



DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT
EMERGENCY RENTAL ASSISTANCE
FEDERAL GRANT PROGRAM

REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2022

Auditor of Public Accounts
Staci A. Henshaw, CPA
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AUDIT SUMMARY

Our audit of the Emergency Rental Assistance (ERA) federal grant program, administered by the Department of Housing and Community Development (Housing and Community Development), for the fiscal year ended June 30, 2022, found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth's accounting and reporting system and in the federal schedule attachment submitted to the Department of Accounts (Accounts);
- two matters involving internal control and its operations affecting the ERA federal grant program necessary to bring to management's attention that also represent instances of noncompliance with applicable laws and regulations; and
- a matter related to Housing and Community Development reporting inaccurate corrective action statuses for five of seven (71%) audit findings included in the Commonwealth's Summary Schedule of Prior Audit Findings as of June 30, 2022.

As part of the Commonwealth's Single Audit, federal regulations required us to identify the ERA federal grant program as a major federal program. We commenced testing of the ERA federal grant program as a major federal program under the assumption that Housing and Community Development designed, implemented, and maintained internal controls that provide reasonable assurance that it managed the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award.

Due to the significance of the matters described in the "Internal Control and Compliance Findings and Recommendations" section of our report, we were unable to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on compliance for the ERA federal grant program. As a result, this has led the Auditor of Public Accounts to issue a disclaimer of opinion for the ERA federal grant program in the Commonwealth's Single Audit report for the year ended June 30, 2022.

Housing and Community Development first received ERA federal grant program funding in January 2021 and had until September 2021 to obligate at least 65 percent of its funding or the funding would be subject to recapture from the federal government. Because of resource limitations, Housing and Community Development outsourced its responsibilities for eligibility determinations to two contractors and a subrecipient to obligate this funding. Housing and Community Development targeted its efforts towards interpreting and implementing the legislation and providing financial assistance to applicants as quickly as possible. As a result, the various divisions within Housing and Community Development responsible for administering the ERA federal grant program have been unable to design, implement, and maintain internal controls that provide reasonable assurance over outsourced operations. Ultimately, we believe the lack of available resources and time has contributed to the internal control weaknesses and matters of non-compliance described in the section titled "Internal Control and Compliance Findings and Recommendations."

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INTERNAL CONTROL AND COMPLIANCE FINDINGS AND RECOMMENDATIONS

Develop and Implement Internal Controls to Obtain Reasonable Assurance over Contractor Compliance with Program Regulations

Type: Internal Control and Compliance

Severity: Material Weakness

Repeat: Yes (first issued in fiscal year 2021)

Prior Title: Obtain Assurance over Third-Party Service Provider's Internal Controls

Housing and Community Development cannot provide reasonable assurance that its contractors administered the ERA federal grant program in compliance with federal statutes, regulations, and the terms and conditions of the federal award. Because of resource limitations, Housing and Community Development partnered with two separate contractors to process applications and determine eligibility on its behalf. The main objective of the ERA federal grant program is to provide rent relief to eligible tenants to prevent eviction and homelessness. Since the ERA federal program's inception, Housing and Community Development has provided \$571 million in rental assistance to beneficiaries based on eligibility determinations made by its contractors.

The Code of Federal Regulations (CFR), 2 CFR § 200.501(g) states that the auditee is responsible for reviewing the contractor's records to determine program compliance. Additionally, 2 CFR § 200.303(a) states that non-federal entities must 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. Reasonable assurance is a high, but not absolute, level of assurance that the entity and its contractors have complied with federal laws and regulations.

Housing and Community Development's contractual agreement with their contractors places ultimate responsibility for program compliance with Housing and Community Development. Housing and Community Development incorporated certain measures into its contractual agreements with its contractors related to compliance with 2 CFR § 200.501(g) and 2 CFR § 200.303(a). First, Housing and Community Development communicated program requirements to its contractors through a formalized document and received documentation as to how the contractor has designed its internal controls to ensure program compliance. Second, Housing and Community Development added a requirement to the contractual agreement that stipulates the contractor is to provide a daily payment file, listing beneficiaries qualifying to receive payments, that Housing and Community Development is to approve before the contractor processes payment to beneficiaries.

While Housing and Community Development's contractual agreements contain important provisions related to program compliance, Housing and Community Development has not developed and implemented a systematic approach for obtaining reasonable assurance over the contractor's internal controls and compliance with federal program regulations. Although Housing and Community Development periodically verifies the contractor's internal controls and compliance when it receives a call from beneficiaries about their application, the agency has not included the periodic verification process in its official policies and procedures. Additionally, the periodic verification process is not

sufficient to provide reasonable assurance over the contractor's internal controls or compliance with program operations as they are sporadic in nature. Finally, Housing and Community Development did not maintain appropriate evidence to demonstrate that it reviewed contractor records for program compliance prior to approving the daily payment file. Since management has not collected the evidence needed to provide reasonable assurance of federal program compliance, this has created a scope limitation for the audit and has led the Auditor of Public Accounts to disclaim an opinion for the ERA federal grant program.

Housing and Community Development first received ERA federal grant program funding in January 2021 and had until September 2021 to obligate at least 65 percent of its funding or the funding would be subject to recapture from the federal government. Because of the fast-paced nature of this program, much of Housing and Community Development's focus has been on interpreting and implementing the legislation and providing financial assistance to applicants as quickly as possible. Additionally Housing and Community Development's Office of Eviction Prevention and Rental Assistance (Eviction Prevention and Rental Assistance) and Division of Administration (Administration) that are responsible for administering the ERA federal grant program have been unable to develop and implement a systematic process for obtaining reasonable assurance over the contractor's internal controls and compliance because of the lack of time and available resources.

Close out for the first grant allotment (ERA1) for the ERA federal award will occur in April 2023. Eviction Prevention and Rental Assistance and Administration should work collaboratively to develop and implement a systematic approach for reviewing contractor records that provides reasonable assurance that it complied with federal statutes, regulations, and the terms and conditions of the federal award. Housing and Community Development should document this process and incorporate it into the agency's official policies and procedures. Further, Housing and Community Development should retain appropriate evidence to demonstrate its review of the contractor's records for program compliance. Finally, Housing and Community Development's executive leadership should oversee the implementation of this process to ensure the agency properly incorporates the policies and procedures into its operations. If Housing and Community Development does not believe it will complete corrective actions before ERA1 close-out, it should work collaboratively with the United States Department of the Treasury to find alternate solutions for ensuring program compliance.

Perform Subrecipient Monitoring Activities Required by the Risk Assessment

Type: Internal Control and Compliance

Severity: Material Weakness

Repeat: No

Housing and Community Development has not monitored subrecipient activities for the ERA federal grant program in accordance with its subrecipient monitoring policies and procedures. Since the prior audit, Housing and Community Development performed a risk assessment for its ERA subrecipient and determined that they were high risk. Housing and Community Development's Risk Evaluation and Assessment Core Tool Instructions states that for a high risk subrecipient, program personnel must perform monitoring procedures as soon as possible but no later than six months after the completion of the risk assessment procedures, or a total of nine months from entering the subaward agreement. As of the end of the fiscal year, Housing and Community Development has not conducted the monitoring activities its Risk Evaluation and Assessment Core Tool Instructions requires. Over the life of the ERA federal grant program, the subrecipient has determined eligibility for landlords, which has led to beneficiary payment amounts totaling approximately \$255 million.

Title 2 CFR § 200.332(d) requires grantees to monitor the activities of the subrecipient as necessary to ensure that it uses the subaward for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that the subrecipient achieved subaward performance goals. While Housing and Community Development was able to demonstrate that it established recurring meetings to discuss the performance of the program with its subrecipient, these monitoring activities alone are not adequate based on the subrecipient's risk level identified in the risk assessment. In effect, Housing and Community Development cannot provide reasonable assurance that it used the subaward for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward. Reasonable assurance is a high, but not absolute, level of assurance that the entity and its subrecipient have complied with federal laws and regulations.

Housing and Community Development was unable to perform the required monitoring activities because of the lack of time and available resources. Since management has not performed the required monitoring activities outlined in 2 CFR § 200.332(d), this has created a scope limitation for the audit and has led the Auditor of Public Accounts to disclaim an opinion for the ERA federal grant program.

Close out for the ERA1 federal award will occur in April 2023. Housing and Community Development should perform the required monitoring activities before it closes out the ERA1 federal award. If Housing and Community Development does not believe it will complete these monitoring activities before the ERA1 federal award close-out, it should work collaboratively with the United States Department of the Treasury to discuss alternate solutions for ensuring program compliance.

Correctly Report Status of Prior Audit Findings as of Fiscal Year End

Type: Internal Control and Compliance

Severity: Deficiency

Repeat: No

Housing and Community Development did not correctly report the status for five of seven (71%) prior audit findings as of fiscal year end to Accounts. Housing and Community Development reported the prior audit findings titled *“Complete Federal Funding Accountability and Transparency Act Reporting for First-Tier ERA Subaward,” “Obtain Assurance over Third-Party Service Provider’s Internal Controls,” “Complete and Document Risk Assessment for Subrecipient to Determine Extent of Monitoring,” “Obtain Assurance that Subrecipients are not Suspended or Debarred,”* and *“Complete Federal Funding Accountability and Transparency Act Reporting for First-Tier LIHEA Subawards”* as “Complete” in its corrective action workplan submitted to Accounts as of June 30, 2022. Accounts, assuming the completed corrective action achieved the desired results, listed the audit findings as “Resolved – Corrective action is completed” in its draft Summary Schedule of Prior Audit Findings for the Commonwealth. However, during follow-up testing, we determined that Housing and Community Development did not resolve either the condition and/or cause of the prior audit findings referenced or did not maintain adequate supporting documentation to demonstrate that it resolved the prior audit findings referenced.

The Commonwealth Accounting Policies and Procedures Manual (CAPP Manual) Topic 10205 states that it is the policy of the Comptroller that management should closely monitor corrective actions to ensure that it performs corrective action timely and that they achieve the desired results. Additionally, Topic 10205 puts agencies on notice that Accounts will include the agency’s responses in the Single Audit report and that responses should be well documented. Further, 2 CFR § 200.511, requires the Commonwealth to prepare a Summary Schedule of Prior Audit Findings that reports the status of applicable audit findings. For the Commonwealth, the Comptroller reports each audit finding’s status as of June 30th.

Housing and Community Development did not report the statuses of the five prior audit findings referenced above correctly because of either a misunderstanding of the appropriate corrective action needed to resolve the finding or not retaining adequate documentation to demonstrate that it effectively resolved the prior year audit finding as of June 30, 2022. Incorrectly reporting a prior year audit finding as “Resolved – corrective action is completed” when the agency has not achieved the desired result may cause management to stop deploying resources to correct the condition and cause of the prior audit finding and those charged with governance to believe the agency resolved the issue. Further, misrepresenting the status to Accounts may cause the Commonwealth to materially misrepresent the finding’s status to the federal government.

Housing and Community Development should correctly report the status of prior audit findings as of fiscal year end to Accounts. If Housing and Community Development is not clear on the requirements, it should seek clarification about what corrective actions are necessary to resolve a prior audit finding. Additionally, Housing and Community Development should retain appropriate documentation to demonstrate its implemented corrective actions on prior audit findings. Finally,

Housing and Community Development's management should closely monitor corrective actions to ensure that the agency takes timely corrective actions and ensure that those actions achieve the desired results. If not already performed, Housing and Community Development should revise its June 30, 2022, corrective action workplan and resubmit to Accounts.



Staci A. Henshaw, CPA
Auditor of Public Accounts

Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

January 20, 2023

The Honorable Glenn Youngkin
Governor of Virginia

Joint Legislative Audit
and Review Commission

As part of the Commonwealth's Single Audit, federal regulations required us to identify the Emergency Rental Assistance (ERA) federal grant program as a major federal program to determine the Department of Housing and Community Development's (Housing and Community Development) compliance with the types of compliance requirements identified as subject to audit in the Office of Management and Budget's (OMB) Compliance Supplement that could have a direct and material effect on the ERA federal grant program, for the year ended June 30, 2022. We conducted this audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States, in support of the Commonwealth's Single Audit. 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.

Audit Objectives

Our audit's primary objective was to audit the ERA federal grant program in support of the Commonwealth's Single Audit. In support of this objective, we were engaged to evaluate the accuracy of recorded financial transactions in the Commonwealth's accounting and financial reporting system and in the federal schedule attachments submitted to the Department of Accounts. We were also engaged to review the adequacy of Housing and Community Development's internal controls over compliance with applicable laws, regulations, contracts, and grant agreements. Finally, we reviewed corrective actions with respect to audit findings and recommendations included in the prior year report titled "Department of Housing and Community Development Audit of Select Federal Programs for the year ended June 30, 2021" to confirm that Housing and Community Development properly reported corrective action statuses in the Commonwealth's Summary Schedule of Prior Audit Findings as of June 30, 2022.

Audit Scope and Methodology

Housing and Community Development's management has responsibility for establishing and maintaining internal control and complying with applicable laws, regulations, contracts, and grant agreements. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws, regulations, contracts, and grant agreements.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered materiality and risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the ERA federal grant program.

We performed audit tests to determine whether Housing and Community Development's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws, regulations, contracts, and grant agreements. Our audit procedures included inquiries of appropriate personnel; inspection of documents, records, and contracts; and observation of Housing and Community Development's operations.

Our consideration of internal control over compliance was for the limited purpose described in the section "Audit Objectives" and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the section titled "Internal Control and Compliance Findings and Recommendations," we identified certain deficiencies in internal control that we consider to be material weaknesses.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct noncompliance on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that material noncompliance in the ERA federal grant program will not be prevented or detected and corrected on a timely basis. We consider the deficiencies titled "Develop and Implement Internal Controls to Obtain Reasonable Assurance over Contractor Compliance with Program Regulations" and "Perform Subrecipient Monitoring Activities Required by the Risk Assessment," which are described in the section titled "Internal Control and Compliance Findings and Recommendations," to be material weaknesses.

In addition to the material weaknesses, we detected a deficiency in internal control that is not significant to the Single Audit but is of sufficient importance to warrant the attention of those charged with governance. We have explicitly identified one finding in the section titled "Internal Control and Compliance Findings and Recommendations" as a deficiency.

Conclusions

Because of the significance of the matters described in the "Internal Control and Compliance Findings and Recommendations" section of our report, we were unable to obtain sufficient appropriate

audit evidence to provide a basis for an audit opinion on compliance with the types of compliance requirements described in the OMB Compliance Supplement that could have a direct and material effect on the ERA federal grant program. As a result, this has led the Auditor of Public Accounts to issue a disclaimer of opinion for the ERA federal grant program in the Commonwealth's Single Audit report for the year ended June 30, 2022. Compliance with such requirements is necessary, in our opinion, for the Commonwealth to comply with the requirements applicable to this federal program.

We noted certain matters involving internal control and its operation and compliance with applicable laws, regulations, contracts, and grant agreements that require management's attention and corrective action. These matters are described in the section titled "Internal Control and Compliance Findings and Recommendations."

Housing and Community Development has taken adequate corrective action with respect to the audit finding titled "Submit Federal Funding Accountability and Transparency Act Reporting Changes Timely." However, Housing and Community Development has not completed corrective action on the other findings referenced in the prior audit report titled "Department of Housing and Community Development Audit of Select Federal Programs for the year ended June 30, 2021." Additionally, Housing and Community Development did not accurately report corrective action statuses for five of seven (71%) audit findings included in the Commonwealth's Summary Schedule of Prior Audit Findings as of June 30, 2022. This matter was identified as a deficiency in internal control and was communicated to Housing and Community Development through the finding titled "Correctly Report Status of Prior Audit Findings as of Fiscal Year End" described in the "Internal Control and Compliance Findings and Recommendations" section of our report.

Since two of the findings, noted above, have been identified as a material weakness in internal control, they will be reported as such in the "Independent Auditor's Report on Compliance for Each Major Federal Program; Report on Internal Control over Compliance; and Report on Schedule of Expenditures of Federal Awards Required by Uniform Guidance," which is included in the Commonwealth of Virginia's Single Audit report for the year ended June 30, 2022. The Single Audit report will be available at www.apa.virginia.gov in February 2023.

Exit Conference and Report Distribution

We discussed this report with management at an exit conference held on February 6, 2022. Government Auditing Standards require the auditor to perform limited procedures on Housing and Community Development's response to the findings identified in our audit, which is included in the accompanying section titled "Agency Response." Housing and Community Development's response was not subjected to the other auditing procedures applied in the audit and, accordingly, we express no opinion on the response.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

Staci A. Henshaw
AUDITOR OF PUBLIC ACCOUNTS

MAS/vks



Glenn A. Youngkin
Governor

Caren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

DEPARTMENT OF
HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

February 8, 2023

The Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218

Dear Mrs. Henshaw,

We have reviewed your report for audit of the Emergency Rental Assistance federal grant program for the fiscal period ended June 30, 2022.

The Department of Housing and Community Development (DHCD) concurs with the findings and has provided a summarized corrective action plan below; this plan will also be provided in accordance with the Department of Accounts guidelines.

By way of context, the Emergency Rental Assistance program was implemented as DHCD's first ever direct to recipient program and largest program at that time. DHCD was tasked with developing and implementing the program from the ground up while under intense pressure during the COVID-19 pandemic in a fast-changing environment. DHCD would also note that steps put in place by DHCD during 2022, in partnership with its contractor, prevented the disbursement of approximately \$564 million in fraudulent claims.

As APA staff will note in a report to be released on Friday February 10, 2023, the lack of available resources and time contributed to the internal control weaknesses and matters of non-compliance by DHCD. The Department takes these matters seriously and will work with U.S. Treasury to resolve outstanding issues and is making appropriate staffing arrangements to ensure the agency has capacity to meet all further compliance requirements.

(1) Develop and Implement Internal Controls to Obtain Reasonable Assurance over Contractor Compliance with Program Regulations

DHCD staff managed the contractors throughout the entirety of the program by having multiple meetings each week and walking the contractors through eligibility on



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sometimes a case-by-case basis. DHCD provided income eligibility, program guidelines, specifications and other compliance regulations for the contractors to adhere to when determining eligibility. The Emergency Rental Assistance federal grant program is winding down and near close out. As a result, the agency plans to create and implement procedures to retroactively test eligibility in order to document and confirm program compliance with federal statutes, regulations, and terms and conditions of the federal award. Procedures are currently being written and we anticipate this process to be complete on or prior to March 31, 2023.

(2) Perform Subrecipient Monitoring Activities Required by the Risk Assessment

The Emergency Rental Assistance program subawarded funds to our partner Virginia Housing Development Authority (VHDA). VHDA has been notified of the upcoming monitoring which has a planned completion date of on or prior to March 31, 2023.

(3) Correctly Report Status of Prior Audit Findings as of Fiscal Year End

DHCD was unable to, at the time of the audit, provide documentation to confirm that prior year audit findings were resolved at June 30, 2022. DHCD has since then updated the quarterly corrective action plans with the Department of Accounts and has maintained appropriate documentation to confirm resolution of prior year findings which can be provide upon request.

We appreciate your team's efforts and constructive feedback. Please contact Danielle Robertson, Chief Financial Officer, if you have any questions regarding our corrective action plan.

Sincerely,



Bryan W. Horn, Director



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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

As of June 30, 2022

Bryan Horn, Director