

**EARLY LEARNING COALITION
OF THE EMERALD COAST**

Selected Activities



Sherrill F. Norman, CPA
Auditor General

Early Learning Coalition of the Emerald Coast

Section 1002.83(1), Florida Statutes, establishes local early learning coalitions to deliver comprehensive Statewide early learning services. Among the State's 30 coalitions, the Early Learning Coalition of the Emerald Coast (Coalition) serves Okaloosa and Walton counties. Renea Black served as Coalition Executive Director during the period of our audit and the following individuals served on the Coalition's Board of Directors:

Elizabeth (Beth) Brant, Chair	Pam Jones
Kathryn Barley	Anthony McKinney
Susan Blumenthal	Amanda Negrón
Michele Burns	Debra Riley-Broadnax
Scot B. Copeland	John Roper
Tracey Dickey	Beverly Sandlin
Robin Donlon	Ray Sansom
Don Edwards	Rachel Smythe
Caroline Fitzgerald	Angela Strumeyer
Kim Gillis	Louis E. Svehla
Brittney Hay	Darrell Taylor
Christine Jackson	Ashley Thomas

The team leader was Jon M. Bardin, CPA, and the audit was supervised by Karen Van Amburg, CPA.

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EARLY LEARNING COALITION OF THE EMERALD COAST

Selected Activities

SUMMARY

This operational audit of the Early Learning Coalition of the Emerald Coast (Coalition) focused on selected Coalition activities. Our audit disclosed the following:

Finding 1: Control environment deficiencies within the Coalition contributed to issues described in the other findings in this report and increase the risk that the Coalition will not efficiently and effectively achieve its mission, goals, and objectives.

Finding 2: Coalition procurement controls need enhancement to ensure that procurements comply with State law and Coalition policy.

Finding 3: Contrary to Federal regulations and State law, the Coalition utilized Federal and State funds for severance payments to former employees.

Finding 4: Some Coalition expenditures of unrestricted local funds did not appear to serve the Coalition's mission.

Finding 5: Coalition records did not always demonstrate that Executive Director travel was appropriately authorized, reviewed, and approved, and some travel reimbursements were not made in accordance with State law.

Finding 6: Contrary to Coalition procedures, employee time records were entered by other Coalition employees.

BACKGROUND

State law¹ established the Office of Early Learning (Office)² within the Department of Education (DOE) to administer Federal and State child care funds and to partner with 30 local early learning coalitions and the Redlands Christian Migrant Association to deliver comprehensive Statewide early learning services. The Early Learning Coalition of the Emerald Coast (Coalition) provides services to Okaloosa and Walton counties and its stated mission is to support the success of every child and their family through quality early education and care. The Coalition is funded primarily by Federal and State funds through a grant agreement with the Office and must abide by conditions specified within the agreement. For the 2019-20 fiscal year, the Coalition received \$9.7 million in Federal funds and \$5.7 million in State funds to administer early learning services in its region.

¹ Section 1001.213, Florida Statutes.

² Effective July 1, 2021, Chapter 2021-10, Laws of Florida, repealed Section 1001.213, Florida Statutes, and amended Section 20.15, Florida Statutes, to establish the Division of Early Learning within the DOE.

FINDINGS AND RECOMMENDATIONS

Finding 1: Control Environment

An organization's system of internal controls is an essential component to an organization achieving its mission, goals, and objectives. This concept is articulated within the internal control integrated framework established by the Committee of Sponsoring Organizations (COSO)³ and adapted for a government environment within the *Standards for Internal Control in the Federal Government* issued by the United States Government Accountability Office. Internal control consists of five integrated components: control environment, risk assessment, control activities, information and communication, and monitoring activities. An organization's control environment represents the set of standards, processes, and structures that provide the basis for carrying out internal control across the organization. Simply put, the control environment is the foundation for an effective internal control system. The Coalition's Board of Directors (Board) and senior management are responsible for establishing a tone at the top regarding the importance of internal control, including expected standards of conduct. Among other things, an organization's control environment comprises:

- The integrity and ethical values of the organization.
- The parameters enabling the Board to carry out its governance oversight responsibilities.
- The process for attracting, developing, and retaining competent individuals.

The Board's and management's directives, attitudes, and behaviors reflect the integrity and ethical values expected throughout the organization. In essence, those directives, attitudes, and behaviors set the tone at the top and throughout the organization. The absence of a strong tone at the top is a barrier to an effective internal control system and increases the risk that the organization will not efficiently and effectively achieve its mission, goals, and objectives.

Characteristics of a deficient and ineffective control environment include, for example, inadequate policies and procedures, lack of adherence to and override of established controls and procedures, inadequate documentation of organization operations, low employee morale, and high employee turnover. We found that a strong control environment had not been established over certain administrative functions of the Coalition, as evidenced by our audit findings related to:

- Procurement policies that did not adequately promote the competitive solicitation of goods and services (Finding 2).
- Noncompliance with established procurement policies (Finding 2).
- Coalition records not evidencing that appropriate competitive procurement procedures were followed (Finding 2).
- Employee separation agreements and severance payments that were offered and paid contrary to Federal regulations and State law (Finding 3).

³ The Committee of Sponsoring Organizations (COSO) of the Treadway Commission was established in 1985 to develop guidance in the areas of risk and control which enable good organizational governance and reduction of fraud. Pursuant to their mission, COSO developed a framework for internal control that consist of five components and 17 underlying principles.

- Use of local Coalition funds for purposes that did not appear consistent with the Coalition’s mission (Finding 4).
- Depositing Coalition employee personal funds with Coalition funds (Finding 4).
- Executive Director and Board Chair override of established controls over Executive Director travel (Finding 5).
- Override of employee timekeeping controls by the Executive Director and others without documented justification (Finding 6).

As shown in Table 1, we also noted significant employee turnover, as 12 of 24 employees (50 percent) working at the Coalition as of January 31, 2020, had either voluntarily separated from Coalition employment or were dismissed by the Coalition’s Executive Director by April 5, 2021. Coalition records, including employee exit interviews indicated low employee morale, a lack of trust between management and staff, inadequate communications by management, alleged intimidation by the Executive Director, and lack of support from the Board. The significant turnover may be indicative of a work environment that is detrimental to the establishment of an effective system of internal control. Additionally, vacancies in key management positions further increase the opportunity for override of internal controls.

Table 1
Coalition Employee Turnover
Positions Vacated February 1, 2020, Through April 5, 2021

Employee Position Title	Separation Date	Employment Start Date	Separation Type
Early Education Specialist	06/2020	01/2018	Voluntary
Community Resource and Development Director ^a	07/2020	01/2019	Involuntary
Early Education Specialist	09/2020	07/2018	Voluntary
Early Education Specialist	09/2020	05/2019	Voluntary
Early Education Specialist	09/2020	06/2019	Voluntary
Early Education Specialist	09/2020	07/2019	Voluntary
Early Education Director	09/2020	08/2018	Voluntary
Compliance Specialist	10/2020	06/1998	Involuntary
Community Liaison	11/2020	05/1990	Involuntary
Compliance Specialist	02/2021	11/2019	Voluntary
Director of Operations ^b	03/2021	11/2019	Involuntary
Finance Director ^b	04/2021	11/2019	Involuntary

^a Employee signed a separation agreement with the Coalition and received severance pay. Finding 3 provides more information related to certain Coalition severance payments.

^b Position was designated as one of the three Coalition management positions in the Coalition’s grant agreement with the Office.

Source: Coalition records.

Absent timely and appropriate actions to address the Coalition’s control environment deficiencies, the risk is increased that the Coalition will not efficiently and effectively achieve its mission, goals, and objectives in accordance with State law and other applicable guidelines.

Recommendation: We recommend that Office management work with the Coalition and Coalition Board to evaluate the internal control deficiencies described in this report, including the underlying causes, and ensure that appropriate and timely corrective action is taken to develop and foster an appropriate control environment at the Coalition.

Follow-Up to Management's Response

Coalition management indicated in their written response that the employee exit interviews referenced in the report do not provide the whole picture related to the 50 percent employee turnover during the period February 2020 through April 2021. However, the positive former employee comments cited by Coalition management in their response were taken exclusively from exit interviews of employees who separated from Coalition employment prior to February 2020, rather than from the employees listed in Table 1 who were included in our audit. Coalition management also asserted that the dismissal of the former Director of Operations and the former Finance Director did not increase the opportunity for override of internal controls, but decreased it. The basis for this assertion is unclear, however, as the override of controls mentioned in our report related to the actions of the former Executive Director and Board Chair, and not to the former Director of Operations and former Finance Director. Consequently, the finding and related recommendation stand as presented.

Finding 2: Procurement Controls

State law⁴ establishes that fair and open competition is a basic tenet of public procurement and that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. State law further establishes that documentation of the acts taken is an important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are procured. The Office's grant agreement with the Coalition required the Coalition to comply with State and Federal procurement requirements, including State law⁵ that requires the competitive procurement of commodities and contractual services. Coalition policy⁶ also required that Coalition purchases be made using competitive procurement methods and practices pursuant to State law and Federal regulations.

For purchases of commodities exceeding \$35,000, State law⁷ requires the use of a competitive solicitation process whereby invitations to bid, requests for proposals, or invitations to negotiate are prepared and made available simultaneously to all vendors. Such solicitations must include all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability and relative merit of the bid, proposal, or reply. Coalition policy provided that purchases exceeding \$35,000 required pre-approval by the Coalition's Board or the Board's Executive Committee.⁸ For contractual services totaling at least \$1,000, Coalition policy required written bids be solicited from at least three vendors and the contract be awarded to the vendor that offered the services

⁴ Section 287.001, Florida Statutes.

⁵ Section 287.057, Florida Statutes.

⁶ Coalition *Purchasing and Procurement Policy*, approved April 10, 2020.

⁷ Section 287.057(1), Florida Statutes.

⁸ The Board's Executive Committee consisted of the Board's Chair, Vice-Chair, Secretary, Treasurer, and two at-large Board members.

determined to be the most advantageous to the Coalition in terms of price, quality, and other factors. For professional contractual services, Coalition policy required the Coalition to document whether the desired services could be provided more economically by Coalition staff rather than contracting with a vendor.

As part of our audit, we evaluated the Coalition's purchasing and procurement policy and examined Coalition records for 14 selected expenditure transactions, totaling \$488,203, made during the period July 2018 through August 2020. Our audit procedures disclosed that:

- Rather than require the use of the fair and open competitive process specified by State law for purchases over \$35,000, Coalition policy only required that three written bids be obtained. This divergence between Coalition policy and State law may have contributed to the Coalition not utilizing a the competitive solicitation process specified in State law when procuring certain materials, as subsequently described.
- In August 2020, the Coalition used State and Federal funds provided by the Office to pay a vendor \$251,561 for various materials used by the Coalition to prepare Voluntary Prekindergarten (VPK) kits for distribution to each child enrolled in the Coalition's VPK Program. Although State law required the Coalition to use a specified competitive solicitation process, Coalition records indicated that the Coalition only identified and solicited a bid for the materials from one vendor (who was selected) and utilized the Web sites for two other vendors to assess the availability and prices of the desired materials. Additionally, we noted that the purchase was not pre-approved by either the Board or the Board's Executive Committee, contrary to Coalition policy. According to Coalition personnel and records prepared by Coalition staff based on their research of the applicable Web sites, the two other vendors did not have the quantities needed or did not have most of the items needed.

By not competitively soliciting bids, proposals, or replies, the Coalition limited its ability to demonstrate that the desired materials were sought from all potential vendors and procured in a fair and economical manner. By not obtaining Board or Board Executive Committee pre-approval of the purchase, the Coalition did not comply with Coalition policy and cannot demonstrate that the purchase was properly authorized.

- In February 2018, the Coalition hired a vendor to provide ongoing employment law services for a \$3,500 annual fee. Specifically, the vendor was to provide supervisory training on key employment laws, a biennial audit of the Coalition's human resource and employment law compliance functions, information alerting the Coalition of any critical employment law changes, and unlimited advice made available through the vendor's hotline.

In October 2019, the Coalition's Board hired the same vendor for a \$4,000 fee to investigate a Coalition employee complaint alleging an unfair evaluation from and treatment by the Executive Director.

In March 2020, the Coalition hired the same vendor to provide human resource services for a \$12,750 annual fee. The human resource services were to include resolving complaints and employee issues, assisting when the Coalition terminated employees, and reviewing Coalition personnel-related forms and processes. The fees for these three services were paid from State and Federal funds provided by the Office.

We noted that, while the Coalition solicited proposals from three vendors for the human resource services, the Coalition was unable to provide documentation demonstrating that proposals were solicited or obtained for the employment law services, as required by Coalition policy. In addition, while Coalition management indicated that quotes for the investigative services were solicited from three vendors via telephone calls and one of the solicited vendors did not provide a quote, Coalition records only demonstrated that written quotes were solicited and received from two vendors. Also, contrary to Coalition policy, Coalition records did not evidence that the

Coalition determined that the human resource services could not be provided more economically by Coalition staff.

Absent documentation demonstrating that proper competitive procurement procedures were followed, the Coalition has reduced assurance that the employment law and investigative services were acquired in the most economical manner. Additionally, absent records demonstrating that Coalition staff could not provide the acquired human resource services more economically, the Coalition has not substantiated that procuring those services from a vendor was appropriate and in the best interest of the Coalition.

- In February 2020, the Coalition paid a vendor \$1,624 from unrestricted local funds to plan, market, and coordinate a Coalition-sponsored event. Specific activities the vendor was responsible for included securing a location for an educational movie screening, obtaining the movie, sending out invitations, marketing the event, providing food and decorations, coordinating the event, and cleaning up after the event.

Coalition records indicated that, on November 17, 2019, the Coalition received the first proposal for the event planning services in the amount of \$1,500. On November 19, 2019, the Executive Director directed staff via e-mail to get the respondent approved as a vendor, prior to soliciting further proposals from other potential vendors. While Coalition records evidenced that two other proposals totaling \$2,400 and \$5,500 were subsequently received in January 2020, the actions taken to get the first respondent approved as a vendor prior to soliciting additional proposals appeared contrary to Coalition policy and limited the Coalition's ability to demonstrate that the event planning services were equitably procured.

Our audit also found that, contrary to Coalition policy, Coalition records did not demonstrate that the event planning services could not be provided more economically by Coalition staff. Our review of the position description for the Coalition's Community Resource Development Manager found that the position's essential functions included responsibility for the development and implementation of specific campaigns for development projects; the responsibility to maintain efforts to identify, cultivate, recruit, and organize partnerships and volunteers; serving as a public representative of the Coalition, including cultivating relationships with community members; developing marketing materials for distribution; and effectively and efficiently completing activities and meeting target deadlines to execute successful events. Consequently, it was not apparent why the Coalition contracted for the event planning services instead of using available Coalition staff.

Recommendation: We recommend that Coalition management take appropriate actions to ensure that goods and services are procured in accordance with State law and applicable Coalition policies, including:

- **Revising the Coalition's purchasing and procurement policy requirements to agree with State law and using statutorily specified competitive solicitation processes for purchases exceeding \$35,000.**
- **Obtaining Board pre-approval for purchases exceeding \$35,000.**
- **Documenting, for purchases of at least \$1,000 but no more than \$25,000, that bids were solicited from at least three vendors and the results of the solicitations.**
- **Documenting justifications for acquiring services from a vendor instead of utilizing Coalition staff.**

Finding 3: Severance Payments

Federal regulations⁹ specify that the costs of employee severance pay, commonly referred to as dismissal wages, are allowable charges to Federal funds only to the extent that, in each case, the pay is required by law; employer-employee agreement; established policy that constitutes, in effect, an implied agreement on the non-Federal entity's (i.e., the Coalition's) part; or circumstances of the particular employment. State law¹⁰ provides that a unit of government that enters into a contract or employment agreement that contains a provision for severance pay¹¹ must include a provision in the contract or employment agreement that precludes severance pay from exceeding 20 weeks of compensation. State law further provides¹² that an employee may receive severance pay that is not provided for in a contract or employment agreement if the severance pay represents the settlement of an employment dispute and the amount does not exceed 6 weeks of compensation. However, the settlement may not include provisions that limit the ability of any party to the settlement to discuss the dispute or settlement.

According to the Office, Federal and State requirements regarding severance payments apply to early learning coalitions and the Office has interpreted an employer-employee agreement to represent an agreement executed at the time of an employee's hire that provides for severance pay in the event of the employee's dismissal, and not a severance agreement executed at the time of an employee's dismissal. We examined Coalition records related to 20 employees who separated from Coalition employment during the period January 2, 2016, through December 31, 2020, and noted that the Coalition offered severance payments to 3 employees who were dismissed and another employee who resigned. The Coalition offered the 4 employees severance pay as part of separation agreements prepared by the Coalition at the time of each employee's separation from Coalition employment. The separation agreements, in essence, offered the employees severance pay in amounts ranging from \$3,699 to \$6,640 in exchange for the employee's covenant to not sue the Coalition. The separation agreements also included a provision prohibiting the employees from publicly disclosing the terms and conditions of the agreement. Two of the four employees signed their separation agreements and received severance pay totaling \$4,747 and \$3,699, respectively, paid for with School Readiness and VPK Program funds. As the separation agreements for the severance payments were executed at the time of the employee's termination rather than hire, and as the agreements included provisions restricting the terminated employees from publicly discussing the terms and conditions of the agreements, the agreements and related severance payments were contrary to Federal regulations and State law.

We also noted that the Coalition did not establish a policy addressing separation agreements or severance pay until 2 days before the latter of the two separation agreements was signed on July 22, 2020. On July 20, 2020, the Coalition Board's Executive Committee approved, at the

⁹ Title 2, Section 200.431, Code of Federal Regulations.

¹⁰ Section 215.425(4), Florida Statutes. While the phrase "unit of government" as it is used in Section 215.425, Florida Statutes, is not defined, in Attorney General Opinion No. 2013-09 the Attorney General broadly construed the term saying that "the Legislature has not included qualifying or limiting language and, in the absence of any such language, the statute should not be read to include limitations that are not contained therein."

¹¹ Section 215.425(4)(d), Florida Statutes, defines severance pay as salary, benefits, or perquisites for employment services yet to be rendered that are provided to an employee who has recently been or is about to be terminated.

¹² Section 215.425(4)(b), Florida Statutes.

recommendation of the Executive Director, a policy granting the Executive Director the authority to negotiate employee exit terms, including severance arrangements, wages in lieu of notice, and separation agreements. The policy specified that the Executive Director could not negotiate settlements that exceeded 6 weeks' pay and limited the amount of severance pay to not more than the retention of the Coalition's employment practices liability insurance policy in effect at the time of the employee's termination. However, the policy was not adequate, as it did not address that settlement agreements may not preclude terminated employees from publicly discussing the terms and condition of the agreements.

Recommendation: We recommend that the Coalition Board and Coalition management ensure that Coalition policies and practices regarding employment separation agreements and severance pay adhere to Federal regulations and State law.

Follow-Up to Management's Response

Coalition management indicated in their written response that Section 215.425, Florida Statutes, does not apply to the Coalition as the Coalition is not a "unit of government" but rather a non-State, nonprofit entity. While the phrase "unit of government" as it is used in Section 215.425, Florida Statutes, is not defined, the Attorney General has broadly construed the term saying, in the absence of limiting language, the statute should not be read to include limitations that are not contained therein.¹³ The Coalition is a statutorily created unit of government clearly carrying out a governmental function and therefore falls within the purview of Section 215.425, Florida Statutes. As such, the Coalition has limited authority to provide severance pay. Consequently, the finding and related recommendation stand as presented.

Finding 4: Use of Unrestricted Local Funds

To help fulfill the Coalition's mission to support the success of every child and their family through quality early education and care, the Coalition utilizes Federal and State funds provided by the Office. In addition, the Coalition receives local funding through contributions from organizations such as the United Way, foundations, local governments, and individuals. For the fiscal year ended June 30, 2019, the Coalition received \$13.7 million in Federal and State funds through the Office and \$148,114 in unrestricted local funds. Although local funds that are not used to meet Federal and State grant matching requirements are not subject to Federal and State grant regulations, all funds received by the Coalition should be used for purposes that are in accordance with the Coalition's mission. Additionally, to promote accountability for Coalition funds, it is essential that the Coalition establish appropriate internal controls, including controls over the use of and proper accounting for all funds received.

As part of our audit, we evaluated Coalition controls over the use of funds from the various sources and examined Coalition records for 14 selected Coalition expenditure transactions, totaling \$488,203 (including \$2,748 in local funds), made during the period July 2018 through August 2020. Our audit procedures found that the Coalition had not established a policy or implemented specific internal controls over the use of unrestricted local funds and that the absence of such a policy and controls may have

¹³ Attorney General Opinion No. 2013-09, dated June 5, 2013.

contributed to instances in which the Coalition's expenditure of local funds did not appear to be in accordance with the Coalition's mission. Specifically, we noted:

- 2 expenditures, totaling \$439, for the purchase of food for an employee holiday luncheon and a staff meeting.
- The Coalition purchased \$333 in gift cards for one Coalition intern and two children of Coalition employees as high school graduation gifts.

According to the Coalition's Executive Director, Coalition employees contributed personal funds, which were deposited into one of the Coalition's bank accounts and used to pay a portion of the holiday luncheon and gift cards. However, Coalition records did not clearly demonstrate all the funding sources used for the luncheon, staff meeting, or gift card expenditure transactions or how the expenditures supported the Coalition's mission.

Absent a policy governing, and internal controls over, the use of unrestricted local funds, the Coalition has limited ability to ensure and document that amounts expended further the Coalition's mission. Also, depositing personal funds contributed by Coalition employees for non-business purposes with Coalition local funds increases the risk that local funds could be used for unauthorized purposes.

Recommendation: We recommend that Coalition management establish a policy governing the use of unrestricted local funds and ensure that local funds are only used for purposes that clearly relate to the mission of the Coalition. We also recommend that Coalition management ensure that Coalition employee funds contributed for non-business purposes are not deposited into Coalition bank accounts.

Finding 5: Coalition Travel

The Coalition's grant agreement with the Office and the Office's Travel Program Guidance required Coalition employees traveling on Coalition business to adhere to State travel laws and the DOE *Travel Manual*. The *Travel Manual* required all employees and persons authorized to travel to complete a travel authorization form prior to traveling. The form was to be signed and dated by the traveler's supervisor, agency head, or designee as evidence that the travel was authorized and approved prior to the first day of travel. The Office's Travel Program Guidance clarified that the Board Chair was responsible for approving Executive Director travel and that claims for reimbursement of travel expenses were to be prepared and submitted for approval within 30 days of the travel event. Accordingly, the Coalition established a process whereby Executive Director travel was to be authorized and approved by the Board Chair and the Executive Director's reimbursement forms were to be reviewed and approved by the Board Chair. Additionally, State law¹⁴ requires all mileage by personal motor vehicle to be shown from point of origin to point of destination and, when possible, be computed based on the current map of the Department of Transportation (DOT).

As part of our audit, we examined 19 travel authorization request and reimbursement forms for the Executive Director's travel during the period February 2019 through August 2020. We identified instances where the Board Chair's authorization and review and approval of Executive Director travel and travel expenses were not timely or properly documented in accordance with established procedures

¹⁴ Section 112.061(7)(d)3., Florida Statutes.

and processes. We also noted an instance where a travel reimbursement was not in accordance with State law. Specifically, we noted that:

- Six travel reimbursement forms with expenses totaling \$1,171, and one travel authorization form related to one of those six trips, were submitted to and approved by the Board Chair 11 to 20 months after the travel occurred. Consequently, the Executive Director was reimbursed the \$1,171 prior to the Board Chair's review and approval. Additionally, on four of the six travel reimbursement forms and the applicable travel authorization form, we noted that the Board Chair had marked through the initial date of her review and approval and retroactively dated her review and approval to indicate that she reviewed the forms within 3 days of the dates the Executive Director signed the forms.

According to the Board Chair, she revised the dates to indicate that she was aware of the travel and reimbursement of expenses prior to the date she was given the documents for her review and approval.

- Four travel reimbursement forms with expenses totaling \$553 and five travel authorization forms showing anticipated expenses totaling \$3,273 were not reviewed and approved by the Board Chair as of the date of our review in January 2021, although the applicable periods of travel occurred during 2019 and January 2020 and the Executive Director had been reimbursed \$771 for related travel costs.
- For a \$630 travel reimbursement, the total mileage claimed by the Executive Director exceeded the mileage indicated on the DOT map by 94 miles, resulting in a \$42 overpayment. In response to our audit inquiry, the Executive Director acknowledged that she used Google Maps and not the DOT map to determine the official mileage. In addition, the Executive Director took a route that was significantly longer than the route provided by the map on the DOT Web site. State law¹⁵ specifies that, when a person travels by an indirect route for his or her own convenience, any extra costs shall be borne by the traveler and reimbursement for expenses is to be based only on such charges as would have been incurred by a usually traveled route.

Untimely review and approval of Executive Director travel authorization and reimbursement forms increases the risk of the Coalition reimbursing unallowed or inappropriate expenses. Additionally, retroactively dating travel reimbursement and authorization forms obscures the time the forms were reviewed and approved and thwarts the objective of an established control. By not adhering to the DOT map mileage during travel, the Coalition cannot demonstrate that mileage was reimbursed in accordance with State law.

Recommendation: We recommend that the Coalition take measures to ensure that the Executive Director's travel is timely authorized prior to the travel occurring and that travel reimbursements are reviewed and approved by the Board Chair prior to payment. We also recommend that Coalition management ensure that travel reimbursements, including claimed mileage, are made in accordance with State law and that the Coalition recoup any excess payments paid to Coalition employees.

Finding 6: Employee Time Records

Coalition procedures¹⁶ required employees to keep an accurate record of their hours worked each day and week. Employees were to account for their time using the Coalition's automated data processing (ADP) timekeeping module, which automatically documented an employee's times of arrival and

¹⁵ Section 112.061(7)(a), Florida Statutes.

¹⁶ Coalition *Employee Handbook*.

departure when the employee signed in and out. Supervisors were responsible for reviewing and approving employee time records within the ADP timekeeping module. Coalition procedures further specified that, under no circumstances, was an employee to complete another employee's time record.

For two selected biweekly pay periods in August and October 2020,¹⁷ we examined time records for 10 of the Coalition's 24 employees and found that ADP timekeeping module records indicated that the work time for the Coalition's Interim Early Education Director was entered by the Executive Director (the employee's direct supervisor). Further analysis of time records found that the Executive Director entered all the Interim Early Education Director's time during the 2-month period beginning with her hire in mid-September 2020 through mid-November 2020, and two other Coalition employees entered the Interim Early Education Director's work time during the period mid-November 2020 through late December 2020. For those respective periods, the Interim Early Education Director's gross salary totaled \$13,565 (net pay of \$11,875).

In response to our audit inquiry, the Executive Director indicated that there could be a variety of reasons the Interim Early Education Director did not enter her work time. However, although we requested, the Executive Director did not provide an explanation or justification for entering time on behalf of the Interim Early Education Director or why two other employees also entered time on behalf of the Interim Early Education Director.

The override of established time keeping controls limits the Coalition's ability to ensure and demonstrate that employee work time was properly accounted for and resulting pay was appropriate.

Recommendation: We recommend that Coalition management ensure that employee time is entered and accounted for in accordance with established procedures. Should extenuating circumstances necessitate the override of established controls, we recommend that Coalition records document justification and authorization for such actions.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from March 2020 through October 2021 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.

This operational audit focused on selected activities of the Early Learning Coalition of the Emerald Coast (Coalition). For those areas, the objectives of the audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering

¹⁷ August 8 through August 21, 2020, and October 3 through October 16, 2020.

responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.

- Examine internal controls designed and placed into operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in internal controls significant to our audit objectives; instances of noncompliance with applicable governing laws, rules, or contracts; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; identifying and evaluating internal controls significant to our audit objectives; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, rules, Office of Early Learning (Office) grant agreements, policies and procedures, and other guidelines, and interviewed Coalition personnel to obtain an understanding of selected Coalition administrative processes.
- From the population of six Coalition board meetings held during the period July 2018 through January 2020, examined the meeting minutes and other records for four selected Board meetings to determine whether the meetings were held in accordance with the requirements of State law. We also examined the composition and records supporting the qualifications of the Coalition board as of March 2020, to determine whether the Board was established in accordance with State law.

- Analyzed Coalition expenditure records for the 2018-19 fiscal year to determine whether the Coalition adhered to expenditure limits established in State law, specifically, limits regarding administrative, quality activity, and nondirect services costs.
- From the population of 53 non-provider contracts executed during the period July 2018 through January 2020, examined Coalition records for 16 selected contracts to determine whether the contracts were properly recorded in Coalition records and were awarded in accordance with applicable laws, rules, Coalition policies, and other guidelines. Additionally, we examined Coalition records for 5 selected payments, totaling \$25,745, from 5 of the 16 selected contracts to determine whether the payments were made only for goods and services in accordance with contract terms and conditions.
- From the population of 638 purchase orders, totaling \$454,588, made during the period July 2018 through January 2020, examined Coalition records for 25 selected purchase orders, totaling \$43,093, to determine whether the purchase orders complied with applicable laws, rules, Coalition policies, and Office grant agreement requirements.
- From the population of four property items, totaling \$5,874, acquired during the period July 2018 through January 2020, examined Coalition records for three selected property items, totaling \$4,298, to determine whether the items were properly recorded in Coalition records.
- From the population of 24 Coalition employees as of January 31, 2020, with annual salaries totaling \$856,246, examined Coalition records for 8 selected employee payroll payments totaling \$13,659 to determine whether the payments were in correct amounts and adequately documented; made in accordance with applicable laws, rules, and employment contract terms; and properly authorized and approved.
- From the population of 1,182 travel expenditure transactions, totaling \$77,368, made during the period July 2018 through January 2020, examined Coalition records for 25 selected travel expenditure transactions, totaling \$8,827, to determine whether the expenditures were necessary and reasonable to conduct Coalition business, incurred in compliance with applicable laws and rules, and properly supported and authorized.
- Based on allegations received by our Office, expanded our audit and:
 - Tested expenditures, totaling \$488,203, associated with 12 selected purchase orders and two other disbursements of Coalitions funds made during the period July 2018 through August 2020 to determine whether the purchase orders and other disbursements complied with applicable laws, rules, Coalition policies, and Office grant agreement requirements.
 - Examined Coalition records pertaining to 20 Coalition employees who separated from Coalition employment during the period January 2, 2016, through December 31, 2020, to determine whether any severance agreements entered into were contrary to State law and Federal regulations.
 - Examined 19 selected travel authorization request and reimbursement forms related to the Executive Director's travel during the period February 2019 through August 2020 to determine whether the travel was in accordance with State law, Department of Education and Office of Early Learning guidance, Coalition policy, and good business practices.
 - For two selected biweekly pay periods in August and October 2020, examined employee time records for 10 of the 24 Coalition employees to determine whether employees were properly completing time sheets and personnel activity records pursuant to established policies and procedures and good business practices, and whether prior written authorization was provided for any overtime worked and recorded by employees. We further analyzed Coalition employee time records to determine the extent to which work time for the Interim Early Education Director was entered by the Coalition Executive Director and other Coalition employees during the period September 2020 through December 2020.

- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Managements' responses are included in this report under the heading **MANAGEMENTS' RESPONSES**.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is written in a cursive style with a large initial 'S'.

Sherrill F. Norman, CPA
Auditor General

MANAGEMENTS' RESPONSES



FLORIDA DEPARTMENT OF
EDUCATION
fldoe.org

Richard Corcoran
Commissioner of Education

State Board of Education

Tom Grady, *Chair*
Ben Gibson, *Vice Chair*
Members
Monesia Brown
Marva Johnson
Ryan Petty
Andy Tuck
Joe York

December 21, 2021

Sherrill F. Norman, CPA
Florida Auditor General
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Please find attached the Department of Education's response to the Auditor General's preliminary and tentative findings of the operational audit of the Early Learning Coalition of the Emerald Coast, Selected Activities.

If you have any questions, please contact Mike Blackburn, Inspector General, at 850-245-0403.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Corcoran", written over a light blue horizontal line.

Richard Corcoran
Commissioner of Education

RC/br

Attachment

cc: Mike Blackburn, Inspector General
Suzanne Pridgeon, Deputy Commissioner, Division of Finance and Operations
Matt Mears, Chancellor, Office of Early Learning

Finding summary

Control environment deficiencies within the Coalition contributed to issues described in the other findings in this report and increase the risk that the Coalition will not efficiently and effectively achieve its mission, goals and objectives. OAG testing identified the following key areas of administrative functions were impacted.

1. Procurement policies that did not adequately promote the competitive solicitation of goods and services (Finding 2).
2. Noncompliance with established procurement policies (Finding 2).
3. Coalition records not evidencing that appropriate competitive procurement procedures were followed (Finding 2).
4. Employee separation agreements and severance payments that were offered and paid contrary to Federal regulations and State law (Finding 3).
5. Use of local Coalition funds for purposes that did not appear consistent with the Coalition's mission (Finding 4).
6. Depositing Coalition employee personal funds with Coalition funds (Finding 4).
7. Executive Director and Board Chair override of established controls over Executive Director travel (Finding 5).
8. Override of employee timekeeping controls by the Executive Director and others without documented justification (Finding 6).

OAG recommendation(s) to FDOE/Division of Early Learning (DEL)

We recommend the Office management work with the Coalition and Coalition Board to evaluate the internal control deficiencies described in this report, including the underlying causes, and ensure that appropriate and timely corrective action is taken to develop and foster an appropriate control environment at the Coalition.

FDOE/DEL reply

DEL examined the preliminary results obtained and we agree with the OAG recommendation(s) provided to us. DEL has established a good working relationship with the ELC's new management team and we're committed to working together to correct each of the deficiencies noted. DEL will initiate our routine oversight/corrective action processes, which include (1) identifying ELC-level activities currently underway, (2) developing a preliminary plan to assign DEL staff members to work with the ELC and (3) use of a DEL tracking tool that's been used before to help list problems/issues, corrections, timelines and the status of tasks planned to help address the findings noted. A brief summary of each DEL process is included here.

FDOE/DEL reply cont'd

ELC-related activities currently underway

Based on recent updates received by DEL from the ELC's management team, the following ELC-level activities are currently underway.

- Governance. ELC staff reached out to other ELCs to obtain a preliminary document to define the duties and responsibilities of governing board members. This document will be presented for discussion at the next board meeting in January 2022.
- Staffing. At the direction of the governing board, the former Executive Director resigned. A new Executive Director and Chief Financial Officer have been hired. This new ELC management team has assessed the staffing needs for the Coalition and has filled many of the recent staff vacancies with employees that have related experience and skill sets to complete their assigned duties.
- Procurement policies. Existing ELC policies are currently under review and the ELC's new management team will coordinate with DEL for technical assistance on policy content.
- Employee handbook. Existing staff instructions for completing timesheets and other related employment policies are currently under review and the ELC's new management team will coordinate with DEL for technical assistance on policy content.
- Internal controls and processes. A review by the ELC's senior leadership team of operations and related internal controls, policies and procedures is currently underway to identify processes that are in place/operating as intended and to find potential gaps that need to be addressed. The ELC's new management team will coordinate with DEL for technical assistance.

FDOE/DEL preliminary plan for DEL staff members to work with ELC on corrective actions

We will assign DEL staff members as needed to help the ELC address the issues noted in the findings described. Subject matter experts from DEL's various operating units will provide technical assistance, suggestions and instructions on corrective action tasks and the related timelines set for them. Assignments of staff include, but are not limited to, the following DEL units.

- Program Policy
- Partner Initiatives and Child Care Resources and Referrals (CCR&R)
- Financial Administration and Budget Services (FABS)
- Data Services
- Program Integrity
 - Accountability Unit (programmatic monitoring and compliance team)
 - Financial Management Systems Assurance Section (FMSAS, fiscal monitoring/compliance team)

FDOE/DEL reply cont'd

FDOE/DEL special corrective action plan (SCAP) activities (tracking tool for corrective actions)

In addition to the previously described activities, to meet the oversight duties assigned to DEL¹ we will also complete the following tasks.

- In accordance with Section V of the 2021-22 Grant agreement between the Division of Early learning and the ELC, DEL will provide written notice to this ELC that non-performance and/or non-compliance issues have been identified that require enhanced oversight tasks and expanded technical assistance from DEL to help the ELC identify potential corrective actions and other related recommendations to help address the matters found. This notice will formalize and document the work that the ELC is already in the process of undertaking to address each of the findings.

- DEL's SCAP process for the ELC will include, but may not be limited to, the following tasks. *Once reviewed/accepted by the OAG, DEL will initiate these described tasks and documents.* As explained above, the ELC is already working to address each of these items. The SCAP process will formalize and document the work the ELC has undertaken as well as any additional steps that are needed.
 - Send written SCAP notice to ELC and the ELC's governing board.
 - Include in the SCAP processes (at a minimum) the eight (8) items described above based on recent OAG test results and observations.
 - Provide initial corrective action plan recommendations to the ELC for each issue, finding or area of operating deficiency identified by the OAG and/or other DEL-related monitoring processes.
 - Assist ELC with preparing a target timeline for SCAP-related corrective actions.

¹Applicable/authorized federal/state grant program rules, statutes or other citations

- 2 CFR 200.207, *Specific conditions*, instructs if the ELC is found to be in noncompliance with fund source requirements or determined to be "high risk" by DEL, the ELC shall be subject to the imposition of more restrictive conditions.
- 2 CFR 200.338, *Remedies for noncompliance*, instructs the Federal awarding agency or pass-through entity i.e., DEL) is authorized to implement one or more remedies that may be legally available (as appropriate in the circumstances) if non-compliance and/or non-performance circumstances are identified. One or more of the following remedies is included/activated as described in this notice for your ELC.
 - (1) Requiring payments as reimbursements rather than advance payments;
 - (2) Withholding authority to proceed to the next phase of operations/activities until receipt of evidence of acceptable performance within a given period;
 - (3) Requiring additional, more detailed financial reports;
 - (4) Requiring additional SR/VPK program operations monitoring;
 - (5) Requiring the ELC to obtain technical or management assistance; or
 - (6) Establishing additional prior approvals.
- DFS, Chief Financial Officer (CFO) Memoranda (*see state rules & CFO Memos No. 1, 2, 3, 4, 5, and 20*)

- Evaluate the ELC's progress to complete the corrective actions given and to address the issues/findings found.
- Issue supplemental directions if the ELC fails to complete the corrective actions.



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December 29, 2021

Sherrill F. Norman, CPA
Auditor General
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Enclosed is the written statement of explanation or rebuttal concerning the preliminary and tentative audit findings and recommendations, including actual or proposed corrective actions, in response to the operational audit of the Early Learning Coalition of the Emerald Coast (ELC-EC), Selected Activities.

If you have questions or desire further discussion on any of the ELC-EC's written statement, please feel free to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Dana Crupi".

Dana Crupi
dcrupi@elc-ec.org
Chief Executive Officer
850-598-1677

Enclosure
cc: Beth Brant, Board Chair, ELC-EC
Sondra Moffit, Chief Financial Officer, ELC-EC

The Early Learning Coalition of the Emerald Coast
Visit the Coalition's website at www.elc-ec.org.

WRITTEN STATEMENT OF EXPLANATION OR REBUTTAL CONCERNING THE PRELIMINARY AND TENTATIVE AUDIT FINDINGS AND RECOMMENDATIONS IN THE OPERATIONAL AUDIT OF THE EARLY LEARNING COALITION OF THE EMERALD COAST, SELECTED ACTIVITIES

In accordance with section 11.45(4)(d), Florida Statutes, this written statement of explanation or rebuttal¹ is submitted on behalf of the Early Learning Coalition of Okaloosa and Walton Counties, Inc. d/b/a Early Learning Coalition of the Emerald Coast (hereinafter, “ELC-EC” or “Coalition”) in response to the preliminary and tentative audit findings and recommendations in the Auditor General’s operational audit of the ELC-EC, Selected Activities (hereinafter, the “Report”).

BACKGROUND

The ELC-EC is a private, 501(c)(3) corporation based in Shalimar, Florida. The ELC-EC’s vision is “[t]o be a community in which every child enters school prepared to succeed.” *See Vision and Mission Statement*, ELC-EC, <https://www.elc-ec.org/vision-and-mission-statement/> (last visited Nov. 30, 2021). The ELC-EC’s mission is “to support the success of every child and their family through quality early education and care.” *Id.* The ELC-EC’s priorities are to increase child care capacity, increase the quality of subsidized school readiness services, utilize appropriate screening and assessment tools for subsidized child care, increase outreach to unique populations, and increase community awareness of strategies for improving the well-being of children. The ELC-EC accomplishes its vision, mission, and priorities through three major programs: (1) direct child care, (2) non-direct child care, and (3) quality initiatives.

While the ELC-EC is funded primarily by Federal and State funds through the Grant Agreement between the Office of Early Learning (hereinafter, “OEL” or “Office”) and the ELC-EC, the ELC-EC receives other revenues such as interest, local match contributions, teenage parent program, in-kind contribution of property and equipment, and other support such as donations to the ELC-EC. *See, e.g., Financial Reports*, ELC-EC, <https://www.elc-ec.org/financial-reports/> (last visited Nov. 29, 2021); *Donate*, ELC-EC, <https://www.elc-ec.org/donate/> (last visited Nov. 29, 2021).

WRITTEN STATEMENT OF EXPLANATION OR REBUTTAL TO FINDINGS AND RECOMMENDATIONS

I. FINDING 1: CONTROL ENVIRONMENT

¹ This written statement of explanation or rebuttal is submitted pursuant to the request of the Auditor General, including the information sought in its Preliminary and Tentative Audit Findings, in response to the November 9, 2021 correspondence to Ms. Brant and Ms. Crupi and to assist the Auditor General in its report to be prepared on the operational audit of the ELC-EC. Inclusion of information in this written statement does not constitute a waiver of any objections that the ELC-EC may have to this or future discovery or information requests, or to the introduction of evidence in this or any subsequent proceeding. Furthermore, the explanation or rebuttal set forth herein is based upon our investigation and understanding of the facts at the time. By submitting this information, the ELC-EC reserves its right to present new, different, or additional facts or arguments based upon subsequently acquired information or evidence. Please note that all relevant information is contained within this written statement and attached exhibits.

The Report found that a strong control environment had not been established over certain administrative functions of the ELC-EC, related to: (a) Finding 2: Procurement Controls, (b) Finding 3: Severance Payments, (c) Finding 4: Use of Unrestricted Local Funds, (d) Finding 5: Coalition Travel, (e) Finding 6: Employee Time Records, and (f) Employee Turnover. *See Report at pp. 2–3.* Findings 2 through 6 are addressed in their respective sections; however, the ELC-EC addresses employee turnover here.

The Report found “significant employee turnover, as 12 of 24 employees (50 percent) working at the Coalition . . . either voluntarily separated from Coalition employment or were dismissed.” *See Report at p. 3.* For support, the Report references adverse employee exit interviews, which do not provide the whole picture. Former employees also had positive comments, such as: “What a great team from leadership down.”; “Everyone at the ELC[-EC] has been so supportive in helping me to increase my knowledge and experience. Being a part of doing great things for families and children is close to my heart and has been such a blessing to be a part of.”; “[The former Executive Director] is an amazing leader.”; “The office is a wonderful place to work in.”; and “Thank you for my time here. I believe in what your organization does for families and children. Keep up the great work!”.

Some of the voluntary separations were due, in part, to the end of the ELC-EC’s COVID-19 work-from-home agreement in March 2020. After the COVID-19 shutdown concluded, the ELC-EC required employees to return to the office. However, some of the referenced employees voluntarily separated from the ELC-EC either because they did not want to return to the office or for other personal reasons. For example, in response to the question, “What prompted you to seek alternative employment?” an employee said, “[R]eturning to work during COVID-19 pandemic.” This employment phenomenon, which some title, “the Great Resignation” or “Turnover Tsunami,” is not unique to the ELC-EC. *See How to Ride the Great Resignation Wave*, SHRM, <https://www.shrm.org/hr-today/news/hr-magazine/summer2021/pages/reducing-turnover.aspx> (last visited Nov. 29, 2021) (“About 1 in 4 U.S. employees plan to leave their employer as the COVID-19 pandemic subsides.”).

Even so, the other reason for the voluntary separations, “*alleged* intimidation by the [former] Executive Director,” *see Report at p. 3* (emphasis added), has been resolved. On June 11, 2021, the former Executive Director chose to “pursu[e] new personal and professional interests.” *See Ex. A.* Since then, Dana Crupi was promoted to Chief Executive Officer, and the ELC-EC has seen increased employee morale, trust between management and staff, and satisfactory communications by management.

The Report also noted that the ELC-EC’s former Executive Director dismissed five employees, two in management positions, which “further increase the opportunity for override of internal controls.” *See Report at p. 3.* While the ELC-EC recognizes the importance of management’s continuity, in this case, the dismissal of the former Director of Operations and the former Finance Director did not increase the opportunity for override of internal controls, but decreased it. The former Director of Operations was dismissed after repeated violations of the ELC-EC’s attendance policies, insubordination, and unprofessional behavior. After the former Director of Operations was dismissed, she filed a complaint of discrimination with the Florida Commission on Human Relations (hereinafter, the “Commission”) alleging a hostile work

environment, to which the ELC-EC filed a response. The Commission found that it is “unlikely that unlawful discrimination occurred,” and closed the file with a no-reasonable-cause determination. *See* Ex. B. Similarly, after the former Finance Director was dismissed, she filed a whistleblower complaint with the Commission, to which the ELC-EC filed a response. The Commission also determined that “there was no evidence that [the former Finance Director] was subjected to an adverse employment action”; instead, she was terminated “for insubordination and failure to abide by her job description.” *See* Ex. C. As the Commission’s determinations demonstrate, without the removal of the former Director of Operations and the former Finance Director, the ELC-EC would experience an increase in the opportunity for override of internal controls.

Proposed Corrective Actions to Recommendation:

Notwithstanding the above explanation or rebuttal, the ELC-EC’s Board of Directors (hereinafter, “Board”) and Senior Management are in the process of evaluating the internal control deficiencies described in the Report, including the underlying causes, and ensuring that appropriate and timely corrective action is taken to develop and foster an appropriate control environment.

II. FINDING 2: PROCUREMENT CONTROLS

The Grant Agreement between the OEL and the ELC-EC requires the ELC-EC to “comply with federal/state procurement requirements,” namely, sections 287.017 and 287.057, Florida Statutes, and “have documented procurement policies and procedures which meet the *minimum* requirements.” (Emphasis added.) Section 287.057 requires “competitive solicitation processes . . . for procurement of commodities or contractual services in excess of [\$35,000].” § 287.057(1), Fla. Stat. (citing § 287.017(2), Fla. Stat.). As the Report notes, some of the ELC-EC’s Procurement Policies *exceeded* the law’s minimum requirements. *See* Report at p. 5. While the former Finance Director did not ensure compliance with some of those policies, the new Finance Director has since taken appropriate action to ensure compliance.

The ELC-EC’s procurement policies required an “RFB or RFP” for purchases “> \$35,001.” *See* Ex. D at p. 6. While labeled “RFB” instead of “ITB,” it is clear that an invitation to bid was a means of competitive solicitation in addition to a “RFP,” request for proposals. Under the ELC-EC’s former leadership, it missed its opportunity to use those procurement methods for the Voluntary Prekindergarten (VPK) kits; however, the ELC-EC has since utilized competitive solicitation. *See Procurement*, ELC-EC, <https://www.elc-ec.org/procurement/> (last visited Nov. 29, 2021) (“RFP # 2021-AUD Request for Proposals for Audit & Tax Services”; “RFP # 2021-IT Request for Proposals for Information Technology, Data Security and Technical Support Services”; “RFP # 2021-WAGE Request for proposal for Wage Comparability Study and Compensation Analysis Including a Review of Employee Benefit Offerings”).

As for the lack of documentation for whether human resource services could be performed more economically by the ELC-EC’s employees, the ELC-EC used the same vendor that provided employment law services because of the overlap in human resources and employment law questions. The ELC-EC’s employees did not have the requisite expertise to perform those services. The ELC-EC reads its policy to require the ELC-EC to document services that current,

available staff may be able to provide. The Report appears to have the same interpretation. *See* Report at p. 7 (. . . instead of using *available Coalition staff.*”) (emphasis added). However, for future procurement, the ELC-EC may consider whether it would be economical to hire a new employee rather than contract for certain outside services.

Proposed Corrective Actions to Recommendation:

Notwithstanding the above explanation or rebuttal, the ELC-EC’s Board and Senior Management are in the process of taking appropriate actions to ensure that goods and services are procured in accordance with State law and applicable ELC-EC policies, including: (i) revising the ELC-EC’s purchasing and procurement policy requirements to include more precise competitive solicitation processes for purchases exceeding \$35,000; (ii) obtaining Board pre-approval for purchases exceeding \$35,000; (iii) documenting, for purchases of at least \$1,000 but no more than \$25,000, that bids were solicited from at least three vendors and the results of the solicitations; and (iv) documenting justifications for acquiring services from a vendor instead of utilizing staff.

III. FINDING 3: SEVERANCE PAYMENTS

The Report found that while there was a policy addressing separation agreements or severance pay, the policy did not address that settlement agreements may not preclude terminated employees from publicly discussing the terms and condition of the agreements. *See* Report at pp. 8–9. However, the ELC-EC’s interpretation of section 215.425, Florida Statutes, is that it does not apply.

Section 215.425 applies to a “unit of government.” *See* § 215.425(4), Fla. Stat. The Auditor General relies on an Attorney General opinion specific to whether the Seminole County Port Authority is a “unit of government” for purposes of section 215.425 for employee severance pay. *See* Op. Att’y Gen. Fla. 2013-09 (2013). While Attorney General opinions are persuasive, they are “not binding on Florida courts and can be rejected.” *Browning v. Fla. Prosecuting Att’ys Ass’n, Inc.*, 56 So. 3d 873, 876 n.2 (Fla. 1st DCA 2011). The Attorney General opinion noted that the Port Authority is a “body politic and corporate” and a “local unit of special purpose,” Op. Att’y Gen. Fla. 2013-09 (2013) (citing Section 1, Ch. 2010-240, Laws of Fla.), and answered the question in the affirmative. However, the ELC-EC is far different from the Port Authority.

Here, unlike the Port Authority, nowhere in section 1002.83, Florida Statutes, is the ELC-EC described as a “body politic and corporate” or a “local unit of special purpose.” Rather, the ELC-EC is a nonstate, nonprofit entity—not a unit of government. Likewise, the ELC-EC is not a “state agency” as defined in section 216.011(1)(qq), Florida Statutes. Section 216.011(1)(qq) defines “state agency” as “any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government.” The ELC-EC is not a “state agency” as defined by statute. Instead, the ELC-EC is a private, 501(c)(3) corporation. Aside from federal and state funds, the ELC-EC receives other revenues such as interest, local match contributions, teenage parent program, in-kind contribution of property and equipment, and other support such as donations to the ELC-EC.

Further, the Grant Agreement between the OEL and the ELC-EC does not subject the ELC-EC to section 215.425 or even list it in the section titled, “Compliance with applicable laws and regulations.” If it were listed, application of section 215.425 could not be conferred “merely by contractual agreement,” *McRae v. J.D./M.D., Inc.*, 511 So. 2d 540, 543 (Fla. 1987), because “[a]n administrative agency has only such power as granted by the Legislature and may not expand its own jurisdiction.” *Dep’t of Revenue v. Graczyk*, 206 So. 3d 157, 160 (Fla. 1st DCA 2016) (citation omitted). Because the ELC-EC is not a “unit of government” or “state agency,” as defined by statute, it is not subject to section 216.011.

Proposed Corrective Actions to Recommendation:

Notwithstanding the above explanation or rebuttal, if section 215.425, Florida Statutes, applies to the ELC-EC, the ELC-EC’s Board and Senior Management will ensure that its policies and practices regarding employment separation agreements and severance pay adhere to Federal regulations and State law.

IV. FINDING 4: USE OF UNRESTRICTED LOCAL FUNDS

The Report found that the ELC-EC used \$439 of unrestricted local funds for the purchase of food for an employee luncheon and staff meeting, and \$333 of unrestricted local funds for the purchase of gift cards for an ELC-EC intern and children of ELC-EC employees as high school graduation gifts. *See* Report at p. 9. However, the ELC-EC clarified that ELC-EC employees contributed a majority of personal funds—\$210 for the luncheon and \$288 for the gift cards. Because the ELC-EC may use unrestricted local funds within its discretion as appropriate, the \$274 of unrestricted local funds spent furthered the ELC-EC’s mission to “support the success of every child and their family through quality early education and care.” *See Vision and Mission Statement*, ELC-EC, <https://www.elc-ec.org/vision-and-mission-statement/> (last visited Nov. 30, 2021). The ELC-EC cannot accomplish its mission without its staff. As the Report recommended in Finding 1, the ELC-EC must “develop and foster” a work environment to increase employee morale, build trust between management and staff, foster communication, and show support from the Board. *See* Report at pp. 2–4. Thus, the luncheon, staff meeting, and gift card expenditures supported the ELC-EC’s mission.

Proposed Corrective Actions to Recommendation:

Notwithstanding the above explanation or rebuttal, the ELC-EC’s Board and Senior Management are in the process of establishing a policy governing the use of unrestricted local funds and ensuring that local funds are only used for purposes that relate to the mission of the ELC-EC. As for personal funds contributed by employees, the ELC-EC will ensure that such funds are not deposited into ELC-EC bank accounts.

V. FINDING 5: COALITION TRAVEL

The ELC-EC acknowledges that the former Executive Director did not timely submit or properly document some of the travel expenses in accordance with established procedures and processes. *See* Report at pp. 10–11.

Proposed Corrective Actions to Recommendation:

Notwithstanding the above explanation or rebuttal, the ELC-EC's Board and Senior Management will take measures to ensure that travel is timely authorized prior to the travel occurring; that travel reimbursements are reviewed and approved prior to payment; and that travel reimbursements, including claimed mileage, are made in accordance with State law.

VI. FINDING 6: EMPLOYEE TIME RECORDS

The Report found that the former Executive Director or two other employees entered time on behalf of the former Interim Early Education Director in August 2020 through December 2020. *See Report at p. 12.* At the time, the former Interim Early Education Director worked remotely from Orlando, Florida (Eastern Standard Time). However, the ELC-EC's office is located in Shalimar, Florida (Central Standard Time). The former Executive Director advised the former Interim Early Education Director not to enter her own time because of the one-hour time difference between Orlando and Shalimar. She was concerned that the time would be "off" an hour if it were entered in Orlando. For that reason, the former Interim Early Education Director emailed her time to the former Executive Director for each two-week time period. Those emails were subsequently attached to her time stubs.

Proposed Corrective Actions to Recommendation:

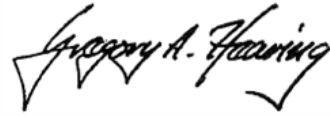
Notwithstanding the above explanation or rebuttal, the ELC-EC's Board and Senior Management are in the process of updating the policy and procedure that allows an employee's supervisor to correct any missed time card punches in the payroll system, which is currently automated data processing. Included in the updated policy and procedure, the ELC-EC will clearly establish that, should circumstances require an override of established controls, the ELC-EC will document the justification and authorization for such actions.

CONCLUSION

The ELC-EC appreciates the amount of work put into the operational audit of the ELC-EC by the Auditor General. Thanks to the Auditor General, the ELC-EC has been able to refine procurement controls and ensure comprehensive compliance with Federal regulations, State law, and ELC-EC policies. In doing so, the ELC-EC continues to strive to support the success of every child and their family through quality early education and care.

Dated this 29th day of December 2021.

Respectfully submitted,



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*Counsel for the Early Learning
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