



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

OFFICE OF THE STATE COMPTROLLER
P.O. BOX 024
TRENTON, NJ 08625-0024
(609) 984-2888

KEVIN D. WALSH
Acting State Comptroller

December 16, 2021

Walter Brown
Chief Financial Officer / Accountability Officer
Department of Community Affairs
101 South Broad Street
Trenton, NJ 08625-0800

RE: Emergency Rental Assistance Program – Integrity Monitor Review

Dear Mr. Brown:

According to Executive Order 166, the Office of the State Comptroller (OSC) is tasked with, among other things, overseeing the work of COVID-19 Integrity Oversight Monitors (Integrity Monitors). Integrity Monitors serve as an important part of the State's accountability infrastructure, working with departments and authorities to develop measures to prevent, detect, and remediate fraud, waste, abuse, or noncompliance in the expenditure of COVID-19 Recovery Funds. As part of OSC's oversight responsibilities, OSC regularly reviews the reports produced by Integrity Monitors. In reviewing the June 30, 2021 Integrity Monitor report for the Department of Community Affairs (DCA), OSC noted several issues that merited follow-up. Those issues are outlined below.

Background and Methodology

DCA entered into a contract for integrity monitoring services in December 2020. The scope of work included a review of Phase 1 of DCA's COVID-19 Emergency Rental Assistance Program (CVERAP 1). CVERAP 1 was funded with money from the Coronavirus Relief Fund (CRF), a flexible fund for states, tribal governments, and certain local governments established by section 5001(a) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The contract was initially scheduled to end January 31, 2021, but it was extended several times. Those extensions came at no cost to the State, and according to the final extension, the Integrity Monitor's final quarterly report was due to DCA by June 30, 2021 (the June 30 Report).

The Integrity Monitor's review of CVERAP 1 included a review of DCA's program documents and guidelines, federal guidance, and a sample of files for 60 applicants who had received CVERAP 1 assistance. The Integrity Monitor reviewed the sample files for eligibility, documentation, and proper payment. At the conclusion of its review, the Integrity Monitor submitted the June 30 Report. This report detailed findings that included processing, eligibility, and payment issues. The report addressed DCA's inability to produce requested documentation relating to policies and procedures for the administration of programs and noted that DCA has not created any policies or procedures concerning the prevention and detection of duplication of benefits. The report offered recommendations to DCA to remediate these findings.

In DCA's response, DCA refuted many of the Integrity Monitor's findings. DCA asserted that it was in full compliance for the use of CRF. In response to the Integrity Monitor's findings that DCA lacked documentation to establish applicant eligibility, DCA noted that its policy was to accept self-certifications (i.e. self-attestations) for income, residency, and duplication of benefits. DCA also stated that it intended to use self-certifications to the greatest extent possible, as permitted by regulation and guidance. Lastly, DCA indicated that documents identified as missing by the Integrity Monitor were stored in a centralized location and made available for review and that DCA had provided additional documents to supplement files identified as incomplete by the Integrity Monitor.

OSC reviewed the June 30 Report, including DCA's response, in detail and questioned the Integrity Monitor about the supplemental documents referenced by DCA in the June 30 Report. According to the Integrity Monitor, DCA submitted this documentation on June 11, 2021 (the June 11 Submission), after the Integrity Monitor's initial deadline to provide such documentation, and roughly two weeks before the Integrity Monitor's final quarterly report was due. The Integrity Monitor advised OSC that due to the untimeliness of the submission, which followed multiple other missed deadlines, it did not review the June 11 Submission in compiling the final quarterly report.

In view of DCA's delays in responding to the Integrity Monitor, OSC requested the underlying documents from the Integrity Monitor and evaluated the responsiveness of the supplemental submission. OSC did not attempt to duplicate the Integrity Monitor's review, but simply confirmed whether the documents identified as missing in the June 30 Report had subsequently been provided to the Integrity Monitor. Below, OSC outlines its findings and offers recommendations regarding DCA's missing documentation, inconsistent internal documentation standards, and compliance with federal requirements.

Findings

1. Missing documentation

According to DCA's publicly posted CVERAP 1 guidelines, to be eligible for CVERAP 1 assistance, an applicant had to meet certain threshold criteria, including:

- Have a gross, annual household income that is at or below the maximum income limits for the county where they are residing;

- Be a New Jersey resident and rent a unit in New Jersey;
- Rent must be current as of March 2020; this program will not assist with arrears;
- Have a substantial reduction in income or are currently receiving unemployment due to the COVID-19 pandemic;
- Have a lack of assets and savings to pay rent; and
- Anyone currently receiving a subsidy from another rental assistance program or living in Public Housing is ineligible.

If a self-certification for one of these criteria was included on an application document, for the purposes of this review, OSC considered that criterion satisfied. Self-certifications appear to have been used by DCA for several criteria, including proof of income, proof of reduction in income/COVID-19 impact, and certification regarding duplication of benefits.

OSC found that many files did not include either backup documentation or the required self-certifications. In total, as presented in the following chart, OSC found that 42 out of 60 applicant files were missing documentation of at least one criterion above, and 22 files were missing documentation of two or more criteria. One applicant had almost no documentation.

Number of documentation issues	Count
Files with 1 documentation issue	20
Files with 2 documentation issues	12
Files with 3 documentation issues	8
Files with 4 documentation issues	1
Files with 5 documentation issues	1
Total # of files with documentation issues	42

The specific documentation issues are as follows:

Criteria	Number of files missing documentation
Proof of income/reduction in income or COVID-19 impact	7
Proof of residence	4
Proof tenant was in good standing	20
Lack of assets to pay rent	33
Certification regarding no duplicate benefits	13

In short, although DCA’s June 11 Submission did address several deficiencies, OSC found that many documents appear to still be missing. DCA’s response to the June 30 Report seemed to suggest that the missing or incomplete documentation issues were resolved; however, OSC found that issues remain.

2. Inconsistent internal documentation standards

OSC found that DCA's policies regarding documentation requirements conflicted with one another and/or with the statements made in DCA's response to the Integrity Monitor report. For example:

- It appears DCA may have provided the Integrity Monitor with internal program guidelines and policies that were created after assistance had already been provided to applicants. The June 11 Submission contained policies that reflected a "last edited" date of March 2021, and thus, were likely not in effect when approving applicants for payment in Fall 2020.
- According to the DCA review sheet, Zero Income Affidavits were required if no income was reported. According to other DCA policies, a self-certification regarding income alone was sufficient. In the files OSC reviewed, several applicants reporting no income did not have a Zero Income Affidavit.
- The details of DCA's policy of relying on self-certifications to establish COVID-19 impact were unclear. In the Eligibility Criteria, it stated that the applicant must be able to self-certify that the applicant has been significantly impacted by the COVID-19 pandemic. In the "Income Certification Article," DCA provided several acceptable forms of documentation to establish COVID-19 impact, but then stated that a self-certification is permissible if those documents are unavailable. However, the self-certification included in the application expressly stated that the applicant "certif[ies] that I or our household has had a substantial reduction in income or became unemployed due to the COVID-19 pandemic and have attached proof of this loss of income which includes pay stubs from March 2020 and pay stubs from July 2020 or a letter from my employer, and/or an unemployment statement from NJ Department of Labor and Workforce Development." (Emphasis added.) Therefore it was unclear whether DCA policy permitted self-certifications alone to establish COVID-19 impact. OSC notes however, that despite the certification above, several of those files did not include the documentation that the applicant had certified he/she had provided.
- For residency, the Eligibility Criteria included in the June 11 Submission stated that the "applicant must currently reside in the state of New Jersey, have a New Jersey photo identification that matches their current mailing address, and have a current lease in the state of New Jersey." The DCA response to the Integrity Monitor report indicates that DCA relied on self-certifications to establish residency.
- Regarding assets, the DCA review sheet stated that the online application includes a self-certification that an applicant had less than \$15,000 in assets and noted that this was sufficient documentation for this criterion; however, OSC did not see any such self-certifications in the application files it reviewed.
- For duplication of benefits, the Eligibility Criteria stated that anyone who is currently receiving assistance from another program or living in Public Housing is ineligible. DCA's files did not include any documentation to show that DCA checked other systems or sources to ensure an applicant was not currently receiving a subsidy from another rental assistance program or living in public housing.

These inconsistencies make it difficult to determine what documentation DCA required at the time it approved an application for assistance and difficult to evaluate whether DCA operated the CVERAP 1 program in accordance with its own internal guidelines and policies.

3. Compliance with federal requirements

DCA's response to the June 30 Report appears to indicate that DCA relied on U.S. Department of Treasury guidance related to emergency rental assistance programs (the ERA Guidance). The ERA Guidance, however, was first issued in 2021, and is applicable to the Emergency Rental Assistance program (ERA 1) established by section 501 of Division N of the Consolidated Appropriations Act (Dec. 27, 2020) (Consolidated Appropriations Act) and the Emergency Rental Assistance program (ERA 2) established by section 3201 of the American Rescue Plan Act of 2021 (March 11, 2021) (ARPA). DCA's CVERAP 1 program was established prior to the issuance of that guidance, in July 2020, and was funded with CRF funds. Thus, the ERA Guidance did not apply to CVERAP 1.

Additionally, in DCA's response to the Integrity Monitor's findings on CVERAP 1, DCA stated that it intends to use self-certifications to the greatest extent possible, as permitted by regulation and guidance. Although the ERA Guidance (last edited August 25, 2021) explicitly permits the use of self-attestations to meet certain documentation requirements during the public health emergency, it also requires efforts to prevent fraud when relying on self-attestations. Among other things, the ERA Guidance provides:

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

Although the ERA Guidance is not applicable to CVERAP 1, OSC highlights this aspect of the guidance as it may relate to DCA's administration of ERA 1 and ERA 2. OSC notes that DCA's policies and procedures with respect to CVERAP 1 do not appear to meet the standards set forth in the ERA Guidance.

Recommendations

OSC recommends the following to DCA:

1. DCA should clearly document and clarify all program policies and procedures, including those related to duplication of benefits, eligibility and documentation requirements, and the use of self-attestations or self-certifications. DCA should log any changes made to policies and procedures and the effective date of those changes.

2. If DCA intends to continue to allow self-attestations in lieu of documentation requirements for emergency rental assistance programs, DCA should implement fraud monitoring or detection strategies to identify and prevent potential fraud. This not only ensures that this funding is used to support eligible applicants, but it also facilitates DCA's compliance with the ERA Guidance. The use of self-attestations alone, without other mechanisms to validate or corroborate the information provided, presents a significant opportunity for fraud, waste, and abuse.
3. DCA should review federal guidance, including the ERA Guidance, to determine, among other things, the appropriate use of self-certifications and documentation requirements for future programs. DCA should seek written legal or compliance advice from the Office of the Attorney General when necessary.
4. DCA should maintain appropriate documentation to support eligibility and compliance with federal requirements and DCA's internal program guidelines.
5. DCA should respond to Integrity Monitors in a timely manner, including submitting relevant and requested documentation by agreed-upon deadlines. DCA should provide appropriate documentation access to Integrity Monitors on a prospective basis.

DCA Response

DCA was provided an opportunity to respond to the findings and recommendations made in this letter. DCA's response did not refute or address OSC's findings related to CVERAP 1. DCA's response primarily focused on how it is applying OSC's recommendations to the later emergency rental assistance programs, ERA 1 and 2. DCA has stated it will abide by U.S. Treasury regulations and best practices to the best of its ability. See Appendix for DCA's full response.

Conclusion

For this program and other COVID-19 recovery programs, OSC highlights the role of Integrity Monitors in ensuring transparency and accountability in COVID-19 recovery funding. Integrity Monitors cannot ensure that COVID-19 recovery funds were spent properly if they do not have access to the information necessary to complete their work. Additionally, OSC continues to stress the importance of establishing clear program guidelines and eligibility requirements. If the public and/or oversight bodies cannot determine exactly what documentation is required to establish eligibility for a program, and whether that documentation was provided, it cannot be assured that a program is being administered fairly and in accordance with program guidelines.

Respectfully,

KEVIN D. WALSH
ACTING STATE COMPTROLLER

By: *Jillian Holmes*
Jillian Holmes, Director
COVID-19 Compliance and Oversight Project



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 806
TRENTON, NJ 08625-0806

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

November 12, 2021

Kevin Walsh
 Acting State Comptroller
 Office of the State Comptroller
 PO Box 024
 Trenton, NJ 08625-0024

Dear Mr. Walsh,

The Department of Community Affairs (DCA) is in receipt of your letter regarding the Integrity Monitor Review. In response to your recommendations, DCA has done the following:

- 1) DCA has included in its policies and procedures for programs funded by Emergency Rental Assistance 1 and 2 (ERA1 and ERA2) funds its adoption of US Treasury's recommended best practice to utilize self-attestation to the extent allowable.
- 2) DCA will continue to implement its policies and procedures for quality control and fraud control in its programs funded by ERA1 and ERA2, as detailed and required in its scope of service for these programs.
- 3) DCA has reviewed regulations and guidance issued by US Treasury regarding the ERA1 and ERA2 programs and is confident its use of self-attestation is compliant with regulations and guidance. DCA will continue to review updated guidance as it is issued by US Treasury to ensure ongoing compliance.
- 4) DCA will continue to abide by all US Treasury regulations regarding ERA1 and ERA2 funds, and will implement recommended best practices to the best of its ability. DCA notes that while ERA1 funds were awarded in December 2020 and ERA2 funds in March 2021, US Treasury continues to update its guidance on an ongoing basis. DCA will adapt its policies and procedure documentation to reflect this ongoing guidance as it is received.
- 5) DCA will continue to implement and improve its quality control processes to ensure that all needed documentation is retained within electronic client files.

Thank you for your recommendations as we work to provide rental assistance to those impacted by the pandemic and to ensure that NJ residents are able to remain safely housed.

Sincerely,

Janel Winter
 Janel Winter

Director, Division of Housing and Community Resources

