadequate knowledge of the requirements of the CSLFRF.

Effect: Without adequate supporting documentation and review procedures, there is an increased risk that Federal awards could be used for unallowable costs.

Recommendation: We recommend the State strengthen procedures for ensuring that all Federal funds are used for intended and allowable purposes. We further recommend that the State take steps to recoup any payments for which either the beneficiary cannot support the proper use of the grant funds received or to the economic harm experienced.

Management Response:

Payments to Developmental Disability Providers, Assisted-Living Facilities, and Nursing Facilities for Employee Retention and Recruitment: Department of Health and Human Services (DHHS) disagrees with questioned costs of \$21,410,994 (\$1,304,915 Nursing Facilities, \$110,400 Assisted Living Facilities, \$19,995,679 Developmental Disabilities Providers). Payments made to Developmental Disability Providers, Assisted-Living Facilities, and Nursing Facilities followed federal regulations and were accurately distributed as directed by the legislature and signed legislation, LB1014. Payments to each facility were based on approved amounts in the legislative bill. In addition, DHHS properly passed requirements and regulatory information on to the providers. DHHS issued the following guidance document (as required by the legislation as well) https://dhhs.ne.gov/Grants%20and%20Contract%20Opportunity%20Docs/LB1014%20Guidance%20Document_DHHS%20DL%206-13-22.pdf#search=LB1014. If DHHS becomes aware of known unallowable activities, we will recoup applicable funds.

Premium Pay: As noted in the Auditors Comments, NDVA made the necessary corrections to their workbooks to comply with these guidelines. However, the amounts reflected in the Auditors comments were only for eligible expenses through September of 2022 and did not take into consideration the entire Fiscal Year 2023. NDVA's eligible expenses as of June 30, 2023, were \$3,695,625, which exceeded the \$3,546,602 appropriated in LB 1014 by approximately \$148,460.

Assistance to Nonprofits: DED acknowledges that with respect to its American Rescue Plan Act Shovel-Ready program in some cases it did not collect sufficient documentation to show the nonprofit organization suffered an economic harm related to and reasonably proportionate to DED's award.

University of Nebraska: NEMA continues to monitor the University of Nebraska (University) subaward through the review of reports and monthly progress meetings.

APA Response: Per the CSLFRF final rule, the recipient, which is the State, must comply with the eligible use requirements and is ultimately responsible for the actions of its beneficiaries. No documentation was provided to support that the funds granted to Developmental Disability Providers, Assisted-Living Facilities, and Nursing Facilities were spent on allowable retention and recruitment efforts or that any applicable pre-analysis required by the CSLFRF final rule was completed.

The journal entry prepared by NDVA was done in September 2022. It covers the premium pay given in November 2021 to June 2022. We were not provided a spreadsheet with updated calculations, nor did the Agency make any adjustments in the accounting system to show this as an offset of fiscal year 2023 expenses.

State of Nebraska Single Audit Report Finding 2023-062

Program: AL 21.027 – COVID-19 – Coronavirus State and Local Fiscal Recovery Funds – Reporting

Grant Number & Year: SLFRP1965, March 3, 2021, through December 31, 2024

Federal Grantor Agency: U.S. Department of the Treasury

Criteria: 31 CFR § 35.6(b)(4) (July 1, 2022) states, in relevant part, the following:

A recipient, other than a Tribal government, must prepare a written justification for certain capital expenditures according to Table 1 to paragraph (b)(4) of this section. Such written justification must include the following elements:

- (i) Describe the harm or need to be addressed;*
- (ii) Explain why a capital expenditure is appropriate; and*
- (iii) Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior.*

Table 1 to Paragraph (b)(4)

<i>If a Project has total expected Capital Expenditures of:</i>	<i>and the use is enumerated in (b)(3), then</i>	<i>and the use is not enumerated in (b)(3), then</i>
<i>Less than \$1 Million</i>	<i>No Written Justification required</i>	<i>No Written Justification required</i>
<i>Greater than or equal to \$1 Million, but less than \$10 Million</i>	<i>Written Justification required but recipients are not required to submit as part of regular reporting to Treasury</i>	<i>Written Justification required and recipients must submit as part of regular reporting to Treasury.</i>
<i>\$10 Million or More</i>	<i>Written Justification required and recipients must submit as part of regular reporting to Treasury</i>	

Good internal control and sound business practices require policies and procedures to ensure that all CSLFRF reporting requirements are met, including the maintenance of written justification on file for projects with expected capital expenditures of more than \$1 million.

Condition: The Department of Administrative Services (DAS) was responsible for preparing the Quarterly Project and Expenditure Reports. DAS lacked procedures to ensure that CSLFRF obligations were reported accurately on the Quarterly Project and Expenditure Reports, or written justification was on file for all projects with expected capital expenditures over \$1 million.

Repeat Finding: No

Questioned Costs: None

Statistical Sample: No

Context: We tested the quarters ending December 31, 2022, and June 30, 2023, Project and Expenditure Reports. We noted the following:

Current and Cumulative Obligations Reported

We selected for testing two of 21 projects from the quarter ending December 31, 2022, report and six of 57 projects from the quarter ending June 30, 2023. Two of the projects tested did not have current obligations or cumulative obligations reported correctly.

The State reported cumulative obligations of \$116,897,124 under project 72652020 (Shovel Ready). The Department of Economic Development (DED) was the agency responsible for administering this project. DED provided documentation showing that cumulative obligations were only \$113,411,816 at December 31, 2022. Consequently, the December report was overstated by \$3,485,308. However, we also noted that the State Legislature appropriated only \$100 million in CSLFRF funds to be used on the Shovel Ready projects. Per discussion with DED, the difference between the amount of obligation and the amount of CSLFRF appropriations will be covered by State funds. Therefore, only \$100 million in CSLFRF funds were obligated to the Shovel Ready project, so the report was overstated by a total of \$16,897,124. We also reviewed the June 2023 report and noted that cumulative obligations were still being overstated by \$13,503,516. Additionally, DED had obligated the funds for this project prior to October 1, 2022; however, the report incorrectly showed all these funds as obligated during the current period. Current period obligations were properly reported as \$0 on the quarter ending June 30, 2023, report.

We also noted that the cumulative obligations and current period obligations for Project 33209901 (State Park System Lagoon Projects) were not properly reported on the quarter ending June 30, 2023, report. The State reported cumulative obligations of \$6,893,694. The Nebraska Game & Parks Commission was the agency responsible for administering this project. The supporting documentation provided by Game & Parks showed that only \$6,786,249 was obligated at June 30, 2023. Additionally, a change order for \$61,362 during the quarter was not included with the current-period obligations, resulting in current-period obligations being underreported.

Capital Expenditures

We noted five projects that either did not properly report expected capital expenditures, or the required written justification was not on file.

- Project 72652021.1.12 (Mental Health Services) – The State reported no expected capital expenditures for this project. The project is comprised of four \$10 million awards that DED made to entities for the purpose of expanding behavioral health services. Originally, when reporting this project, DED considered these payments to be beneficiary payments to the behavioral health service providers, not capital expenditures. After further discussion with DED, it was determined that these should have been treated as subawards, and expected capital expenditures should have been reported. Even though the expected capital expenditures were not reported correctly, DED did have written justification on file for capital expenditures of the project.
- Project 25580005 (Improve Infrastructure) – The State reported \$4,856,106 in expected capital expenditures for this project. However, the Department of Health and Human Services (DHHS) treated each subaward under this project separately when determining if written justification was required. As no single subaward was for \$1 million or more, DHHS did not document any written justification.
- Project U5991971490 (NE Rural Healthcare Education) – The State reported \$0 in expected capital expenditures for this project, which was for the construction of a new rural healthcare education building. DAS stated that this was reported in error, and the actual amount of expected capital expenditures would be \$50,000,000. Even though the expected capital expenditures were not reported correctly, written justification was on file for the capital expenditures of this project.
- Project 48697142 (Workforce Development Center at Northeast) was reported as having no expected capital expenditures. Through discussion with the Coordinating Commission on Post-Secondary Education, the project had at least \$1 million in expected capital expenditures and should have been reported as such on the quarterly report. Written justification for the capital expenditures of the project was on file.

Cause: Individual agencies were responsible for reporting to DAS what should be reported on the Quarterly Project and Expenditure Report. Not all information reported by the agencies was accurate.

Effect: Without adequate procedures, there is increased risk that the quarterly project and expenditure reports will be materially misstated, and required written justification will not be on file.

Recommendation: We recommend the Agency strengthen procedures to ensure that all quarterly project and expenditure reports are complete and accurate, and any required written justification is maintained on file.

Management Response: As of the reporting period ended December 31, 2023, DED obligations under the Shovel Ready project are reflected as \$100 million, which agrees to federal ARPA funds appropriated by the Legislature. State Park System Lagoon Project obligations are provided by Game and Parks for each quarterly report.

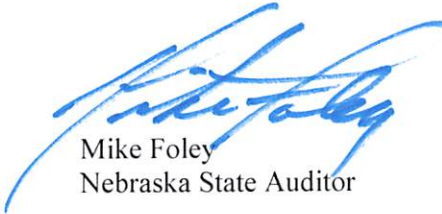
DHHS partially agrees with the finding. We have the written justification but did not provide to the APA timely for the audit.

* * * * *

The amounts appropriated and spent from CSLFRF grant monies during the fiscal years ended June 30, 2022, June 30, 2023, and June 30, 2024, have been included as **Exhibit A** (unaudited) herein. As explained at the outset of this letter, my staff is currently auditing the more than \$5.7 billion dollars of Federal expenditures through the Federal Statewide Single Audit for the fiscal year ended June 30, 2024. The results of that examination, including testing of CSLFRF monies, will be disclosed when the report is released around March 2025.

If you have any questions regarding the above information, please do not hesitate to contact my office.

Sincerely,



Mike Foley
Nebraska State Auditor

Amounts Appropriated and Spent from CSLFRF
For the Fiscal Years Ended June 30, 2022, June 30, 2023, and June 30, 2024

Exhibit A

Bill	Agency	Description	Appropriated Amount	Adjustments	Revised Appropriated Amount	Note	Fiscal Year 2021-2022 Expenditures	Fiscal Year 2022-2023 Expenditures	Fiscal Year 2023-2024 Expenditures	Total Expenditures	Total Available
2022 LB 805A											
Sec. 1	Department of Agriculture	Noxious Weed	\$ 6,000,000	\$ (4,000,000)	\$ 2,000,000	1	\$ -	\$ 2,000,000	\$ -	\$ 2,000,000	\$ -
2022 LB 1014											
Sec. 12	Department of Health and Human Services	Public Health and Safety Premium Pay	12,757,934	-	12,757,934		3,955,465	8,249,430	553,039	12,757,934	-
Sec. 12	Department of Veterans' Affairs	Public Health and Safety Premium Pay	3,546,602	-	3,546,602		-	3,546,602	-	3,546,602	-
Sec. 12	Department of Correctional Services	Public Health and Safety Premium Pay	20,395,464	-	20,395,464		20,395,464	-	-	20,395,464	-
Sec. 13	Department of Education	Services for the Deaf and Hard of Hearing	1,000,000	-	1,000,000		-	-	32,432	32,432	967,568
Sec. 14	Department of Agriculture	Independent Processor Assistance Program	9,875,000	-	9,875,000		-	4,759,247	2,727,351	7,486,598	2,388,402
Sec. 14	Department of Agriculture	Dairy Industry Study	125,000	(32,500)	92,500	2	-	-	92,500	92,500	-
Sec. 15	Department of Labor	Worker Training Programs	10,000,000	-	10,000,000		-	-	5,700,800	5,700,800	4,299,200
Sec. 16	Department of Health and Human Services	Pediatric Trauma Center	1,800,000	-	1,800,000		-	61,266	184,878	246,144	1,553,856
Sec. 17	Department of Health and Human Services	Repayment of Qualified Educational Debts	5,000,000	-	5,000,000		-	1,122,776	1,588,525	2,711,301	2,288,699
Sec. 18	Department of Health and Human Services	Nursing Scholarships	5,000,000	-	5,000,000		-	1,024,680	1,980,287	3,004,967	1,995,033
Sec. 19	Department of Health and Human Services	Grants to Nonprofits for Food Security	20,000,000	-	20,000,000		-	6,765,294	9,293,704	16,058,998	3,941,002
Sec. 20	Department of Health and Human Services	Increase Child Care Capacity	4,000,000	-	4,000,000		-	497,846	2,873,544	3,371,390	628,610
Sec. 21	Department of Health and Human Services	Child Welfare Rate Increase	25,000,000	-	25,000,000		7,000,000	3,147,000	14,853,000	25,000,000	-
Sec. 22	Department of Health and Human Services	Aid for Youth - Aged Out of Foster Care	1,000,000	-	1,000,000		-	-	199,622	199,622	800,378
Sec. 23	Department of Health and Human Services	Developmental Disability Provider Rate Increases	47,500,000	(27,500,000)	20,000,000	3	-	19,995,679	-	19,995,679	4,321
Sec. 24	Department of Health and Human Services	Local Public Health Departments Infrastructure	10,000,000	-	10,000,000		-	1,369,108	2,768,271	4,137,379	5,862,621
Sec. 25	Department of Health and Human Services	HIV Surveillance and Prevention Programs	500,000	-	500,000		-	-	96,578	96,578	403,422
Sec. 26	Department of Health and Human Services	COVID-19 Model System of Care	5,000,000	-	5,000,000		-	-	1,507,629	1,507,629	3,492,371
Sec. 27	Department of Health and Human Services	Aid to Assisted-Living Facilities	5,462,800	-	5,462,800		-	5,068,000	-	5,068,000	394,800
Sec. 28	Department of Health and Human Services	Aid to Nursing Facilities	47,500,000	-	47,500,000		-	20,000,000	15,000,000	35,000,000	12,500,000
Sec. 29	Department of Health and Human Services	Rural Ambulance Replacement Program	20,000,000	-	20,000,000		-	425,752	5,782,691	6,208,443	13,791,557
Sec. 30	Department of Health and Human Services	Emergency Medical Services Equipment	5,000,000	-	5,000,000		-	234,416	2,562,706	2,797,122	2,202,878
Sec. 31	Department of Health and Human Services	Expanding Access to Behavioral Health Acute Care Beds	2,500,000	(2,500,000)	-	4	-	-	-	-	-
Sec. 32	Department of Natural Resources	Grants to Irrigation Districts	23,100,000	-	23,100,000		-	-	1,291,662	1,291,662	21,808,338
Sec. 33	Department of Natural Resources	Water Supply Projects	20,000,000	-	20,000,000		-	-	5,538,169	5,538,169	14,461,831

Amounts Appropriated and Spent from CSLFRF
For the Fiscal Years Ended June 30, 2022, June 30, 2023, and June 30, 2024

Exhibit A

Bill	Agency	Description	Appropriated Amount	Adjustments	Revised Appropriated Amount	Note	Fiscal Year 2021-2022 Expenditures	Fiscal Year 2022-2023 Expenditures	Fiscal Year 2023-2024 Expenditures	Total Expenditures	Total Available
Sec. 34	Military Department	Administrative Costs	5,000,000	-	5,000,000		86,433	1,470,637	1,458,197	3,015,267	1,984,733
Sec. 34	Military Department	Administrative Costs - Department of Health and Human Services	10,000,000	-	10,000,000	5	-	8,997,712	(2,287)	8,995,425	1,004,575
Sec. 35	Game and Parks Commission	Wastewater Projects	8,100,000	-	8,100,000		-	5,258,692	1,574,846	6,833,538	1,266,462
Sec. 36	Coordinating Commission for Postsecondary Education	Community Colleges ARPA Grant Program	60,000,000	-	60,000,000		-	8,021,026	37,923,704	45,944,730	14,055,270
Sec. 37	Nebraska State Colleges	Equipment and Water and Sewer Upgrade Projects	8,000,000	-	8,000,000		-	831,473	1,396,739	2,228,212	5,771,788
Sec. 38	University of Nebraska	UNK-UNMC Rural Health Complex	60,000,000	-	60,000,000		-	1,057,623	14,803,126	15,860,749	44,139,251
Sec. 39	University of Nebraska	Behavioral Health Education Center	25,500,000	-	25,500,000		-	1,210,127	7,232,239	8,442,366	17,057,634
Sec. 40	University of Nebraska	Assessing Climate Change Report	150,000	-	150,000		-	9,302	33,551	42,853	107,147
Sec. 41	Department of Administrative Services	Grant to a State-Owned Cemetery for Sediment Control and Stormwater Projects	1,800,000	-	1,800,000		-	140,523	768,657	909,180	890,820
Sec. 42	Department of Economic Development	Prepare Land Parcels Pursuant to Rural Workforce Housing Investment Act	10,000,000	-	10,000,000		-	-	1,000,000	1,000,000	9,000,000
Sec. 42	Department of Economic Development	Development of Affordable Housing Units	20,500,000	-	20,500,000		-	-	-	-	20,500,000
Sec. 42	Department of Economic Development	Grants to Nonprofits to Develop Affordable Housing	8,000,000	-	8,000,000		-	-	-	-	8,000,000
Sec. 42	Department of Economic Development	Job Training and Placement Grants to Nonprofits for Refugees	1,000,000	-	1,000,000		-	-	12,244	12,244	987,756
Sec. 43	Department of Economic Development	Sponsorship Grants for International Competitions	500,000	-	500,000		-	250,000	250,000	500,000	-
Sec. 44	Department of Economic Development	Wastewater Pretreatment and Runoff Control for Meat Processing Plan Site Development	20,000,000	-	20,000,000		-	-	105,980	105,980	19,894,020
Sec. 45	Department of Economic Development	Mental Health Care and Education Capacity Construction Grants	40,000,000	-	40,000,000		-	40,000,000	-	40,000,000	-
Sec. 46	Department of Economic Development	Shovel-Ready Capital and Recovery Investment Act Projects	100,000,000	-	100,000,000		-	47,139,243	29,664,876	76,804,119	23,195,881
Sec. 47	Department of Economic Development	Study to Assess Nuclear Reactors	1,000,000	(137,000)	863,000	6	-	-	74,250	74,250	788,750
Sec. 48	Commission on Law Enforcement and Criminal Justice	Enhance and Expand the Law Enforcement Training Capabilities	47,700,000	-	47,700,000		-	-	1,727,310	1,727,310	45,972,690
Sec. 49	Commission for the Deaf and Hard of Hearing	Supporting In-Person Interpreting in Rural Areas and Legal Communication Access	500,000	-	500,000		-	19,559	40,298	59,857	440,143
Sec. 50	Aid to Community Colleges	State Aid for Dual Enrollment	15,000,000	-	15,000,000		-	-	5,000,000	5,000,000	10,000,000
Sec. 51	Department of Environment and Energy	Grants for Reverse Osmosis Systems	4,000,000	-	4,000,000		-	21,233	482,397	503,630	3,496,370
Sec. 52	Department of Environment and Energy	State Fair Grounds Wastewater and Drainage System Updates	20,000,000	-	20,000,000		-	-	2,372,128	2,372,128	17,627,872
Sec. 53	Department of Environment and Energy	Grant Assistance for a Rural Drinking Water Project	7,000,000	-	7,000,000		-	-	-	-	7,000,000

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2022 LB 1024A											
Sec. 3	Department of Economic Development	Economic Recovery Act	250,000,000	(179,200,000)	70,800,000	7	-	8,653,771	30,933,221	39,586,992	31,213,008
2022 LB 1068A											
Sec. 2	University of Nebraska	Environmental Health Assessment	1,000,000	-	1,000,000		-	422,444	405,401	827,845	172,155
2022 LB 1144A											
Sec. 2	Public Service Commission	Broadband	641,613	(641,613)	-	8	-	-	-	-	-
2023 LB 814											
Sec. 132	Department of Natural Resources	Grant to a Primary Class City for a Water Project	177,200,000	-	177,200,000		-	-	-	-	177,200,000
Sec. 132	Department of Natural Resources	Grant to a First Class City for a Water Project	2,000,000	-	2,000,000		-	-	637,092	637,092	1,362,908
Sec. 133	Department of Natural Resources	Enhance Data Collection	2,400,000	-	2,400,000		-	-	142,194	142,194	2,257,806
2024 LB 1412											
Sec. 24	Department of Health and Human Services	Rehabilitation Hospital Heating, Ventilation, and Air Conditioning Grants	5,000,000	-	5,000,000		-	-	-	-	5,000,000
Sec. 24	Department of Health and Human Services	Aid to Assisted-Living Facilities	1,499,657	-	1,499,657		-	-	1,499,657	1,499,657	-
Sec. 24	Department of Health and Human Services	Child Care Grants	2,000,000	-	2,000,000		-	-	-	-	2,000,000
Sec. 63	Department of Labor	Workforce Development And Career Readiness Facility Expansion	900,000	-	900,000		-	-	-	-	900,000
Sec. 75	Department of Health and Human Services	Gun Violence Program	500,000	-	500,000		-	-	-	-	500,000
Sec. 79	Department of Transportation	Surface Transportation Projects	20,332,043	-	20,332,043		-	-	-	-	20,332,043
Sec. 89	Department of Correctional Services	Recidivism Mitigation	1,000,000	-	1,000,000		-	-	-	-	1,000,000
Sec. 90	University of Nebraska	Roof-Collected Rainwater Study	350,000	-	350,000		-	-	-	-	350,000
Sec. 99	Department of Administrative Services	Grant to a State-Owned Cemetery for Sediment Control and Stormwater Projects	375,000	-	375,000		-	-	-	-	375,000
Sec. 106	Department of Economic Development	Regional Workforce Development Initiatives of Each Community College Region	3,000,000	-	3,000,000		-	-	-	-	3,000,000
Total					\$ 1,040,000,000	9	\$ 31,437,362	\$ 201,770,461	\$ 214,163,208	\$ 447,371,031	\$ 592,628,969

- Note 1:** 2022 LB 805A Section 1 appropriated to the Department of Agriculture \$6,000,000 for Program No. 78. This appropriation was reduced to \$2,000,000 on 2023 LB 814 Section 76.
- Note 2:** 2022 LB 1014 Section 14 appropriated to the Department of Agriculture \$10,000,000 for Program No. 78. This appropriation was reduced by \$32,500 on 2024 LB 1412 Section 59.
- Note 3:** 2022 LB 1014 Section 23 appropriated to the Department of Health and Human Services \$47,500,000 for Program No. 424. This appropriation was reduced by \$27,500,000 on 2024 LB 1412 Section 104.
- Note 4:** 2022 LB 1014 Section 31 appropriated to the Department of Health and Human Services \$2,500,000 for Program No. 514. This appropriation was reduced by \$2,500,000 on 2024 LB 1412 Section 24.
- Note 5:** 2022 LB 1014 Section 34 appropriated to the Military Department \$15,000,000 for Program No. 191. This appropriation was increased by \$4,000,000 on 2023 LB 813 Section 38. This appropriation was then decreased by \$4,000,000 on 2024 LB 1412 Section 25.
- Note 6:** 2022 LB 1014 Section 47 appropriated to the Department of Economic Development \$1,000,000 for Program No. 603. This appropriation was reduced by \$137,000 on 2024 LB 1412 Section 106.
- Note 7:** 2022 LB 1024A Section 3 appropriated to the Department of Economic Development \$250,000,000 for Program No. 611. This appropriation was reduced by \$179,200,000 on 2023 LB 813 Section 40.
- Note 8:** 2022 LB 1144A Section 2 appropriated to the Public Service Commission \$641,613 for Program No. 793. These unexpended funds were not reappropriated per 2024 LB 1412 Sec. 18.
- Note 9:** The total amount awarded to the State of Nebraska from the Coronavirus State and Local Fiscal Recovery Fund was \$1,040,157,440. As of the end of the 2024 legislative session, \$1,040,000,000 has been appropriated, leaving \$157,440 unappropriated.