



OKLAHOMA
Office of the State Auditor & Inspector

FEDERAL SINGLE AUDIT UNCOVERS OMES LACK OF OVERSIGHT

“I believe Oklahoma is rapidly becoming a no-bid state. This is a grave disservice to the taxpayers.”

OKLAHOMA CITY, OK (April 23, 2024)

Oklahoma State Auditor & Inspector (SAI) Cindy Byrd today released the Federal Single Audit of expenditures made during FY 2022. This annual audit is a federally-mandated examination of whether the State of Oklahoma spent federal grant money in compliance with federal regulations.

The audit report covers more than \$13 Billion of expenditures which are audited through a formula provided by the federal government. A majority of the \$13 Billion came from COVID relief funds.

The most compelling information revealed in this audit is that COVID allowed the Office of Management and Enterprise Services (OMES) to establish a new set of rules for vendor contracts. SAI has determined these new rules are not in the best interest of Oklahoma taxpayers.

OMES has a statutory duty to properly evaluate whether private vendors are providing the State of Oklahoma, as well as cities and counties, the highest quality services for the best possible price. Per the Oklahoma Central Purchasing Act, OMES is required to conduct a competitive bidding process to vet potential vendors. OMES has neglected to follow this statute.

The systemic lack of oversight and accountability at OMES is illustrated by the following issues SAI discovered with two State vendors.

CONSULTING CONTRACT

1. Grant Administration

In March 2020, the State of Oklahoma received \$1.2 Billion in Federal Coronavirus Relief Funds (CRF).

In April 2020, The State of Oklahoma established the CARES FORWARD Team to manage and distribute the grant at the State, County, and Municipal levels.

Jill Geiger Consulting (JGC) was given the position of Team Lead/Project Director over the CRF program. JGC was formed on January 30, 2020 by Jill Geiger who had worked in the OMES Budget Department for 15 years until 2019. Neither JGC as a firm, nor Geiger as an individual, appeared to have the necessary experience for administering federal grant funds.

In May 2020, OMES awarded the newly-formed JGC a no-bid contract to administer, monitor, and provide reporting on the CRF money. This contract, which paid \$325,000 to JGC, should have been properly bid to ensure the State got the best service for the best cost.

The OMES Director of Budget, Policy, and Gaming, a former coworker of Geiger's, was tasked with providing independent oversight and monitoring of JGC's work.

"Federal grant guidelines are incredibly complex and require a high level of expertise to manage properly," Auditor Cindy Byrd said.

Oklahoma law requires the delivery of goods and/or services *prior* to payment of vendor contracts. However, OMES made payments to JGC *before* verifying any work had been performed. In some instances, SAI was unable to determine whether the work had been performed.

These are the FY 2022 questioned costs resulting from State contracts with JGC:

- **\$469,083** for administration of CRF funds. SAI was unable to determine what services JGC performed. (Finding #076)
- **\$249,333** for monitoring of GEER 1 and GEER 2 funds. SAI was unable to determine that JGC performed all services for which the State was invoiced. (Finding #081, #082)

In total, OMES paid JGC \$1.1 Million for the administration of CRF and GEER funds from 2020-2022. Of the \$718,416, OMES paid JGC in FY 2022, **SAI is reporting all \$718,416 as questionable costs.**

2. Emergency Rental Assistance

The largest amount of questioned costs in this audit stem from this program.

During FY 2021 and FY2022, the Federal government awarded the State of Oklahoma \$276 Million for the Emergency Rental Assistance (ERA) program. The ERA program was earmarked to help Oklahomans with rental and utility assistance.

OMES contracted with Communities Foundation of Oklahoma (CFO), a non-profit entity, to receive \$241 million of the funds and implement the program. These funds were expended over two fiscal years.

- a. CFO Administrative/Management Fee:** OMES advanced lump sum payments to CFO for its administrative costs to oversee the ERA grant without monitoring or requiring documentation for how much CFO actually expended for program and administrative costs.

JGC prepared reports for the ERA program which the OMES Director of Budget, Policy, and Gaming Compliance submitted to the US Treasury that reflected 100% of the \$241 million was expended.

However, as of June 2022, since the start of the grant program, CFO has withheld \$10 Million dollars in excessive management fees. CFO also has \$15 million in unexpended grant funds advanced by OMES.

The FY22 Single Audit will alert the federal government that the reports are incorrect. (Findings #028, #033, #087)

“Federal funds provided for administrative costs are not for the non-profit to make a profit,” said Auditor Byrd. “CFO is only allowed to charge for actual administrative costs incurred during the execution of the grant. In last year’s Federal Single Audit, our office alerted the State about the excessive management fees from CFO and we recommended OMES take action. Our recommendations were ignored. Compounding this error, in an email to CFO, the OMES Director of Budget, Policy and Gaming Compliance gave **incorrect guidance** regarding the retention of administrative fees and seemed to give permission to CFO to keep the unused grant funds.”

- b. Conflict of Interest:** The State of Oklahoma utilized JGC to prepare federal reports on behalf of the State of Oklahoma for the ERA program detailing expenditures. Because of vague wording

in contracts and/or a lack of proper contracting procedures, it is unclear how OMES paid JGC for these services.

Auditors found that CFO also contracted directly with JGC for support in deploying the ERA program at the sub-grantee level. The contract between JGC and CFO included an hourly bonus to JGC contingent upon satisfactory performance and availability of funding. (Findings #028, #034)

- c. Afghan Refugee Relocation:** CFO directed \$6.5 Million to relocate refugees from Afghanistan into Oklahoma. This was not an allowable expense for this grant. The State of Oklahoma had other grants available for these types of services. (Finding #032)

These are the FY 2022 questioned costs resulting from State contracts with CFO:

- **\$8,600,000** for excessive management fees. (Finding #033, #087)
- **\$6,594,079** for Afghan refugee relocation. (Finding #032)
- **\$4,300,000** for subawards paid and no supporting documentation was obtained. (Finding #046)
- **\$834,521** for unallowable bonuses paid to subcontractors. (Finding #085)
- **\$41,391** paid to JGC without a contract. (Finding #087)
- **\$33,339** for inappropriate credit card expenditures including visits to entertainment venues, cooking class, succulent planting class, painting, and restaurants. (Finding #086)

“CFO was serving as an extension of the State and signed a contract as a subrecipient of federal funds. If the expenditures are unallowable for State agencies and state employees then it is also unallowable for grant recipients,” Auditor Byrd said. “Every grant dollar should always be recognized as an individual’s tax dollar and safeguarded accordingly.”

Of the \$206 Million granted to CFO during FY 2022 for the administration of the ERA program, **SAI is reporting approximately \$21 Million expended as questionable costs.** Consequently, more than 5,338 Oklahomans did not get the financial help they needed during the pandemic.

SOFTWARE DEVELOPMENT COMPANY

1. Contract

CARES FORWARD earmarked \$17 Million to help the Oklahoma Employment Security Commission (OESC) make needed improvements to its computer network mainframe. Because of the pandemic, OESC had a large backlog of unemployment claims.

In April 2020, OMES contracted with Phase 2 Development (P2), a software company, to stabilize and update the OESC mainframe. This contract was not competitively bid nor had this vendor been previously contracted with the State of Oklahoma.

Between April 2020 and August 2022, OMES, through a contract and multiple change orders, paid P2 a total of \$7 Million to stabilize and update the OESC mainframe.

2. Conflict of Interest

Subsequent contracting and payments were transacted by OESC and signed by Shelley Zumwalt, who was appointed as the Executive Director of OESC in May 2020. By April 2022, Zumwalt had approved additional contracts and change orders to P2 totaling \$8.5 Million.

During this period, Zumwalt failed to disclose the fact that her husband, John Zumwalt, was employed as the Vice-President of P2. As the Director of OESC, Zumwalt was required to complete annual forms attesting that no related party transactions existed in the performance of her duties regarding the expenditure of funds. In three separate instances, Zumwalt checked 'No' on these forms.

“Federal law requires that any entity receiving Federal grant money must disclose any conflict of interest in writing,” reported Auditor Byrd. “Any person who could possibly benefit from a Federal grant cannot be part of the selection, award, administration, or contracting of that money.”

In the Fall of 2022, legislation went into effect requiring appointees to heads of agencies to disclose any conflicts of interest to the Ethics Commission. Zumwalt finally disclosed her husband’s employment at P2 after she was named the Executive Director of Tourism in 2022. (Finding #088)

SYSTEMIC ISSUES AT OMES

These instances, while problematic, are only signs of a much larger issue. The millions in questioned costs during FY 2022 are related to OMES's disregard for competitive bidding requirements and the systemic lack of oversight and accountability.

1. Dereliction of Duty

OMES was solely responsible for the proper and legal administration of Federal grant funds for the CRF, GEER, and ERA funds. OMES is fully within its rights to hire private vendors. However, all duties for compliance and accurate reporting are the ultimate responsibility of OMES. Even if OMES contracts for assistance, the Federal government can hold the State of Oklahoma responsible for paying back misused funds. It cannot hold private vendors responsible for repayment.

2. "Rolling Solicitations"

The Code of Federal Regulations requires the State of Oklahoma to utilize the State's competitive bidding policies and procedures before awarding vendor contracts. SAI discovered OMES did not have the necessary competitive bidding policies and procedures in place before awarding large amounts of Federal grant money to vendors. This appears to be in violation of both Federal and State law.

OMES was instead operating under a 2019 pilot program it termed 'Rolling Solicitations'. Under this program, OMES Directors, the Chief Information Officer, and the Purchasing Director gave themselves permission to place any vendor of their choice on a list to be awarded State contracts without a competitive bid.

Additionally, the law requires that pilot programs must be approved by the Legislature. However, OMES has employed its 'Rolling Solicitation' program without legislative authorization for four years – which has indefinitely suspended competitive bidding for some contracts and services.

When SAI asked OMES to explain how the 'Rolling Solicitations' were beneficial to Oklahoma taxpayers, OMES was unable to show SAI any written policy explaining how these 'Rolling Solicitations' work to benefit the State. OMES was also unable to provide any criteria explaining which contractors deserve this designation and which do not. (Finding #090)

AUDITOR'S CONCLUSION

In my opinion, Oklahoma is rapidly becoming a no-bid state. This is a grave disservice to every Oklahoman. The 'Rolling Solicitation' design allows for circumvention of financial safeguards and could place potentially better State vendors at an unfair disadvantage.

The Office of State Auditor has learned through its audit that questionable conduct has led to an abuse of taxpayer dollars and I am sounding the alarm. I am also respectfully asking the Legislature to take the following three steps to protect the taxpayers of Oklahoma:

1. Investigate the 'Rolling Solicitation' process employed by OMES.
2. Investigate the revenue stream associated with the 'Rolling Solicitation' process and determine if this has created an incentive for not complying with sound competitive bidding procedures.
3. Review the growing list of exemptions to competitive bidding laws that do not protect taxpayer dollars.

The State is 100% responsible for following federal guidelines and ensuring any recipients or subrecipients comply with the terms of Federal grants. Oklahoma taxpayers could be forced to return millions of dollars to the Federal government.”

The full FY 2022 Federal Single Audit is now posted [here](#) on the Oklahoma State Auditor & Inspector's official website: www.sai.ok.gov.

| State Agency | Program Audited | # of Findings | # of Repeat Findings | Questioned Costs | Projected Questioned Costs | Finding Numbers |
|------------------------|-----------------------------------|---------------|----------------------|------------------|----------------------------|--|
| CARES Forward | Coronavirus Relief Fund (CRF) | 3 | 2 | \$4,631,029 | \$4,809,971 | 71, 76, 78 |
| State of Oklahoma/OMES | Emergency Rental Assistance (ERA) | 10 | 5 | \$20,944,035 | \$60,054,774 | 28, 30, 32, 33, 34, 36, 46, 85, 86, 87 |
| OMES | GEER | 2 | 2 | \$249,333 | \$249,333 | 81, 82 |
| OSDE | Education Stabilization Fund | 6 | 2 | \$36,466 | \$259,940 | 12, 22, 43, 44, 49, 70 |

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|------|--|----|----|-------------|--------------|---|
| OESC | Unemployment Insurance | 6 | 4 | \$15,979 | \$8,085,152 | 38, 51, 53, 77, 84, 88, |
| DHS | TANF/Multiple Programs | 34 | 20 | \$183,056 | \$25,658,184 | 07, 10, 14, 17, 18, 23, 29, 31, 37, 41, 42, 48, 54, 57-68, 74 |
| OSDH | Immunization Cooperative Agreements & Epidemiology | 11 | 0 | \$4,041,649 | \$4,041,649 | 201-206 |
| OHCA | CHIP/Medicaid | 12 | 9 | \$167 | \$1,202,269 | 02, 04, 06, 20, 25, 29, 39, 40, 54, 74, |

To schedule an interview with Cindy Byrd, please contact Andrew Speno at 405-315-5924.