

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

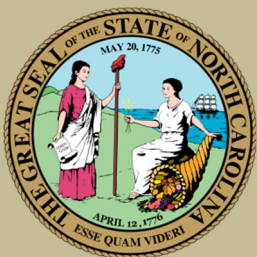


NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

RALEIGH, NORTH CAROLINA

STATEWIDE FEDERAL COMPLIANCE AUDIT PROCEDURES

FOR THE YEAR ENDED JUNE 30, 2021



NC  **OSA**
The Taxpayers' Watchdog

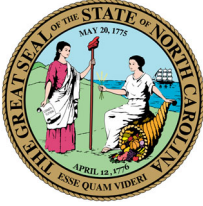


Beth A. Wood, CPA
State Auditor

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STATE OF NORTH CAROLINA
Office of the State Auditor



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State Auditor

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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
Eddie Buffaloe, Secretary
North Carolina Department of Public Safety

As part of our audit of the State of North Carolina's compliance with the types of requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of its major federal programs, we have completed certain audit procedures at the North Carolina Department of Public Safety (Department) for the year ended June 30, 2021.

We conducted our audit of compliance in accordance with the auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our audit objective was to express an opinion on the State of North Carolina's compliance for each of its major federal programs. However, the audit results described below are in relation to our audit scope at the Department and not to the State of North Carolina as a whole. The State Auditor expresses an opinion on the State of North Carolina's compliance with requirements applicable to its major federal programs in the State's *Single Audit Report*.

Our federal compliance audit scope at the Department included the Emergency Rental Assistance program (Assistance Listing Number 21.023).

Our audit was performed by authority of Chapter 147, Article 5A of the *North Carolina General Statutes*.

Compliance

The results of our audit procedures at the North Carolina Department of Public Safety disclosed instances of noncompliance that are required to be reported in accordance with the Uniform Guidance and which are described in finding 1 in the Findings and Recommendations section.

Internal Control Over Compliance

In planning and performing our audit of compliance, we considered the Department's internal control over compliance with the types of requirements that could have a direct and material effect on a major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal

program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control over compliance.

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. *A significant deficiency in internal control over compliance* is a deficiency, or 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.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. Therefore, material weaknesses and significant deficiencies may exist that have not been identified. However, as discussed in the Findings and Recommendations section, we did identify certain deficiencies in internal control over compliance that we consider to be material weaknesses and significant deficiencies. The deficiency described in finding 1 is considered to be a material weakness in internal control over compliance. Furthermore, the deficiency described in finding 2 is considered to be a significant deficiency in internal control over compliance.

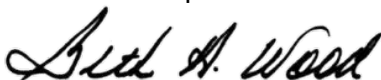
North Carolina Department of Public Safety's Response to Findings

The Department's responses to the findings identified in our audit are included in the Views of Responsible Officials of the Auditee section of this transmittal. The Department's responses were not subjected to the auditing procedures applied in the audit of compliance, and accordingly, we express no opinion on the responses.

Purpose of This Transmittal

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

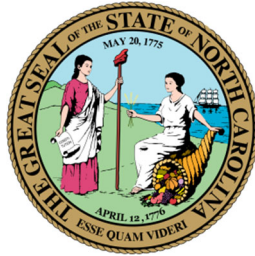
North Carolina General Statutes require the State Auditor to make audit reports available to the public. Copies of audit reports issued by the Office of the State Auditor may be obtained through one of the options listed in the back of this transmittal.



Beth A. Wood, CPA State Auditor

Raleigh, North Carolina

March 30, 2022



FINDINGS AND RECOMMENDATIONS

Matters Related to Federal Compliance Audit Objectives

1. ERRORS IN PROGRAM SPENDING

The Department of Public Safety (Department) incorrectly used Emergency Rental Assistance (ERA) program funds. During the audit period, the Department provided \$75.1 million¹ in ERA funds to assist households with rent and utility payments.

To maximize the benefits of the ERA program, the Department transferred a portion of ERA funds to reimburse rent and utility payments that were previously paid by other funding sources. Auditors reviewed the \$21.5 million in transfer activity between the ERA program and other funding sources and initially found that some expenditures were reimbursed twice, resulting in overpayments of \$1,201,030.

Auditors then tested a sample of 60 of the remaining transfer payments and found errors in 9 (15%) of the payments, totaling \$3,385. Specifically:

- Four payments did not agree to the supporting documentation.
- Two payments were for expenditures that were not allowed.
- Two payments were for expenditures that were reimbursed twice, resulting in additional overpayments.
- One payment did not have documentation to support that the expenditures occurred within the period of performance.²

Additionally, auditors tested a sample of 60 payments made on behalf of households and found errors in 13 (22%) of the payments, totaling \$5,285. Specifically:

- 11 payments did not agree to the supporting documentation and occurred outside the period of performance.
- One payment did not have documentation to support that the charges occurred within the period of performance.
- One payment was for expenditures that were previously paid.

Lastly, auditors tested 90 payments for utility assistance and found errors in 70 (78%) of the payments, totaling \$131,995. Specifically:

- 49 payments did not have documentation to support that the charges occurred within the period of performance.
- Ten payments were for charges that were previously paid.
- Eight payments did not agree to the supporting documentation.

¹ The Department transferred \$21.5 million to reimburse rent and utility payments that were previously paid by other funding sources (other federally funded programs) and paid \$53.6 million on behalf of households, including utility assistance.

² Period of performance represents the period of time during which expenditures can be incurred. For ERA, this includes any expenditures incurred after March 13, 2020 (start of the COVID-19 pandemic).

- Two payments were for charges that occurred outside the period of performance.
- One payment was keyed incorrectly.

As a result of errors in ERA program spending, the Department may be required to pay \$1,341,695 back to the U.S. Department of the Treasury. In addition, there is an increased risk that federal funds may not be used in accordance with the federal requirements, which reduces funding available to assist other households affected by the COVID-19 pandemic.

According to Department management, the errors occurred because the reviews over grant expenditures were not detailed enough to ensure funds were used in accordance with federal regulations.

Federal regulations³ require the Department to:

- Establish and maintain effective internal controls over the federal award that provides reasonable assurance that the entity is managing the award in compliance with federal statutes, regulations, and the terms and conditions of the federal award.
- Charge the federal award for allowable costs incurred after the effective date of the federal award

Federal Award Information: Federal Awarding Agency: U.S. Department of the Treasury; Assistance Listing Number (title): 21.023 (Emergency Rental Assistance); Federal Award Identification Number (award period): 1505-0266 (COVID-19) (January 11, 2021 – December 31, 2021).

Recommendation: Department management should develop and implement detailed review procedures over grant expenditures to ensure compliance with federal regulations.

Views of Responsible Officials of the Auditee: See pages 10 - 12 for the North Carolina Department of Public Safety's response to this finding.

2. INACCURATE REPORTING

The Department of Public Safety (Department) did not accurately report Emergency Rental Assistance (ERA) program data to the U.S. Department of the Treasury (Treasury).⁴ During the audit period, the Department provided \$75.1 million in ERA funds to assist households with rent and utility payments.

Auditors reviewed the two ERA program reports required to be submitted during the audit period and found errors in both. Specifically:

- For the April 2021 report, the Department underreported funds distributed to households by \$633,656. Additionally, the Department underreported the number of households receiving assistance by 805 households.

³ 2 CFR 200.303 and 2 CFR 200.458

⁴ The Department submitted the data to the North Carolina Office of State Budget and Management (primary ERA award recipient), who submitted the report to the Treasury.

- For the May 2021 report, the Department underreported funds distributed to households by \$156,910. Additionally, the Department underreported the number of households receiving assistance by 218 households.

Inaccurate reporting of ERA data prevents the Treasury from monitoring the state's progress on assisting households affected by the COVID-19 pandemic. Additionally, any subsequent use of the data for public transparency could provide an inaccurate view of ERA program spending to citizens.

According to Department management, they were not given sufficient notice of the reporting requirements prior to the deadline submission. Additionally, the reviews of the reports were not completed to ensure the reports were prepared accurately.

Under the *Treasury Reporting Guidance for the Emergency Rental Assistance Program*, all states that received ERA funds must submit monthly⁵ reports including the total number of households that received assistance and the total amount of ERA funds distributed.

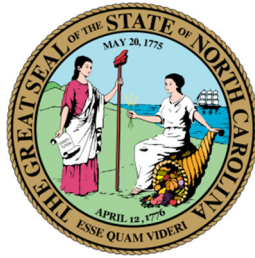
Federal Award Information: Federal Awarding Agency: U.S. Department of the Treasury; Assistance Listing Number (title): 21.023 (Emergency Rental Assistance); Federal Award Identification Number (award period): 1505-0266 (COVID-19) (January 11, 2021 – December 31, 2021).

Recommendation: Department management should ensure that staff overseeing the federal award have a clear understanding of reporting requirements.

In addition, Department management should develop and implement detailed review procedures over the completed reports to ensure accurate reporting.

Views of Responsible Officials of the Auditee: See page 10 for the North Carolina Department of Public Safety's response to this finding.

⁵ Beginning in April 2021.



STATE AUDITOR'S RESPONSE

The Office of the State Auditor (OSA) is required to provide additional explanation when an agency's response could potentially **cloud an issue**, **mislead** the reader, or inappropriately **minimize** the importance of auditor findings.

Generally Accepted Government Auditing Standards state,

When the audited entity's comments are inconsistent or in conflict with the findings, conclusions, or recommendations in the draft report, the auditors should evaluate the validity of the audited entity's comments. If the auditors disagree with the comments, they should explain in the report their reasons for disagreement.

The Department of Public Safety (Department) response included statements that **mislead the reader**. To ensure the availability of complete and accurate information, OSA offers the following clarifications.

The Emergency Rental Assistance (ERA) program was implemented to assist households impacted by the COVID-19 pandemic with rent and utility payments. Since this was an emergency funding program, the U.S. Department of the Treasury (Treasury) did not issue formal guidance at the time of the award. The Treasury subsequently published frequently asked questions (FAQs⁶) as guidance regarding requirements for administering the ERA program.

The Department's response includes references to the FAQs to support its disagreement with the audit finding in two main areas: documentation required to support both the utility charges (allowable costs⁷) and the time period for when the utility charges were incurred (period of performance).

The Department points to FAQ #1 to support its belief that written attestations satisfy the requirement to validate utility charges. However, the Department **narrowly based its interpretation** on FAQ #1 and did not consider all of the 42 FAQs in totality. FAQ #6 states that utility charges should be **supported** by a bill, invoice, or evidence of payment. In addition, FAQ #9 states that a grantee may provide for assistance in arrears but **not for charges incurred before March 13, 2020**.

FAQ #1 supports that written attestations can be used for household eligibility, but it **does not** support that written attestations can be used to determine whether utility charges were incurred after the start of the pandemic.

Auditors requested the Department to get clarification from the Treasury on the use of written attestations to support allowable costs and period of performance. The Department **did not**.

FIRST, the Department stated:

The support documentation provided contains all of the information needed to accept these awards. Treasury ERA FAQ dated August 25th, 2021 states:

⁶ <https://home.treasury.gov/system/files/136/ERA-FAQ-8-25-2021.pdf>

⁷ Allowable costs is the term used by the federal government to define which costs can be paid by a specific federal award.

“In all cases, grantees must document their policies and procedures for determining a household’s eligibility to include policies and procedures for determining the prioritization of households in compliance with the statute and maintain records of their determinations. Grantees must also have controls in place to ensure compliance with their policies and procedures and prevent fraud. Grantees must specify in their policies and procedures under what circumstances they will accept written attestations from the applicant without further documentation to determine any aspect of eligibility or the amount of assistance, and in such cases, grantees must have in place reasonable validation or fraud-prevention procedures to prevent abuse.” (p.2-3)

... this guidance clearly supports that written attestations are allowable for any aspect of eligibility or the amount of assistance, including the number of months the applicant is behind on their utility payments.

This response **misleads the reader** to believe that written attestations for determining **eligibility** would be sufficient to ensure compliance with **allowable costs** and **period of performance**.

Written attestations of eligibility **do not** provide support to determine whether utility charges were incurred after March 13, 2020. For the referenced payments, the Department **did not** provide evidence to support **allowable costs** and **period of performance**, as stated in FAQ #6 and FAQ #9.

SECOND, the Department stated:

...the support documentation provided contains all of the information needed to accept these awards.

This response again **misleads the reader** to believe that written attestations of eligibility provide support to determine whether utility charges were incurred after the start of the pandemic.

THIRD, the Department stated:

The data provided through the DSAs is equivalent to utility statements provided directly to customers. One such requirement was to only share monthly charges incurred for services provided from April 1, 2020. Therefore, payments provided based on this documentation could not have occurred outside the period of performance. Additionally, ... COVID-related utility payment plans were eligible under the period performance, as this type of payment plan did not exist prior to the start of the pandemic.

This response **misleads the reader** to believe that entering into data sharing agreements (DSAs) with utility providers releases the Department from its responsibility to ensure utility charges were incurred after March 13, 2020.

It does not. Regardless of the agreements with the utility providers, the Department must ensure compliance with period of performance. Auditors evaluated the same underlying data provided by the utility providers that the Department used to make determinations for amounts

paid. The auditors were unable to conclude if the utility charges were incurred after March 13, 2020.

Lastly, the Department **insists** that COVID-related payment plans **automatically meet the period of performance** requirement. While households impacted by the COVID-19 pandemic may qualify for these new payment plans, the payment plans **could include pre-pandemic charges**. Without further validation of when the utility charges were incurred, the Department **could not** determine whether charges were only incurred after the start of the pandemic.

FOURTH, the Department stated:

...the support documentation provided contains all of the information needed to accept these awards. The aforementioned ERA FAQ supports that written attestations are allowable for any aspect of eligibility or the amount of assistance, thereby including the number of months the applicant is behind on their utility payments.

The basic requirements outlined in the DSAs and the evidence within the dataset itself (identifying the totaling charges from June to December) confirm that the assistance provided was within the period of performance.

This response again **misleads the reader** to believe that written attestations of eligibility provide support to determine if utility charges were incurred after the start of the pandemic.

In addition, the Department's response that the evidence within the dataset itself confirms that the assistance provided was within the period of performance **is false**.

Auditors found that the **only evidence** suggesting whether the charges were incurred within the period of performance was the **name of the dataset file** itself. The auditors found **no other** detail in the actual dataset to determine when the charges were incurred.

FIFTH, the Department stated:

For a separate payment in question based on a DSA, the Department provided information on the key data points used to match HOPE applicant data with utility provider's customer data prior to payment, as well as an additional utility bill supporting the relationship between the applicant and utility company. The Department has sufficiently demonstrated the relationship between applicant and provider.

This response **misleads** the reader to believe that the Department ensured the applicant qualified for the assistance provided. However, the Department **did not** provide evidence to fully support the relationship between the applicant and utility provider.

In addition, the payment was for \$5,103. The Department should have identified the payment as **possible fraud** given the high dollar amount.

SIXTH, the Department stated:

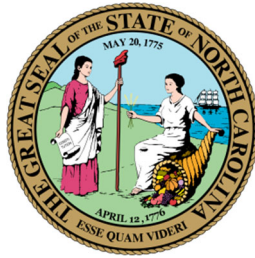
...the Auditor's statement "*According to Department management, the errors occurred because the reviews over grant expenditures were not detailed*"

enough to ensure funds were used in accordance with federal regulations” is misleading.

The Department acknowledges that there were oversights regarding the reclassifications of payments and that select awards lacked sufficient documentation to firmly support that assistance provided was within the period of performance.

OSA's statement is **not** misleading. In its response, the Department itself **acknowledged** “there were oversights... and that select awards lacked sufficient documentation...” In other words, reviews over grant expenditures were not detailed enough.

The federal awarding agency, Governor, Legislators, and the citizens of North Carolina should consider these clarifications when evaluating the Department's response to the audit finding and recommendation.



VIEWS OF RESPONSIBLE OFFICIALS OF THE AUDITEE



North Carolina Department of Public Safety

Administration

Roy Cooper, Governor
Eddie M. Buffaloe, Jr., Secretary

Casandra S. Hoekstra, Chief Deputy Secretary

March 25, 2022

The Honorable Beth A. Wood, CPA
State Auditor
North Carolina Office of the State Auditor
20601 Mail Service Center
Raleigh, North Carolina 27600-0600

Dear Auditor Wood,

The North Carolina Office of Recovery and Resiliency (NCORR), a division of the Department of Public Safety, acknowledges receipt of the Office of the State Auditor (OSA) findings for the Fiscal Year ended July 30, 2021 Emergency Rental Assistance (ERA) single audit. NCORR would like to thank OSA for their professionalism and patience throughout this review. NCORR has reviewed the findings and prepared the responses, corrective action plans, and request for amendment below.

Finding: Inaccurate Reporting

NCORR Response and Corrective Action Plan:

NCORR accepts the Auditor's finding that the Department did not accurately report ERA program data to the Department of the Treasury (Treasury) by underreporting the funds distributed to households and the number of households receiving assistance for April and May of 2021.

With additional Treasury guidance, NCORR produced updated reports in November of 2021, however the Department acknowledges that further reconciliation efforts are necessary.

NCORR has further developed the application system of record to align more closely with the accounting system. Therefore, data provided for subsequent reports are a more accurate representation of assistance provided. Department staff have become more proficient with the Treasury reporting requirements since the initial reports were produced.

Finding: Errors in Program Spending

NCORR Response and Corrective Action Plan:

NCORR partially accepts the Auditor's finding that the Department incorrectly used ERA program funds. Regarding the Auditor's statement that some of the transfer expenditures were reimbursed twice, resulting in overpayments of \$1,201,030-

- NCORR agrees that there were errors with some of the transfer expenditures. Full corrective action was completed in January 2022.

Regarding the Auditor's statement that there were 9 errors in the remaining transfer payments, totaling \$3,385:

- NCORR agrees that there were errors with six transfer payments. The Department will conduct additional case management, reclassification, or recapture to bring the awards into compliance (as appropriate).
- NCORR disagrees that there were errors with three transfer payments. The support documentation provided contains all of the information needed to accept these awards. Treasury ERA FAQ dated August 25th, 2021 states:

"In all cases, grantees must document their policies and procedures for determining a household's eligibility to include policies and procedures for determining the prioritization of households in compliance with the statute and maintain records of their determinations. Grantees must also have controls in place to ensure compliance with their policies and procedures and prevent fraud. Grantees must specify in their policies and procedures under what circumstances they will accept written attestations from the applicant without further documentation to determine any aspect of eligibility or the amount of assistance, and in such cases, grantees must have in place reasonable validation or fraud-prevention procedures to prevent abuse." (p.2-3)

NCORR has confidence that this guidance clearly supports that written attestations are allowable for any aspect of eligibility or the amount of assistance, including the number of months the applicant is behind on their utility payments. HOPE Program Policy provides the option to verify a utility assistance amount with information collected by a verified third party. Third party verification for the number of months past due was an option, but not a requirement.

Regarding the Auditor's statement that there were 13 errors in payments made on behalf of households, totaling \$5,285:

- NCORR agrees that there were errors with two payments on behalf of households. The Department will conduct additional case management, reclassification, or recapture to bring the awards into compliance (as appropriate).
- NCORR disagrees that there were errors with 11 payments on behalf of households. For two payments in question, NCORR affirms that the support documentation provided contains all of the information needed to accept these awards. For the other 9 payments in question, NCORR communicated the data requirements to the utility providers when entering into the Data Sharing Agreements (DSAs). The data provided through the DSAs is equivalent to utility statements provided directly to customers. One such requirement was to only share monthly charges incurred for services provided from April 1, 2020. Therefore, payments provided based on this documentation could not have occurred outside the period of performance. Additionally, NCORR supports that COVID-related utility payment plans were eligible under the period performance, as this type of payment plan did not exist prior to the start of the pandemic.

Regarding the Auditor's statement that there were 70 errors in payments for utility assistance totaling \$131,995:

- NCORR agrees that there were errors with 26 payments for utility assistance. Two payments have already been recovered. The Department will conduct additional case management, reclassification, or recapture to bring the remaining awards into compliance (as appropriate).
- NCORR disagrees that there were errors with 44 payments for utility assistance. For 34 of the payments in question, NCORR reiterates that the support documentation provided contains all of the information needed to accept these awards. The aforementioned ERA FAQ supports that

written attestations are allowable for any aspect of eligibility or the amount of assistance, thereby including the number of months the applicant is behind on their utility payments. For four payments in question based on a DSA, the Department communicated to the Auditor that some utility providers were uncomfortable sharing the level of detail for individual monthly charges. The basic requirements outlined in the DSAs and the evidence within the dataset itself (identifying the totaling charges from June to December) confirm that the assistance provided was within the period of performance.

For a separate payment in question based on a DSA, the Department provided information on the key data points used to match HOPE applicant data with utility provider's customer data prior to payment, as well as an additional utility bill supporting the relationship between the applicant and utility company. The Department has sufficiently demonstrated the relationship between applicant and provider. For five payments in question including a payment plan, NCORR reiterates that payment plans were eligible.

Request for Amendment:

In the Errors in Program Spending finding, NCORR believes that the Auditor's statement "*According to Department management, the errors occurred because the reviews over grant expenditures were not detailed enough to ensure funds were used in accordance with federal regulations*" is misleading. NCORR has confidence that the raw data provided from utility companies through the DSAs had sufficient details to ensure funds were used in accordance with federal regulation. The Department acknowledges that there were oversights regarding the reclassifications of payments and that select awards lacked sufficient documentation to firmly support that assistance provided was within the period of performance. Therefore, the Department requests that the Auditor's statement is removed.

The Department thanks OSA for their time to review this response. If you have any questions, please do not hesitate to contact me or Laura Hogshead, Director of NCORR.

Sincerely,



Eddie M. Buffaloe, Jr.
Secretary/Homeland Security Advisor

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919-807-7666



This audit was conducted in 1,425 hours at an approximate cost of \$151,050.