

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

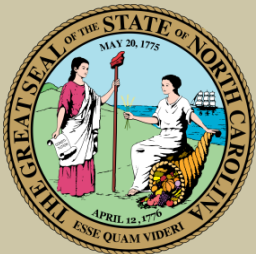
BETH A. WOOD, CPA



## COVID-19 RAPID RECOVERY LOAN PROGRAM

**THE GOLDEN L.E.A.F. (LONG-TERM ECONOMIC ADVANCEMENT  
FOUNDATION), INC.**

PERFORMANCE AUDIT  
MARCH 2022



**NCOSA**  
The Taxpayers' Watchdog

# EXECUTIVE SUMMARY

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## **OBJECTIVE**

The objective of this audit was to determine whether The Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc. (Golden LEAF) designed and implemented procedures to **ensure** that COVID-19 Rapid Recovery loan recipients used funds in accordance with the 2020 COVID-19 Recovery Act (Recovery Act).<sup>1</sup>

## **BACKGROUND**

On May 4, 2020, the North Carolina General Assembly enacted the 2020 COVID-19 Recovery Act.<sup>2</sup> The Recovery Act established the state's Coronavirus Relief Fund<sup>3</sup> for the purpose of providing necessary and appropriate relief and assistance from the effects of COVID-19. The Fund provided approximately \$3.6 billion in federal assistance to various entities across the state.

The Recovery Act also created a temporary North Carolina Pandemic Recovery Office (NCPRO) to **oversee** and coordinate funds made available under Recovery Act legislation.

Of the \$3.6 billion in federal assistance received, approximately \$83 million<sup>4</sup> was allocated to Golden LEAF to fund the existing COVID-19 Rapid Recovery Loan Program.<sup>5</sup>

The Rapid Recovery Loan Program was created to provide emergency loans to small businesses to assist with business needs<sup>6</sup> during periods of economic hardship caused by the COVID-19 pandemic.

## **KEY FINDING**

Golden LEAF did not monitor<sup>7</sup> \$83 million of federal funds distributed through Rapid Recovery Loan Program loans.

## **KEY RECOMMENDATIONS**

- Golden LEAF management should monitor loan recipient spending to ensure Coronavirus Relief Funds are being spent in accordance with the Recovery Act. Specifically, management should develop a method for determining loan recipient compliance.

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<sup>1</sup> Session Law 2020-4 outlines the allowable uses of the loan funds. Allowable uses included business needs such as employee compensation, mortgage or rent, utilities, other operating costs and expenses.

<sup>2</sup> Session Law 2020-4.

<sup>3</sup> Session Law 2020-4, Section 2.2.

<sup>4</sup> The original allocation was \$125 million, which was subsequently changed in Session Law 2020-97, Section 1.2, and amended to \$83 million by Session Law 2021-3, Section 3.1.

<sup>5</sup> Session Law 2020-4, Section 4.2.(a).

<sup>6</sup> Included employee compensation, mortgage or rent, utilities, other operating costs and expenses.

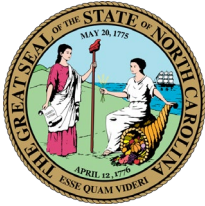
<sup>7</sup> Monitoring activities are established and operated by management to **assess** the quality of performance **over time** and promptly resolve identified issues.

# EXECUTIVE SUMMARY (CONCLUDED)

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- The North Carolina Pandemic Recovery Office (NCPRO) should include a requirement to monitor the spending of Coronavirus Relief Funds in future contracts with recipients and subrecipients.
- The North Carolina General Assembly should consider including monitoring requirements in future legislation regarding the spending of Coronavirus Relief Funds or other emergency relief funds.

STATE OF NORTH CAROLINA  
**Office of the State Auditor**



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## AUDITOR'S TRANSMITTAL

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The Honorable Roy Cooper, Governor  
Members of the North Carolina General Assembly  
Scott T. Hamilton, President & Chief Executive Officer, Golden LEAF  
Don Flow, Board Chair, Golden LEAF Board of Directors

Ladies and Gentlemen:

We are pleased to submit this performance audit report titled *COVID-19 Rapid Recovery Loan Program*. The audit objective was to determine whether The Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc. (Golden LEAF) designed and implemented procedures to **ensure** that COVID-19 Rapid Recovery loan recipients used funds in accordance with the 2020 COVID-19 Recovery Act.

Golden LEAF's Chief Executive Officer, Scott T. Hamilton, reviewed a draft copy of this report. His written comments are included starting on page 15.

This audit was conducted in accordance with Chapter 147, Article 5A of the *North Carolina General Statutes*.

We appreciate the courtesy and cooperation received from management and the employees of Golden LEAF during our audit.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Beth A. Wood'.

Beth A. Wood, CPA  
State Auditor

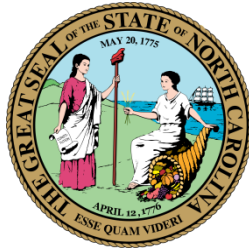


**Beth A. Wood, CPA  
State Auditor**

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# BACKGROUND

The Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc. (Golden LEAF) is a nonprofit foundation that partners with state and local governments and other foundations to build economic opportunity across North Carolina. Golden LEAF's mission is to increase economic opportunity in North Carolina's rural and tobacco-dependent communities through leadership in grantmaking, collaboration, innovation, and stewardship as an independent and perpetual foundation.

Golden LEAF initiated a COVID-19 Rapid Recovery Loan Program in March 2020 to provide support to small businesses impacted by the COVID-19 pandemic.

On March 27, 2020, the President of the United States signed into law the Coronavirus Aid, Relief and Economic Security (CARES) Act.<sup>8</sup> The CARES Act established the federal Coronavirus Relief Fund and appropriated \$150 billion to this fund for distribution to state, local, and tribal governments.<sup>9</sup> The state of North Carolina received a total of \$3.6 billion in financial assistance through the federal Coronavirus Relief Fund. The purpose of these funds was to provide financial assistance to cover costs that:

- 1) Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19).
- 2) Were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the state or government.
- 3) Were incurred during the period that begins on March 1, 2020, and ends on December 31, 2021.<sup>10</sup>

The North Carolina General Assembly enacted the 2020 COVID-19 Recovery Act<sup>11</sup> (Recovery Act) on May 4, 2020, to assist local governments, communities, families, workers and other individuals, and businesses in accessing federal relief and recovery funds from the CARES Act.

The Recovery Act established a Coronavirus Relief Fund that was to be maintained as a special fund, administered by the North Carolina Office of State Budget and Management (OSBM) to carry out the provisions of the law. The funds were to be used "in a manner that is consistent with the authorizing federal legislation and that responsibly provides for the public health and economic well-being of the State."<sup>12</sup>

The Recovery Act also directed OSBM to create a temporary North Carolina Pandemic Recovery Office (NCPRO) to **oversee** and coordinate funds made available under Recovery Act legislation.

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<sup>8</sup> U.S. Public Law 116-136.

<sup>9</sup> <https://home.treasury.gov/system/files/136/Payments-to-States-and-Units-of-Local-Government.pdf>.

<sup>10</sup> The President of the United States signed H.R. 133 (Consolidated Appropriations Act, 2021) into law on December 27, 2020. One of the provisions of this law (Section 1001) extended the period during which allowable costs could be incurred from December 30, 2020, to December 31, 2021.

<sup>11</sup> Session Law 2020-4.

<sup>12</sup> Session Law 2020-4 Section 1.3.

The Office of the State Auditor reported in a May 2021 audit<sup>13</sup> that NCPRO did not design and implement procedures to **ensure** that Coronavirus Relief Funds were being spent in accordance with the Recovery Act or that programs that received Coronavirus Relief Funds were achieving their legislatively intended results. This audit of Golden LEAF (a recipient of Coronavirus Relief Funds) was initiated to further determine the impact of the lack of oversight and monitoring of Coronavirus Relief Funds.

Of the \$3.6 billion the state received from the CARES Act, approximately \$83 million<sup>14</sup> was allocated to Golden LEAF to fund the existing COVID-19 Rapid Recovery Loan Program.<sup>15</sup>

According to legislation, the purpose of the loan program was to provide emergency loans to small businesses to assist with business needs during periods of economic hardship caused by the COVID-19 pandemic. These loans were designed to assist small businesses bridge the gap between the onset of the economic hardship caused by the COVID-19 pandemic and when federal loans or other relief funds were approved.

Golden LEAF contracted with and provided funding to the North Carolina Rural Economic Development Center (NC Rural Center) to operate the COVID-19 Rapid Recovery Loan Program. The NC Rural Center partnered with eight nonprofit lenders to directly provide loans to small businesses impacted by the COVID-19 pandemic.

The loans included the following terms:<sup>16</sup>

- Amount – Not to exceed \$250,000.
- Interest Rate – Up to 4% during the first 18 months after closing of the loan, then at least 5.5%.
- Loan Term – Not to exceed 120 months and amortized over the term of the loan.
- Repayment – Required to begin after 18 months following closing of the loan.

Additionally, loan recipients were required to sign loan agreements that included certifications that the loan recipient:

- Did not receive other federal assistance for COVID-19 relief, or did receive other federal assistance for COVID-19 relief, but the loan did not represent a duplication of benefits.
- Will repay loan proceeds with other federal assistance received that represents a duplication of benefits.
- Will only use loan proceeds in accordance with the Recovery Act, for business needs such as:
  - Employee compensation.
  - Mortgage or rent.
  - Utilities.
  - Other operating costs and expenses.

<sup>13</sup> <https://www.auditor.nc.gov/documents/reports/performance/per-2021-3005a>.

<sup>14</sup> The original allocation was \$125 million, which was subsequently changed in Session Law 2020-97, Section 1.2, and amended to \$83 million by Session Law 2021-3, Section 3.1.

<sup>15</sup> Session Law 2020-4, Section 4.2.(a).

<sup>16</sup> Session Law 2020-4, Section 4.2.(a). outlined the original loan terms and required certifications which were amended by Session Law 2020-97, Section 1.6.



As of September 2021, Golden LEAF used the \$83 million allocated to the COVID-19 Rapid Recovery Loan Program to provide 1,257 loans to small businesses across 93 counties in North Carolina.

**Key terms discussed in this report include:**

*CARES Act* - The federal Coronavirus Aid, Relief, and Economic Security Act (U.S. Public Law 116-136) that created the federal Coronavirus Relief Fund.

*Recovery Act* - The 2020 COVID-19 Recovery Act<sup>17</sup> and subsequent legislation enacted by the state of North Carolina to establish the Coronavirus Relief Fund and assist local governments, communities, families, workers and other individuals, and businesses by providing federal relief and recovery funds from the CARES Act.

*Coronavirus Relief Fund* - The fund established by the state to provide necessary and appropriate relief from the effects of COVID-19.

*COVID-19* - The severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) that emerged in December 2019.

*Monitoring* - Activities that management establish and operate to assess the quality of performance over time and to promptly resolve identified issues.

**Responsible parties discussed in this report include:**

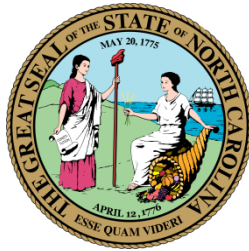
*Golden LEAF* – a nonprofit foundation that partners with state and local governments and other foundations to build economic opportunity across North Carolina. **Administered** the COVID-19 Rapid Recovery Loan Program.

*NC Rural Center* – a nonprofit organization whose mission is to develop sound economic strategies that improve the quality of life in rural North Carolina, with a special focus on individuals with low to moderate incomes and communities with limited resources. **Operated** the COVID-19 Rapid Recovery Loan Program.

*North Carolina Pandemic Recovery Office (NCPRO)* - The temporary North Carolina Pandemic Recovery Office created to **oversee** and coordinate funds made available under the 2020 COVID-19 Recovery Act.

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<sup>17</sup> Session Law 2020-4.



# **OBJECTIVE, SCOPE, AND METHODOLOGY**

The audit objective was to determine whether The Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc. (Golden LEAF) designed and implemented procedures to **ensure** that COVID-19 Rapid Recovery loan recipients used funds in accordance with the 2020 COVID-19 Recovery Act (Recovery Act).<sup>18</sup>

The audit scope included the period of March 27, 2020,<sup>19</sup> through June 1, 2021.

To accomplish the audit objective, auditors:

- Reviewed relevant laws and regulations.
- Reviewed Golden LEAF's contract for administering the COVID-19 Rapid Recovery Loan Program with the North Carolina Pandemic Recovery Office (NCPRO).
- Interviewed Golden LEAF, NC Rural Center, and NCPRO personnel.
- Reviewed Golden LEAF policies and procedures related to the COVID-19 Rapid Recovery Loan Program.
- Reviewed Golden LEAF documentation related to the COVID-19 Rapid Recovery Loan Program, including reports, memos, loan agreements, and emails.

Because of the test nature and other inherent limitations of an audit, together with limitations of any system of internal and management controls, this audit would not necessarily disclose all performance weaknesses or lack of compliance.

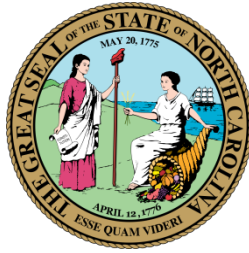
As a basis for evaluating internal control, auditors applied the internal control guidance contained in professional auditing standards. However, our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion. See the Appendix for internal control components and underlying principles that were significant to our audit objective.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>18</sup> Session Law 2020-4 outlines the allowable uses of the loan funds. Allowable uses included business needs such as employee compensation, mortgage or rent, utilities, other operating costs and expenses.

<sup>19</sup> The date the federal Coronavirus Aid, Relief, and Economic Security Act (U.S. Public Law 116-136) was signed into law.



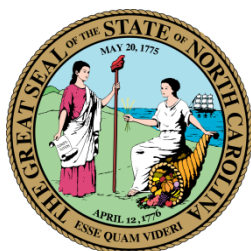
# **RESULTS AND CONCLUSIONS**

The Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc. (Golden LEAF) did not design and implement procedures to **ensure** that COVID-19 Rapid Recovery loan recipients used funds in accordance with the 2020 COVID-19 Recovery Act (Recovery Act).<sup>20</sup> As a result,

- There was an increased risk that loan recipients could have misused the funds without the misuse being detected and corrected in a timely manner.
- Golden LEAF would be unable to recapture misused loan funds and provide the funds as loans to other small businesses experiencing economic hardship caused by the COVID-19 pandemic.
- Golden LEAF would be limited in its ability to know whether the loans were achieving legislatively intended results.

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<sup>20</sup> Session Law 2020-4 outlines the allowable uses of the loan funds. Allowable uses included business needs such as employee compensation, mortgage or rent, utilities, other operating costs and expenses.



# **FINDING, RECOMMENDATIONS, AND RESPONSE**

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### **\$83 MILLION OF CORONAVIRUS RELIEF FUNDS DISTRIBUTED WITH NO MONITORING**

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The Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc. (Golden LEAF) did not monitor \$83 million of federal funds distributed through COVID-19 Rapid Recovery Loan Program (Program) loans to small businesses to assist with business needs during periods of economic hardship caused by the COVID-19 pandemic. As a result, (1) there was an increased risk that loan recipients could have misused the funds without the misuse being detected and corrected in a timely manner, (2) Golden LEAF would be unable to recapture misused loan funds<sup>21</sup> and provide the funds as loans to other small businesses experiencing economic hardship caused by the COVID-19 pandemic, and (3) Golden LEAF would be limited in its ability to know whether the loans were achieving legislatively intended results.

Golden LEAF did not monitor loan recipients because Golden LEAF's (1) management did not develop a method for determining loan recipient compliance, (2) contract with North Carolina Pandemic Recovery Office (NCPRO) did not require monitoring of loan recipients, (3) management stated that it did not have adequate staff to monitor the number of loans, and (4) management considered the risk of loan misuse to be low.

However, best practices from the Government Accountability Office (GAO) recommend monitoring loan recipient spending.

### **No Monitoring of Coronavirus Relief Fund Spending Used for Rapid Recovery Loan Program**

Golden LEAF did not monitor to ensure Program loan recipients were spending approximately \$83 million of Coronavirus Relief Funds in accordance with the 2020 COVID-19 Recovery Act (Recovery Act).<sup>22</sup> The Recovery Act required loan recipients to use funds only for employee compensation, mortgage, rent, utilities, and other operating costs and expenses incurred on behalf of the business.

Before distributing loans, Golden LEAF did require loan recipients to sign loan agreements that included certifications that the loan recipient:

- Will only use loan proceeds in accordance with the Recovery Act.
- Did not receive other federal assistance for COVID-19 relief, or did receive other federal assistance for COVID-19 relief, but the loan did not represent a duplication of benefits.
- Will repay loan proceeds with other federal assistance received in cases that do represent a duplication of benefits.<sup>23</sup>

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<sup>21</sup> The act of recapturing loan funds would be actually completed by the lenders.

<sup>22</sup> Session Law 2020-4 outlines the allowable uses of the loan funds. Allowable uses included business needs such as employee compensation, mortgage or rent, utilities, other operating costs and expenses.

<sup>23</sup> Rapid Recovery Program loans were designed to assist small businesses bridge the gap between the onset of the economic hardship caused by the COVID-19 pandemic and when federal loans or other relief funds were approved. If businesses subsequently received federal assistance that would be considered duplication of benefits (e.g. Economic Injury Disaster Loans), they were required to repay the Rapid Recovery Loan amount with the federal assistance.

However, after the loans were distributed, Golden LEAF did not perform and does not have any plans to perform procedures to ensure loan recipients adhered to certifications made in the loan agreements. Specifically, Golden LEAF **did not**:

- Require loan recipients to submit spending reports with supporting documentation.
- Independently verify recipient spending by comparing expenses to supporting documents (i.e. invoices, receipts, payroll records).
- Ensure loan recipients did not receive other federal assistance representing a duplication of benefits.

### **Resulted in Increased Risk of Undetected and Uncorrected Misuse**

Without monitoring the use of funds after the Program loans were distributed, Golden LEAF could not detect misuse that could occur due to misunderstandings, errors, or fraud.

For example, Golden LEAF could not ensure that loan recipients only used funds for:

- Employee compensation.
- Mortgage or rent.
- Utilities.
- Other operating costs and expenses.

Similarly, Golden LEAF could not know whether loan recipients received other federal assistance that duplicated benefits received from Golden LEAF.

In either case, the Recovery Act required Golden LEAF to take corrective actions against loan recipients that failed to comply with loan program requirements. Specifically, the Recovery Act required Golden LEAF to recapture the loan funds.<sup>24</sup>

However, since no monitoring occurred, Golden LEAF could not:

- Detect and correct misuse in a timely manner.
- Train loan recipients that misused funds.
- Recapture funds from loan recipients that misused loan funds or received duplicated benefits.

Any funds that might have been recaptured could have been **used to provide loans to other small businesses** in need of assistance during periods of economic hardship caused by the COVID-19 pandemic. As of September 2021, there were **99** businesses on the loan program's waiting list.<sup>25</sup>

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<sup>24</sup> Session Law 2020-4 Section 4.2.(a)(9)(e.).

<sup>25</sup> The waitlist ended in November 2021 with 10 businesses receiving Program loans. Per Golden LEAF, 63 businesses were removed due to lack of funding and 26 business were removed for other reasons.



### **Also Resulted in Limited Ability to Know Whether Intended Results Were Being Achieved**

Additionally, since Golden LEAF did not monitor spending of the Program loan funds after distribution, Golden LEAF was limited in its ability to know whether the funds were achieving legislatively intended results. Without monitoring and verification, Golden LEAF had no way to know whether the loans actually were:

- Assisting with business needs.
- Saving businesses.
- Retaining jobs.

### **Golden LEAF Did Not Monitor for Four Reasons**

Golden LEAF did not monitor the Rapid Recovery loans for four reasons.

**First**, Golden LEAF did not monitor how recipients of the Program loans used the money because Golden LEAF did not develop a method for determining compliance with the Program. Instead, Golden LEAF management stated that discussions with NCPRO led to the development of a document titled “Borrower Certification” as a means of compliance. The Borrower Certification requires the loan recipient to attest to the usage of the loan. However, the Recovery Act required Golden LEAF to do both – obtain a written certification as to the use of funds **AND** include a provision in the loan agreements to establish a method for determining compliance with Program requirements. In effect, Golden LEAF’s method for determining that a business complied with Program requirements was simply to obtain the business’s word that it complied.

**Second**, Golden LEAF did not monitor how recipients of the Program loans used the money because Golden LEAF’s management stated its contract with NCPRO did not require Golden LEAF to monitor loan funds. Golden LEAF’s contract with NCPRO did not contain any specific reference to Golden LEAF’s monitoring responsibilities towards “loan recipients” despite the fact that the Recovery Act required the grantor to develop a method for determining compliance with Program requirements. Consequently, Golden LEAF management stated it was not contractually required to monitor loan recipients to ensure they were complying with loan program requirements.

**Third**, Golden LEAF did not monitor how recipients of the Program loans used the money because Golden LEAF management stated it did not have adequate staff to monitor the use of funds. Specifically, Golden LEAF’s Rapid Recovery Program Director stated that Golden LEAF and its subrecipient (NC Rural Center)<sup>26</sup> did not have the capacity to monitor the number of loan recipients participating in the loan program.

**Fourth**, Golden LEAF did not monitor how recipients of the Program loans used the money because Golden LEAF considered the risk of misuse to be low. The Program Director stated there was less risk of misuse because the Program involved loans that required repayment. However, this logic is flawed. Just because the loans had to be repaid did not mean the recipients would not misuse the funds.

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<sup>26</sup> Golden LEAF contracted with and provided funding to the NC Rural Center to operate the COVID-19 Rapid Recovery Loan Program.

If recipients misused the funds, state law would have been violated. Additionally, the Program's legislative intent to provide emergency loans to small businesses to assist with business needs during periods of economic hardship caused by the COVID-19 pandemic would not have been achieved.

### **Best Practices Recommend Monitoring Recipient Spending**

The Recovery Act did not explicitly require Golden LEAF to monitor recipients to ensure funds were spent in accordance with the Recovery Act. However, the Recovery Act did require loan agreements to include a provision for establishing a method for determining compliance with the Program.

Golden LEAF was required to **administer** the Program to carry out the Program's provisions of the Recovery Act. Merriam-Webster's dictionary defines administer as "to **manage** or **supervise** the execution, use, or conduct of."

Without monitoring, it would be difficult to ensure that the provisions and legislative intent of the Recovery Act were being carried out including determining a loan recipient's compliance with the Program.

Further, best practices identified by the Government Accountability Office (GAO) state that management should establish internal controls to provide reasonable assurance of effective **operations**. The GAO states:

Legislators, oversight bodies, those charged with governance, and the public need to know whether...government services are provided effectively.<sup>27</sup>

Management is directly responsible for the design, implementation, and operation of internal controls to achieve its objectives which include effective and efficient **operations**. Internal controls include plans, methods, policies, and procedures used to fulfill...the objectives of the entity.<sup>28</sup>

## **RECOMMENDATIONS**

Golden LEAF management should monitor loan recipient spending to ensure Coronavirus Relief Funds are being spent in accordance with the Recovery Act. Specifically, management should develop a method for determining loan recipient compliance.

The North Carolina Pandemic Recovery Office (NCPRO)<sup>29</sup> should include a requirement to monitor the spending of Coronavirus Relief Funds in future contracts with recipients and subrecipients.

<sup>27</sup> United States Government Accountability Office, Government Auditing Standards, July 2018.

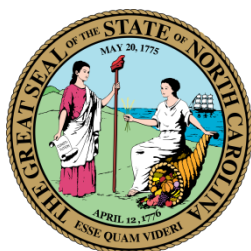
<sup>28</sup> United States Government Accountability Office, Standards for Internal Control in the Federal Government, September 2014.

<sup>29</sup> NCPRO oversees and coordinates funds made available under the 2020 COVID-19 Recovery Act.

The North Carolina General Assembly should consider including monitoring requirements in future legislation regarding the spending of Coronavirus Relief Funds or other emergency relief funds.

**AGENCY RESPONSE**

See page 15 for the agency's response to this finding.



# APPENDIX

## Appendix

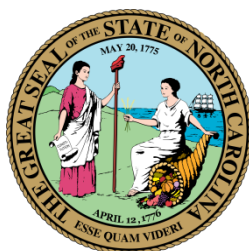
### Internal Control Components and Principles Significant to the Audit Objective

The audit objective was to determine whether The Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc. designed and implemented procedures to **ensure** that COVID-19 Rapid Recovery loan recipients used funds in accordance with the 2020 COVID-19 Recovery Act.<sup>30</sup>

Internal control components and underlying principles that were significant to our audit objective are identified in the table below.

COMPONENTS AND PRINCIPLES	AUDIT OBJECTIVE
<b>CONTROL ENVIRONMENT</b>	
1. The oversight body and management should demonstrate a commitment to integrity and ethical values.	
2. The oversight body should oversee the entity's internal control system.	
3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.	X
4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.	
5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.	
<b>RISK ASSESSMENT</b>	
6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.	
7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.	
8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.	
9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.	
<b>CONTROL ACTIVITIES</b>	
10. Management should design control activities to achieve objectives and respond to risks.	X
11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.	X
12. Management should implement control activities through policies.	X
<b>INFORMATION AND COMMUNICATION</b>	
13. Management should use quality information to achieve the entity's objectives.	
14. Management should internally communicate the necessary quality information to achieve the entity's objectives.	
15. Management should externally communicate the necessary quality information to achieve the entity's objectives.	
<b>MONITORING ACTIVITIES</b>	
16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.	
17. Management should remediate identified internal control deficiencies on a timely basis.	

<sup>30</sup> Session Law 2020-4 outlines the allowable uses of the loan funds. Allowable uses included business needs such as employee compensation, mortgage or rent, utilities, other operating costs and expenses.



# **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 Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc. (Golden LEAF) response included statements that **mislead the reader**. To ensure the availability of complete and accurate information, OSA offers the following clarification.

**FIRST**, Golden LEAF stated:

As an alternative to monitoring businesses' spending, the Recovery Act required borrower certification to affirm borrower compliance with eligible uses of loan proceeds.

The Recovery Act required that borrowers enter an agreement that included "a provision establishing the method for determining compliance with the program."

This response **misleads the reader** to believe that the Recovery Act included the borrower certification as an alternative to monitoring businesses' spending and as the method to determine compliance with the COVID-19 Rapid Recovery Loan Program (Program).

**It did not.** The borrower certification is not a method to determine compliance. As the report clearly states, the Recovery Act required Golden LEAF to obtain a written certification as to the use of funds (borrower certification)<sup>31</sup> **AND** include a provision in the loan agreements to establish a method for determining compliance with Program requirements.<sup>32</sup>

In effect, by using the borrower certification and doing nothing more, Golden LEAF's method for determining that a business complied with Program requirements was **simply to obtain the business's word that it complied**.

**SECOND**, Golden LEAF stated:

...requiring businesses to prepare and submit reports on the use of loan proceeds and to provide supporting documentation to a lender or other administering entity is very unusual...and would have been inconsistent with borrower expectations.

<sup>31</sup> Session Law 2020-4, Section 4.2.(a)(9)a.

<sup>32</sup> Session Law 2020-4, Section 4.2.(a)(9)b.

This response **misleads the reader** to believe that requiring businesses to submit reports as to the use of their loan proceeds is unusual and would have been inconsistent with borrower expectations.

**This is not true.** Golden LEAF's own response states, "the loan documents for the program require businesses to maintain records regarding their use of loan proceeds **and to make those records available on request** to entities with oversight of the funds. **This is consistent with ordinary practices of small businesses...**" *[Emphasis Added]*

**THIRD**, Golden LEAF stated:

...requiring businesses to submit reports regarding how they spent loan proceeds and to provide invoices, receipts, and payroll records to document those expenditures would have placed additional burdens on those businesses during a period of extraordinary financial stress.

This response **misleads the reader** to believe that Golden LEAF monitoring Program loan recipient spending would have placed additional burdens on the loan recipients.

This reasoning is **misguided**.

Whether monitoring would place additional burdens on businesses is not the issue at hand. **Compliance** with the Recovery Act was **required** by the law:

- 1) The Recovery Act **required** loan recipients to use funds only for specific business-related expenses.
- 2) The Recovery Act **required** Golden LEAF to establish a method for determining loan recipient compliance with Program requirements.
- 3) The Recovery Act **required** Golden LEAF to take corrective actions against loan recipients that failed to comply with loan program requirements. Specifically, the Recovery Act required Golden LEAF to recapture the loan funds.<sup>33</sup>

Further, whether monitoring loan recipient spending would actually place additional burdens on businesses is not supported by any evidence from Golden LEAF.

As Golden LEAF's response states, the borrower certification already required borrowers to maintain records regarding their use of loan proceeds and to make those records available on request.

The only action that **did not occur** was Golden LEAF actually using the records already maintained by borrowers to monitor borrower compliance.

Without monitoring, it would be difficult to ensure that the provisions and legislative intent of the Recovery Act were being carried out and to take corrective actions against those that failed to comply with Program requirements.

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<sup>33</sup> Session Law 2020-4 Section 4.2.(a)(9)(e.).



**FOURTH**, Golden LEAF stated:

This requirement also establishes a mechanism for the N.C. Pandemic Recovery Office and others to gain access to records to determine compliance with the Recovery Act and the CARES Act, if needed.

Golden LEAF believes it would be contrary to the intent of the N.C. General Assembly to monitor borrower spending in connection with this program.

Golden LEAF will forward the State Auditor's recommendation to the N.C. General Assembly and the N.C. Pandemic Recovery Office and will conduct monitoring of businesses' use of loan proceeds if directed to do so.

This response **misleads the reader** to believe that:

- 1) Golden LEAF is not responsible for the Program.
- 2) The N.C. Pandemic Recovery Office or others should determine compliance with the Recovery Act.
- 3) The General Assembly did not intend there to be a mechanism to ensure taxpayer money was spent for its intended purpose.
- 4) The audit's recommendation to monitor loan recipient spending is for the N.C. General Assembly and the N.C. Pandemic Recovery Office to consider.

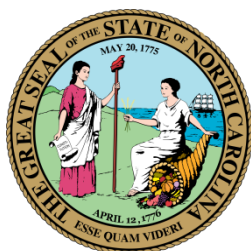
**This is not true.**

The Recovery Act, **enacted by the General Assembly**, required Golden LEAF to **administer** the Program to carry out the Program's provisions of the Recovery Act, including establishing a method to determine compliance with Program requirements. Merriam-Webster's dictionary defines administer as "to **manage** or **supervise** the execution, use, or conduct of."

Best practices identified by the Government Accountability Office (GAO) state that management [Golden LEAF] is directly responsible for the design, implementation, and operation of internal controls to achieve its objectives which include effective and efficient **operations**.

As previously stated, without monitoring, it would be difficult to ensure that the provisions and legislative intent of the Recovery Act were being carried out and to take corrective actions against those that failed to comply with Program requirements.

The Governor, Legislators, and the citizens of North Carolina should consider this clarification when evaluating Golden LEAF's response to the audit finding and recommendations.



**RESPONSE FROM THE  
GOLDEN L.E.A.F.  
(LONG-TERM ECONOMIC  
ADVANCEMENT  
FOUNDATION), INC.**



DON FLOW  
CHAIRMAN OF THE BOARD

SCOTT T. HAMILTON  
PRESIDENT, CHIEF EXECUTIVE OFFICER

March 9, 2022

Honorable Beth A. Wood, State Auditor  
Office of the State Auditor  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0600

Dear Auditor Wood:

Thank you for providing the Golden LEAF Foundation an opportunity to respond to the State Auditor’s finding and recommendations as detailed in the Performance Audit titled, “COVID-19 Rapid Recovery Loan Program.”

At the time the COVID-19 Rapid Recovery Loan Program was launched nearly two years ago, North Carolina was suffering some of the most difficult times of the pandemic. Positive cases, hospitalizations, and deaths continued to rise. Many businesses remained closed and others were operating at limited capacity. In the face of these challenges, Golden LEAF worked with the N.C. General Assembly to develop the COVID-19 Rapid Recovery Loan Program to aid small businesses as quickly as possible. The program was designed to be similar to small business loan programs operating at the federal level and was targeted to reach small businesses with fewer than 100 full-time employees. The majority of businesses that received loans through this program have nine or fewer employees.

As the legislation was being drafted, Golden LEAF sought guidance from the N.C. General Assembly regarding how certain requirements of the legislation were intended to be implemented, including provisions related to the eligible uses of loan proceeds by businesses. Golden LEAF discussed the practical implications of monitoring businesses’ use of loan proceeds and the impact of such monitoring on small businesses during the COVID-19 crisis with the N.C. General Assembly. As an alternative to monitoring businesses’ spending, the Recovery Act required borrower certification to affirm borrower compliance with eligible uses of loan proceeds. The Recovery Act also set the level of administrative funding to implement the program with the level of monitoring designed in the statute.

The Recovery Act required that borrowers enter an agreement that included “a provision establishing the method for determining compliance with the program.” The loan documents for the program require businesses to maintain records regarding their use of loan proceeds and to make those records available on request to entities with oversight of the funds. This is consistent with ordinary practices of small businesses, which routinely maintain records regarding their expenses for tax or other purposes. This requirement also establishes a mechanism for the N.C. Pandemic Recovery Office and others to gain access to records to determine compliance with the



Recovery Act and the CARES Act, if needed. In contrast, requiring businesses to prepare and submit reports on the use of loan proceeds and to provide supporting documentation to a lender or other administering entity is very unusual in small business lending and would have been inconsistent with borrower expectations. Requiring businesses to submit reports regarding how they spent loan proceeds and to provide invoices, receipts, and payroll records to document those expenditures would have placed additional burdens on those businesses during a period of extraordinary financial stress. This is particularly so if the reports had been required during the early days of the pandemic, which would have been necessary if the goal was to recapture and re-loan funds prior to the CARES Act deadline of December 31, 2021. Required reporting regarding use of loan proceeds also likely would have discouraged some businesses from participating in the program due to their concerns about the administrative burden required to comply.

Golden LEAF, the N.C. Rural Economic Development Center, and the participating nonprofit lenders determined their expected staffing needs based on the proposed program requirements considered by the N.C. General Assembly, which were later enacted in the Recovery Act and implemented through Golden LEAF's contract with the N.C. Pandemic Recovery Office. Had the legislation or contract included a requirement to monitor the business use of loan proceeds, staffing levels for each entity would have increased to accommodate that requirement and additional administrative funds would have been required and requested from the N.C. General Assembly.

The State Auditor has recommended that Golden LEAF monitor loan recipient spending in connection with the COVID-19 Rapid Recovery Loan Program to ensure Coronavirus Relief Funds are being spent in accordance with the Recovery Act. As described in the recommendations, neither the Recovery Act nor the Golden LEAF contract with the N.C. Pandemic Recovery Office included requirements to monitor borrower spending in connection with this program. Because monitoring borrower spending: a) was not required, b) would have a significant impact on small businesses, and c) would necessitate additional administrative funds, Golden LEAF believes it would be contrary to the intent of the N.C. General Assembly to monitor borrower spending in connection with this program. Moreover, Golden LEAF has looked for examples of best practices in implementing similar small business lending programs and has not been able to identify any that require monitoring businesses' use of loan proceeds. For these reasons, Golden LEAF disagrees with the recommendation that it monitor businesses' use of loan proceeds in connection with this specific program. Golden LEAF will forward the State Auditor's recommendation to the N.C. General Assembly and the N.C. Pandemic Recovery Office and will conduct monitoring of businesses' use of loan proceeds if directed to do so.

The State Auditor has recommended that in future contracts the N.C. Pandemic Recovery Office should require monitoring of the beneficiaries' use of Coronavirus Relief Funds, and that the N.C. General Assembly should consider including such monitoring requirements in regard to the expenditure of Coronavirus Relief Funds or other emergency relief funds. Golden LEAF agrees that such requirements should be considered, but believes that the inclusion of monitoring requirements, and the mechanism for performing such monitoring when required, should be decided by the N.C. General Assembly and the N.C. Pandemic Recovery Office on a case-by-case basis as one element of program design, weighing the costs and benefits of such

requirements, and the anticipated impact of such requirements on the effectiveness of the program. Golden LEAF will forward the State Auditor's recommendations to the N.C. Pandemic Recovery Office and the N.C. General Assembly for their consideration.

Again, thank you for the opportunity to respond to the State Auditor's finding and recommendations. With support from the Governor, the N.C. General Assembly, and the N.C. Pandemic Recovery Office, Golden LEAF, the N.C. Rural Economic Development Center, and the participating nonprofit lenders implemented a program that provided loans to 1,257 small businesses experiencing financial challenges in the midst of the COVID-19 pandemic. We believe those loans were an important piece of North Carolina's response to the pandemic, and we are grateful we had the opportunity to play a small part in this recovery.

Sincerely,



Scott T. Hamilton  
President, Chief Executive Officer

# ORDERING INFORMATION

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This audit required 1,438.5 hours of auditor effort at an approximate cost of \$152,130.