



OFFICE OF AUDITOR OF STATE
STATE OF IOWA

Rob Sand
Auditor of State

State Capitol Building
Des Moines, Iowa 50319-0006
Telephone (515) 281-5834 Facsimile (515) 281-6518

NEWS RELEASE

Contact: Marlys Gaston
515/281-5834

FOR RELEASE

March 1, 2022

Auditor of State Rob Sand today released a report on the Office of Governor for the year ended June 30, 2020.

AUDIT FINDINGS:

Sand reported one finding related to the receipt and expenditure of taxpayer funds. The finding is found on pages 3 through 7 of this report.

Sand repeated his recommendation from December 20, 2021, consistent with Treasury OIG's recommendation, that the funds used to support salaries for the Governor's staff should be returned to Iowa's CRF. That recommendation had also previously been made in October 2020, before the funds were actually spent and when they could have been reallocated for other use.

The Office of the Auditor of State twice requested supporting documentation for the expense and was denied. Only after issuing its recommendation did the Office of the Auditor of State, on December 10, 2021, receive a 159-page packet of information that was claimed to support the use of CRF for Governor's Office salaries.

On December 20, 2021, the Office of Auditor of State released a "Final Conclusion on State of Iowa Single Audit Finding #2020-006" incorporating a review of that material. This Final Conclusion is attached as Appendix A beginning on page 10 of this report. Our office reviewed the information provided by the IDOM and the conclusions reached for the finding in the State of Iowa's Single Audit remain the same, the funding should be returned.

Management of the Office of Governor have a fiduciary responsibility to provide oversight of the Department's operations and financial transactions. Oversight is typically defined as the "watchful and responsible care" management exercises in its fiduciary capacity.

A copy of the report is available for review on the Auditor of State's web site at <https://www.auditor.iowa.gov/reports/file/68014/embed>.

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**REPORT OF RECOMMENDATIONS TO THE
OFFICE OF GOVERNOR**

JUNE 30, 2020

Office of Governor



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STATE OF IOWA

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Telephone (515) 281-5834 Facsimile (515) 281-6518

February 21, 2022

Office of Governor
Des Moines, Iowa

To the Honorable Kim Reynolds, Governor:

I am pleased to submit to you the Report of Recommendations for the Office of Governor for the year ended June 30, 2020. The report includes a finding pertaining to the Department's compliance with Federal requirements which resulted from the fiscal year 2020 audit.

I appreciate the cooperation and courtesy extended by the officials and employees of the Office of Governor throughout the audit. If I or this office can be of any further assistance, please contact me or my staff at 515-281-5834.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Sand".

Rob Sand
Auditor of State

Office of Governor



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February 21, 2022

To the Honorable Kim Reynolds, Governor:

The Office of Governor is a part of the State of Iowa and, as such, has been included in our audits of the State's Comprehensive Annual Financial Report (CAFR) and the State's Single Audit Report for the year ended June 30, 2020.

In conducting our audits, we became aware of certain aspects concerning the Office's operations for which we believe corrective action is necessary. As a result, we have developed a recommendation which is reported on the following pages. We believe you should be aware of the recommendation, which include those reported in the State's Single Audit Report. The recommendation has been discussed with Office personnel and their response to the recommendation is included in this report. While we have expressed our conclusion on the Office's response, we did not audit the Office of Governors' response and, accordingly, we express no opinion on it.

This report, a public record by law, is intended solely for the information and use of the officials and employees of the Office, citizens of the State of Iowa and other parties to whom the Office may report. This report is not intended to be and should not be used by anyone other than these specified parties.

We would like to acknowledge the many courtesies and assistance extended to us by personnel of the Office during the course of our audits. Should you have questions concerning any of the above matters, we shall be pleased to discuss them with you at your convenience. Individuals who participated in our audits of the Department are listed on page 9 and they are available to discuss these matters with you.

A handwritten signature in black ink that reads "Marlys K. Gaston".

Marlys K. Gaston, CPA
Chief Deputy Auditor of State

cc: Kraig Paulsen, Interim Director, Department of Management
Timothy McDermott, Interim Director, Legislative Services Agency

June 30, 2020

Finding Reported in the State's Single Audit Report:

CFDA Number: 21.019 – Coronavirus Relief Fund
Federal Award Year: 2020
Single Audit Finding #2020-2006

Employee Salaries – In our communication with the Office of the Governor dated October 16, 2020, we encouraged documentation and support for the use of CARES Act funds for Office of the Governor salaries, cautioning that it would only be a qualifying expense if both sufficient documentation was maintained, and the work documented was a direct, not an indirect focus on the pandemic. On January 6, 2021, the U.S. Department of Treasury OIG (Treasury OIG) requested that we review this issue for compliance. The following is our finding, which has been reviewed by Treasury OIG.

Criteria – According to the Federal Register Volume 86, number 10, dated January 15, 2021, the Cares Act provides that payments from the Coronavirus Relief Fund (CRF) may only be used to cover costs that are:

- necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
- costs that were not accounted for in the State's budget that was approved at the time of the enactment of the CARES Act; and
- costs that were incurred during the period between March 1, 2020, and December 31, 2021.

The Federal Register also provides that with respect to personnel expenses, although the CRF was not intended to be used to cover governmental payroll expenses generally, the requirement that payments from the CRF be used only to cover cost that were not accounted for in the budget most recently approved as of March 27, 2020 could be met if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

Within the category of substantially different uses, are those who are “substantially dedicated” to mitigation or responding to the COVID-19 public health emergency. The Treasury has included the payroll and benefits expense for public safety, public health, health care, human services, and similar employees as “substantially dedicated”.

The Treasury has not developed a precise definition of what “substantially dedicated” means given that there is not a precise way to define this term across different employment types. However, the Treasury requires the relevant unit of government to maintain documentation of the ‘substantially dedicated’ conclusion with respect to its employees.

The Federal Register allows a state to track time spent by employees related to COVID-19 and apply CRF payments on that basis, however, this method would need to be applied consistently within the relevant agency, department or authority. This means that a government could cover payroll expenses allocated on an hourly basis to employees’ time dedicated to mitigating or responding to the COVID-19 public health emergency.

Report of Recommendations to the Office of Governor

June 30, 2020

Condition – The Office of the Governor used \$448,448.86 of the CRF to reimburse the salaries and benefits of twenty-one Office of the Governor employees for the period March 15, 2020 through June 30, 2020. The reimbursement was in the form of an internal transfer from the Iowa Department of Homeland Security and Emergency Management (IHSEM), from their allocation of administration funds from the State’s CRF. The \$448,448.86 reimbursement represents 62.59% of the total salaries/benefits of the twenty-one employees for the period.

Based on the Federal Register, the Office of the Governor employees do not meet the definition of public safety, public health, health care, human services and similar employees to be considered as “substantially dedicated”. Accordingly, the Office of the Governor is required to maintain documentation of the ‘substantially dedicated’ conclusion with respect to its employees. In response to our request for this documentation, a spokesperson from the Office of the Governor stated that “during the March 15 through June 30 time period, the Office of the Governor was fully focused on responding and protecting Iowa from COVID. Like guidance used for other departments heavily focused on COVID response, the Office of the Governor assumed a percentage of time dedicated to pandemic response.” Documentation to support this conclusion was never provided. The Office of the Governor has also not provided any supporting documentation on how the 62.59% was assumed or determined, nor has any documentation been provided to support actual hours spent by each employee for time dedicated to mitigating or responding to the COVID-19 public health emergency.

In addition, we observed the Financial Status Report (FSR) for the Office of the Governor’s General Fund, appropriation unit C71, and compared actual expenditures to the budgeted expenditures. We also calculated the amount of the appropriation the Office of the Governor and compared this along with the revenue recorded to the total expenditures. The following are tables of the information obtained.

Table 1

Expenditure	Actual	Budget	Over (Under) Budget
Personal Services	\$ 2,652,715.76	\$ 2,185,336.00	\$ 468,379.76
All other expenditures	428,879.89	447,687.49	(18,807.60)
Total	\$ 3,081,595.65	\$ 2,633,023.49	\$ 448,572.16

Table 2

Description	Amount
Appropriation for C71	\$ 2,333,141.49
Revenue collected (excluding intra-state transfers)	300,005.30
Available resources	2,633,146.79
Actual expenditures	3,081,595.65
Difference (Amount of the intra-state transfer)	\$ 448,448.86

Report of Recommendations to the Office of Governor

June 30, 2020

It is clear from **Table 1** through **Table 4** above, the \$448,448.86 represents a budget shortfall and an overspending of the Governor's appropriation (since the Governor's Office did not revert any appropriation). Based on a review of the State's payroll system (HRIS) and the approved P-1s, twenty of the twenty-one employees included in the above calculations were Governor employees prior to the pandemic and each employee earned and was paid only their approved bi-weekly salary (their approved bi-weekly salary agrees to their gross pay), approved and expected prior to any knowledge of a Pandemic. What is not clear, is why these salaries were not included in the Governor's budget set prior to the fiscal year and prior to the Pandemic. Based on this information, we conclude that the budget shortfall was not a result of the Pandemic.

Cause – The Office of the Governor has not established policies and procedures to require documentation to support a 'substantially dedicated' conclusion with respect to its employees or to support how the 62.59% was assumed or determined, including requiring support for actual hours spent by each employee for time dedicated to mitigating or responding to the COVID-19 public health emergency. In addition, the Governor maintained more staff than their budget could afford.

Effect – The additional unbudgeted staff, and the lack of established policies and procedures resulted in an unsupported use of \$448,448.86 of CRF funds by the Office of the Governor, a questioned cost.

Recommendation – Based on communications from Treasury OIG, contemporaneous documentation (documentation existing at the time the expenses were incurred) should be submitted by the Office of the Governor to support the expenses in order to overturn this finding. The Office of Auditor of State has requested said support on at least two occasions and has not received anything to date. Accordingly, consistent with OIG's recommendation, the funds should be returned to Iowa's CRF for other eligible and supported uses prior to the December 31, 2021 deadline.

Response and Corrective Action Planned – Based on communications with the State Auditor's Office and the Treasury OIG, the use of CRF funds to reimburse the salaries and benefits of Office of the Governor employees is an allowable expense. The only issue is what documentation is necessary to prove that Governor's Office employees were responding to the pandemic from March 15, 2020 through June 30, 2020. We will work directly with the Treasury OIG to ensure compliance with Treasury guidance on this issue.

Conclusion – Response acknowledged.

On November 1, 2021, the Treasury OIG reviewed and concurred with this finding. Also, the Treasury OIG informed this Office they had met with representatives from the Office of the Governor and told them the same.

Report of Recommendations to the Office of Governor

June 30, 2020

Based on this communication from Treasury OIG, the use of CARES funds for Governor's staff salaries would only be allowable if contemporaneous documentation (documentation existing at the time the expenses were incurred) were submitted by the Office of the Governor to support the expenses. In addition, the work would need to directly, not indirectly, support the pandemic response. The Office of Auditor of State has requested said support on at least two occasions and has not received anything to date, an indication that documentation supporting the expenses did not exist at the time the salary costs were charged to the CARES funding. Moreover, based on the information provided in Tables 1 through 4, it appears more likely the CARES funds were used to cover a budget shortfall that was not a result of the pandemic. Based on a lack of contemporaneous documentation and consistent with OIG's November 1, 2021 communication to our Office, the funds should be returned to Iowa's CRF for other eligible and supported uses prior to the December 31, 2021 deadline.

On December 20, 2021, subsequent to the December 10, 2021 submission by the Iowa Department of Management (IDOM), on behalf of the Office of the Governor, of a 159-page packet of information to support the use of CRF for Governor's Office salaries, the Office of Auditor of State released a "Final Conclusion on State of Iowa Single Audit Finding #2020-006". This Final Conclusion is attached as Appendix A beginning on page 10 of this report. Our office reviewed the information provided by the IDOM and the conclusions reached for the finding in the State of Iowa's Single Audit remain the same, the funding should be returned.

See Appendix A for the Auditor of State's Final Conclusion on Single Audit Finding #2020-006.

Report of Recommendations to the Office of Governor

June 30, 2020

Findings Reported in the State's Report on Internal Control:

No matters were reported.

Other Findings Related to Internal Control:

No matters were noted.

Findings Related to Statutory Requirements and Other Matters:

No matters were noted.

Report of Recommendations to the Office of Governor

June 30, 2020

Staff:

Questions or requests for further assistance should be directed to:

Marlys K. Gaston, CPA, Chief Deputy
Ryan J. Pithan, CPA, Manager
Steve D. Rater, Staff Auditor

Other individuals who participated in the audits include:

Allison L. Carlon, Staff Auditor



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December 20, 2021

Deborah Harker, Audit Director
Office of Inspector General
Department of the Treasury
Washington, DC
VIA EMAIL

Kraig Paulsen, Interim Director
Iowa Department of Management
VIA EMAIL

Sara Gongol, Chief of Staff
Office of the Governor
VIA EMAIL

Re: State of Iowa Single Audit Finding 2020-006

The State of Iowa's fiscal year 2020 Single Audit report was issued November 15, 2021. The report included a finding related to a questioned cost for salaries paid by the Office of the Governor with funds from the Coronavirus Relief Fund (CFR).

The Iowa Department of Management (IDOM) submitted their corrective action plan for this finding, including the anticipated completion date of December 10, 2021. On December 10, 2021, a letter and a 159-page packet of information was emailed to the Office of Auditor of State. The letter and packet were submitted to support the use of CFR for \$448,448.86 of Governor's staff salaries questioned in the Single Audit report.

Our office has reviewed the information provided by the IDOM and the conclusions reached for the finding in the State of Iowa's Single Audit remain the same for the following reasons:

1. The information provided included of the following:
 - Information summarizing the various job duties during the Pandemic
 - The 2020 IGOV Press Conference Tracker
 - The estimated number of inquiries/hits by week
 - Email, picture related to reassignments
 - State of Emergency Proclamation
 - Copies of Memorandum of Understanding between the Governor's Office and other state agencies
 - Calendar invite
 - Individual employee job descriptions – before COVID and 3/15/20 to 6/30/20 periods
 - Various emails

The information provided includes documentation of the work done by the Governor's office staff, generally, during the period March 15, 2020 through June 30, such as attending meetings and answering calls, and includes the statement, "the Office of the Governor assumed a percentage of time dedicated to the pandemic response". A spreadsheet is also provided listing the "% Focused on COVID" by each employee. However, unlike public safety, public health, health care and human services, the Office of the Governor was not defined by the U.S. Department of Treasury OIG (Treasury OIG) as "substantially dedicated" and, accordingly, any salaries and benefits charged against the CRF must be specifically, not generally, documented. The percentages provided by the IDOM are estimates of time each employee spent responding to the Pandemic, not actual time spent. An estimate for a Department not specifically defined as "substantially dedicated" does not comply with federal regulations. These qualification issues are the same issues that this Office warned the Office of the Governor about over a year ago on October 16, 2020.

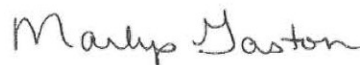
Moreover, much of the documentation is redundant (i.e., replies including the same repeated email string), or material to work that would not qualify even if appropriately tracked and documented (i.e., materials showing the Governor held many press conferences).

2. A second qualifying issue is that the finding pointed out the staff salaries had already been considered in creating the budget prior to the pandemic, making them not qualified to be charged to the CRF. The information provided responded to that by stating: "Because individuals were devoted to pandemic response—not on normal department needs—the Governor's Office elected to modify Memorandums of Understanding (MOUs) between various departments to forgo or prorate the year charged to the departments." The Office of the Governor has used MOUs with various state departments each year to pay a portion or all of certain Governor employees' payroll costs. The impacted Departments are "billed" by the Governor's Office and are required to increase their fiscal year expenditure line items for the salaries and benefits while the Governor's Office posts a corresponding decrease to their expenditures. This process is not the legal process laid out in Iowa Code Chapter 28D; we are not concluding in this letter whether or not this process is legal in some other way as that conclusion.

Copies of the MOUs for three employees were included in the information provided by the IDOM. The MOUs were signed by a representative from the Office of the Governor on June 30, 2020 and were modified to include only the payroll costs for the period July 1, 2019 through March 14, 2020, with the intention of paying the salaries and benefits for the remainder of the fiscal year (March 15, 2020 through June 30, 2020) from CRF. Based on previous practice and the statement "the Governor's Office elected to modify Memorandums of Understanding (MOUs) between various departments to forgo or prorate the year charged to the departments", prior to the Pandemic, the MOUs were intended to cover the entire fiscal year and were only changed due to the Pandemic. But the various departments impacted by the MOUs would have had to plan for these extra payroll costs at budget time since the Pandemic could not have been anticipated. In other words, the payroll costs were still previously contemplated in the budget, meaning they are not qualifying expenses even if they had been appropriately tracked and documented, and should not have been charged to CRF.

Although it is not necessary for our purposes, other practical and legal considerations merit concern. On November 12, 2021, the Department of Management sent a letter to the U.S. Department of Treasury with several questions related to the finding. The U.S. Department of Treasury responded to the Department of Management on November 16, 2021 answering the questions. One question asked “What is the deadline to produce documentation to support employee time spent in responding to the emergency?” The U.S. Department of Treasury’s answer stated, in part, “From a practical perspective, these documents need to be produced upon audit and within the audit timeframe.” Similarly, Iowa Code 11.41(1) requires that “all audited or examined entities” provide the relevant information “upon the request of the auditor of state.” Thus, even though this material does not make the expense qualifying, if you believed it possibly may have, it should have been produced upon first request. Avoiding the production of requested documents can result in noncompliance, which can require repayment of improperly used Federal funding, negative audit findings and/or a modified audit opinion due to a scope limitation, which could negatively impact the State’s bond rating.

Based on the above items, and on the advanced notice of concern we provided to the Office of the Governor about these issues over a year ago, our recommendation remains that the funds should be returned to Iowa’s CRF for other eligible and supported uses prior to the December 31, 2021 deadline.



Marlys K. Gaston, CPA
Deputy Auditor of State