

Department of Health and Human Services  
**Office of Inspector General**



Office of Audit Services

October 2024 | A-06-22-01004

# **California Used CARES Act Funds for Unallowable Nutrition Services Program Expenditures**



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### Why OIG Did This Audit

- The COVID-19 pandemic created extraordinary challenges for the delivery of health care and human services to the American people. Because older individuals were at a higher risk of hospitalization and death from complications of COVID-19, the CDC advised those individuals to minimize their in-person interactions with the general public, which increased the need for home-delivered meals.
- In response to the pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to provide expedited, direct economic assistance to Americans. The HHS's Administration for Community Living (ACL) awarded California about \$50.2 million in CARES Act funds for the Older Americans Act (OAA) Nutrition Services Program.
- This audit examined whether California used CARES Act funds for the OAA Nutrition Services Program in accordance with Federal and State requirements.

### What OIG Found

California did not use CARES Act funds for the OAA Nutrition Services Program in accordance with Federal and State requirements, or the documentation was not sufficient to make a determination.

- CARES Act funds were claimed for expenses that were unallowable or that were not supported with documentation maintained by the Area Agencies on Aging (AAAs) local service provider, such as supplies, rent, consulting, and food items. In addition, the AAAs or local service providers could not always provide adequate support for us to determine whether expenses claimed under the CARES Act were allowable.
- California did not effectively safeguard CARES Act funds by minimizing the time between the advanced payment of funds to AAAs and their disbursement of funds for direct program costs.

We reviewed a stratified sample of 100 transactions and, on the basis of our sample results, we estimated that California claimed unallowable costs under the CARES Act totaling at least \$1.1 million. We are setting aside an estimated \$2.5 million in claimed costs for ACL resolution associated with items that did not have adequate support.

### What OIG Recommends

We made four recommendations to California, including that it refund the \$1.1 million identified in our report as unallowable and work with ACL to determine the allowability of the estimated \$2.5 million in set-aside costs. The full recommendations are in the report.

California did not indicate concurrence or nonconcurrence with our recommendations but outlined actions that it has taken and plans to take to address our findings.

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## INTRODUCTION

### WHY WE DID THIS AUDIT

The COVID-19 pandemic created extraordinary challenges for the delivery of health care and human services to the American people. On January 31, 2020, the Department of Health and Human Services (HHS) declared a public health emergency for the COVID-19 pandemic. In response, many State and local governments across the country instituted stay-at-home orders, which mandated individuals to stay confined to their homes except for essential activities such as to shop for groceries or to seek medical attention. Because older individuals were at a higher risk of hospitalization and death from complications of COVID-19, the Centers for Disease Control and Prevention advised those individuals, including those who typically received meals and nutrition services at locations that served meals in group settings (congregate meals), to minimize their in-person interactions with the general public. Consequently, there was an increased need for home-delivered meals.

In response to the pandemic, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to provide expedited, direct economic assistance to Americans.<sup>1</sup> Among many other things, the CARES Act provided approximately \$480 million for the Older Americans Act (OAA) Nutrition Services Program in the form of grants awarded to States and territories. This program promotes the health and well-being of older individuals through nutrition services assistance, including home-delivered meals, and is administered by HHS's Administration for Community Living (ACL). ACL awarded the California Department of Aging (State agency) approximately \$50.2 million in CARES Act funds for the OAA Nutrition Services Program.

As the oversight agency for HHS, the Office of Inspector General (OIG) oversees HHS's COVID-19 response and recovery efforts. This audit is part of OIG's COVID-19 response strategic plan.<sup>2</sup> OIG also performed a similar audit to determine whether Missouri used CARES Act funds for the OAA Nutrition Services Program in accordance with Federal and State requirements.<sup>3</sup>

### OBJECTIVE

Our objective was to determine whether the State agency used CARES Act funds for the OAA Nutrition Services Program in accordance with Federal and State requirements.

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<sup>1</sup> The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. No. 116-136 (Mar. 27, 2020).

<sup>2</sup> OIG's COVID-19 response strategic plan and oversight activities can be accessed at [HHS-OIG's Oversight of COVID-19 Response and Recovery | HHS-OIG](#) (accessed on Apr. 11, 2024).

<sup>3</sup> OIG, *Missouri May Not Have Used All CARES Act Funds for the Older Americans Act Nutrition Services Program in Accordance With Federal and State Requirements* ([A-07-22-04130](#)), issued Apr. 3, 2024.

## **BACKGROUND**

### **Older Americans Act Nutrition Services Program**

Title III of the OAA authorizes the Nutrition Services Program to provide funding to States and territories to support nutrition services assistance to older individuals.<sup>4</sup> The purposes of this program are to reduce hunger and food insecurity and promote the socialization, health, and well-being of older individuals. The primary services provided under this program are home-delivered meals and congregate meals. Before the COVID-19 pandemic, the Nutrition Services Program generally provided home-delivered meals to those older individuals who were essentially homebound for health or other reasons. Other older individuals generally received services in the form of congregate meals, in furtherance of the program's stated intent of promoting socialization opportunities for older individuals.

Program eligibility is determined almost entirely by States and local entities; the only Federal requirement for participation in the program is that an individual receiving benefits be at least 60 years of age. Section 339 of the OAA expanded eligibility to include spouses of eligible individuals, individuals with disabilities who live with eligible individuals, and individuals with disabilities who live in housing facilities where mainly older adults live and where congregate meals are provided.

Section 305 of the OAA outlines requirements for a State or territory to be eligible to participate in the Nutrition Services Program. Among other things, these requirements specify that each State or territory must designate a State agency (referred to as the "State Unit on Aging" in some criteria) to be primarily responsible for all OAA activities in the State, including developing and administering the ACL-approved State plan.

### **CARES Act Funds for Older Americans Act Nutrition Services Program**

The CARES Act funding was structured such that all meals furnished to individuals under the OAA Nutrition Services Program were, as the pandemic continued, classified as home-delivered nutrition services. With this funding assistance, the structure and administration of this program shifted away from the provision of congregate meals because of physical distancing requirements and other pandemic-related measures. Although the CARES Act provided additional flexibilities to providers of these meal programs, such as the ability to purchase

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<sup>4</sup> The OAA, P.L. No. 89-73 (July 14, 1965). The most recent reauthorization of this act was the Supporting Older Americans Act, P.L. No. 116-131 (Mar. 25, 2020).

capital equipment and provide bags of groceries, it did not make changes to general program eligibility.<sup>5</sup>

ACL distributed CARES Act funding to the State agency for each State and Territory. The State agencies contract with Area Agencies on Aging (AAAs), which are public or private nonprofit agencies designated by the State to address the needs of older individuals in regional areas. AAAs may be categorized as a county, city, regional planning council or council of governments, private, or nonprofit. The flexible nature of this structure allows the State agency to ensure that each region in its State or Territory is receiving goods and services based on those areas' specific needs. AAAs may also enter into agreements with local service providers to offer congregate and home-delivered meals.

According to ACL guidance, ACL issued CARES Act funds under a separate grant award number; these funds must therefore be accounted for separately from Nutrition Services Program funds awarded as part of regular Title III OAA funding.<sup>6</sup> Additionally, States are required to maintain appropriate records and documentation to support the charges against the Federal awards.

### **The California Department of Aging**

The State agency is responsible for developing and implementing the State Plan on Aging (State plan) for California's OAA Nutrition Services Program. Accordingly, the State agency is responsible for developing and implementing programs designed to protect older individuals and individuals with disabilities, and it is responsible for the oversight of programs authorized under Title III of the OAA. The State agency annually performs programmatic and financial monitoring of OAA activities, including some monitoring of the AAAs' Nutrition Services Program activities. The State agency relied on guidance from ACL for administering and overseeing CARES Act funds (see footnote 6).

### **Area Agencies on Aging and Local Service Providers**

The State agency contracts with 33 AAAs, which between them serve all 58 counties and the city of Los Angeles. A map of the areas served by the AAAs in California appears as Appendix B. The AAAs are the primary administrators of the OAA Nutrition Services Program and are responsible for developing and administering programs for adults aged 60 and older who have the greatest social or economic need. To this end, the State plan requires each AAA to submit an area plan to the State agency for review and approval.

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<sup>5</sup> The CARES Act allowed for expanded eligibility during the period of the COVID-19 public health emergency, specifying that "the same meaning shall be given to an individual who is unable to obtain nutrition because the individual is practicing social [physical] distancing due to the emergency as is given to an individual who is homebound by reason of illness."

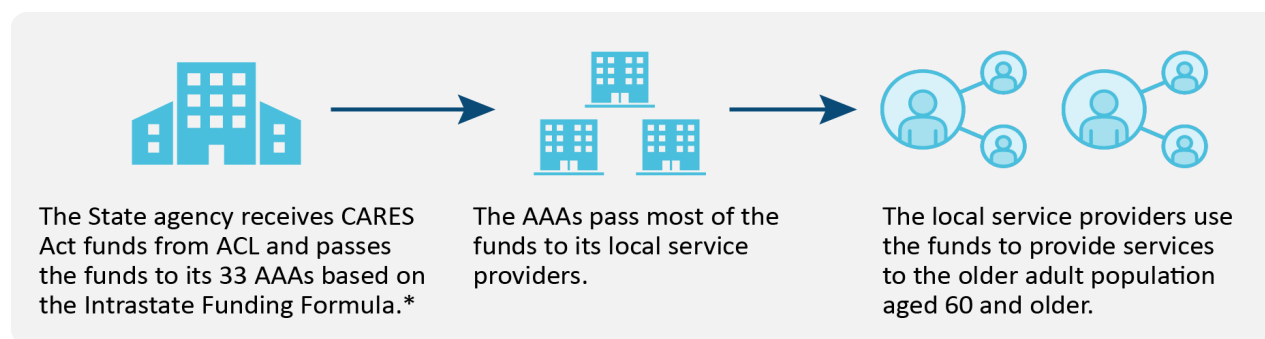
<sup>6</sup> ACL, [OAA COVID-19 Guidance: Comprehensive Guide Reference](#) (updated July 8, 2020).

ACL awarded \$50.2 million in CARES Act funds to the State agency for the OAA Nutrition Services program for the CARES Act award period: April 1, 2020, through September 30, 2021.<sup>7</sup> The State agency allocated CARES Act funds for:

- State operations (\$2.5 million),
- pooled local assistance (\$2.5 million), and<sup>8</sup>
- its AAAs according to the funding formula requirements prescribed in the OAA (\$45.2 million).

The AAAs, in turn, passed through \$37.2 million (82 percent) of the CARES Act funds received for OAA Nutrition Services to its local service providers to provide meal services during the COVID-19 pandemic. The AAAs retained \$8 million (18 percent) for their expenses related to providing meal services. Figure 1 describes the flow of CARES Act funds from the State agency to the local service providers.

**Figure 1: Flow of CARES Act Funds**



\* The State plan prioritizes the provision of services to older individuals who have the greatest economic and social needs (with particular attention to low-income, older individuals, including low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) in accordance with the OAA, section 305(a)(2)(E).

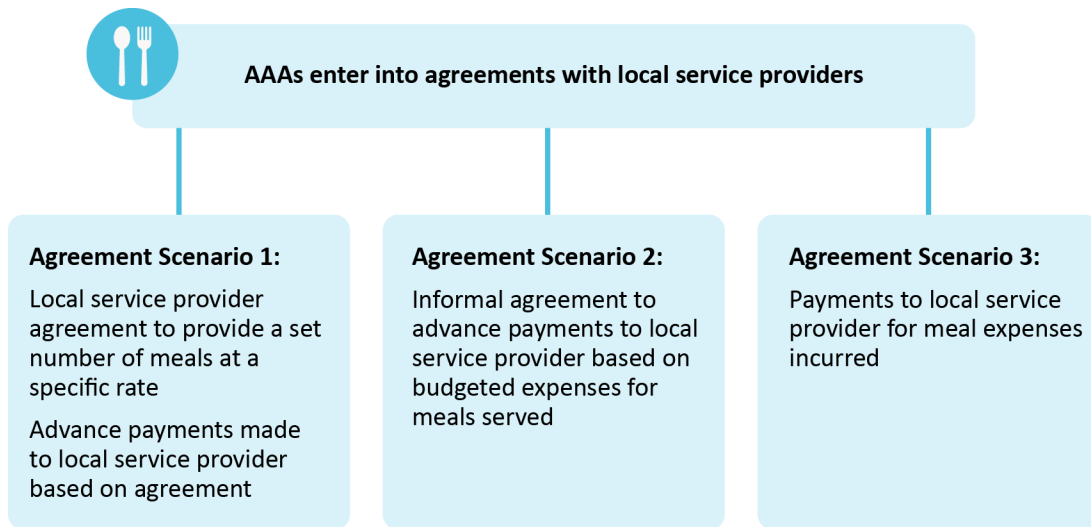
When the AAA enters into agreements with local service providers, the AAA is to ensure all applicable provisions required within the agreement with the State agency are included in the subcontract(s) (22 CCR §§ 7352-7364).<sup>9</sup> According to State agency officials, the State agency does not have legal oversight on contracts or agreements between the AAA and its local service providers. Figure 2 describes the various agreements in place between AAAs and local service providers.

<sup>7</sup> The AAAs were given an extension through September 30, 2022, to expend CARES Act funds.

<sup>8</sup> Funds are reserved as “pooled local assistance” for priority investments for shared services, resources, projects, and initiatives.

<sup>9</sup> California Code of Regulations (22 CCR 7352 to 7364) <https://govt.westlaw.com/calregs>.

**Figure 2: Area Agencies on Aging Agreements With Local Service Providers**



## **HOW WE CONDUCTED THIS AUDIT**

We reviewed the State agency’s policies and procedures and evaluated measures that the AAAs implemented to administer the OAA Nutrition Services Program for the CARES Act award period of April 1, 2020, through September 30, 2021 (audit period).

Our audit covered 2,605 general ledger expenditure transactions (transactions), totaling \$39,644,551, that the 33 AAAs recorded as OAA Nutrition Services Program home-delivered meal expenditures during our audit period. We selected a stratified random sample of 100 transactions for review. We reviewed supporting documentation for the 100 selected transactions (which totaled \$12,115,055) to analyze the State agency’s use of CARES Act funds for the OAA Nutrition Services Program.

We interviewed State agency staff and staff from the 33 AAAs to gather information that helped us evaluate the State agency’s oversight of the OAA Nutrition Services Program implemented by AAAs and, more specifically, to determine compliance with requirements governing the use of CARES Act funds for the program.

We conducted this performance audit 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.

Appendix A contains the details of our audit scope and methodology, Appendix C contains our statistical sampling methodology, and Appendix D contains the sample results and estimates.

## FINDINGS

The State agency did not use CARES Act funds for the OAA Nutrition Services Program in accordance with Federal and State requirements, or the documentation was not sufficient to determine whether the funds were used in accordance with Federal and State requirements. On the basis of our sample results, we estimated that the State agency claimed unallowable costs under the CARES Act totaling at least \$1,087,459.

In addition, we found that AAAs or local service providers could not always provide adequate support for us to determine whether expenses claimed under the CARES Act were allowable. Therefore, we are setting aside \$2,484,631 in estimated claimed costs for ACL resolution. These issues occurred because the State agency did not have adequate policies and procedures requiring the AAAs to review the support for expenses incurred by its local service providers to ensure that the costs claimed as CARES Act expenses were sufficiently documented and supported. The lack of adequate policies and procedures requiring the review of supporting documentation puts Federal dollars at risk for fraud, waste, and abuse.

Furthermore, the State agency did not effectively safeguard CARES Act funds by minimizing the time between the advanced payment of funds to AAAs and the AAAs' disbursement of funds for direct program costs. This issue occurred because the State agency did not follow its own policy. As a result, AAAs sometimes had excessive CARES Act funds on hand during the reporting period, which can increase the risk for waste or mismanagement.

### **THE STATE AGENCY DID NOT ENSURE CARES ACT FUNDS WERE USED IN ACCORDANCE WITH FEDERAL AND STATE REQUIREMENTS**

Federal regulations (45 CFR § 75.302(b)(3)) stipulate that the grant recipient's records must identify the source and application of funds for federally funded activities and must be supported by source documentation. Additionally, Federal regulations (45 CFR § 75.352(6)(d)) stipulate that all pass-through entities must monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved.

California regulations (22 CCR §§ 7636.7(b) and (c)) state that the nutrition services provider must establish procedures to comply with 22 CCR § 7500(c) that ensure the accuracy and authenticity of the number of eligible participant meals served each day. Such procedures must be kept on file at the provider's site. Nutrition services provider records and reports must be made available for audit, assessment, or inspection by authorized representatives of the AAA or the Department. The Standard Agreement for contracts between the State agency and the AAAs states that the contractor is responsible for resolving its contracts with subcontractors and determining whether funds provided under this agreement are expended in accordance

with applicable laws, regulations, and provisions of contracts or agreements.<sup>10</sup> The contractor must, at a minimum, perform contract resolution within 15 months of the “Financial Closeout Report.”

Appendix F contains details on the Federal and State requirements and guidance relevant to our findings.

### **Certain CARES Act Expenditures Were Not in Compliance With Federal and State Requirements**

The State agency did not ensure that AAAs reviewed local service provider expenses that were charged against CARES Act funds to determine whether the expenses were allowable and adhered to Federal and State requirements. For 11 of the 100 sample items reviewed, the State agency made payments of \$483,573 to AAAs for nutrition services that were not in compliance with Federal or State requirements.

For example, the State agency made CARES Act payments to AAAs for:

- expenses that were not supported with documentation maintained by the AAAs’ local service provider, which included supplies, rent, and consulting;
- payment for food items made to an AAA’s local service provider that was for more than the vendor’s submitted invoices, resulting in an overpayment; and
- local service provider payments based on the number of meals reportedly served, even though local service providers and AAAs were unable to support the actual number of meals provided.

On the basis of our sample results, we estimated that the State agency claimed unallowable costs under the CARES Act totaling at least \$1,087,459.

During the audit period, AAAs reconciled local service providers’ reported costs with the allocated funds. However, they did not always request or review documentation from the local service providers to support the costs claimed, which would identify whether the funds had been used for authorized purposes.

The State agency did not have adequate policies and procedures to ensure that the AAAs were reviewing expenses incurred by local service providers to ensure that costs claimed as CARES Act expenses were sufficiently supported. Additionally, the State agency did not require AAAs to obtain supporting documentation from local service providers, nor did it require the AAAs to ensure local service providers maintained the supporting documentation.

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<sup>10</sup> The Standard Agreement outlines the terms of the contract between the State agency and the AAA and includes the scope of work and payment provisions.

## **The State Agency Did Not Have Sufficient Documentation for Certain CARES Act Expenditures To Determine Whether They Complied With Federal and State Requirements**

The State agency did not ensure that documentation was sufficient to determine whether expenses paid with CARES Act funds were allowable. For 14 of the 100 sample items reviewed, the State agency made payments of \$1,726,401 to AAAs for nutrition services that we could not determine whether they complied with Federal or State requirements based on the documentation provided.

For example, the State agency made CARES Act payments to the AAAs for:

- local service provider expenses that were not supported with sufficient documentation to determine whether the expenses were related to providing nutrition services, including expenses for health and wellness, salaries, insurance, and indirect costs;
- the number of meals served, which did not reconcile with the number of meals invoiced, and without the sufficient supporting documentation we could not determine how many allowable meals were provided; and
- the purchase of emergency kits that included food and a variety of items unrelated to home-delivered meals (e.g., emergency radio, duct tape, poncho, and walking cane).<sup>11</sup>

Because documentation that supports expenses was not sufficient, we are unable to determine whether an estimated \$2,484,631 of CARES Act funds was spent appropriately and in accordance with Federal and State requirements.

The State agency did not have adequate policies and procedures to ensure the AAAs were reviewing the expenses incurred by its local service providers. Therefore, costs claimed as CARES Act expenses were not sufficiently documented and supported. Additionally, the State agency did not require AAAs to obtain the supporting documentation from its local service providers, nor did it require the AAAs to ensure that its local service providers maintained the supporting documentation.

During the audit period, AAAs performed a reconciliation of local service provider-reported costs with the funds distributed; however, they did not request or review documentation from the local service provider to support the costs claimed, which could be used to verify that the funds were used for authorized purposes.

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<sup>11</sup> We were unable to determine the individual cost of the unallowable items within the emergency kits because the cost of the individual items within the emergency kit was not itemized.

## **THE STATE AGENCY DID NOT EFFECTIVELY SAFEGUARD CARES ACT FUNDS**

Federal regulations (45 CFR § 75.305(a)) stipulate that payments to States are governed by the Treasury-State Cash Management Improvement Act agreements and procedures codified at 31 CFR part 205. States must minimize the time elapsing between the transfer of funds from the State's payout of funds for Federal assistance program purposes and must limit the amount of funds transferred to the minimum required amount (31 CFR § 205.11). Additionally, each State must expend and account for the Federal award in accordance with its own State laws and procedures (45 CFR § 75.302(a)). The State agency's Program Memo 20-18 stated that AAAs were eligible for their final 25-percent allocation of CARES Act funds upon reporting expenditures of the initial 75-percent of the CARES Act allocations.<sup>12</sup>

The State agency did not minimize the time that elapsed between advance payment of CARES Act funds to AAAs and the AAAs' disbursement of funds for direct program costs. For example, AAAs had received advanced payment of their CARES Act funds totaling \$45.2 million (100 percent) by July 2021 and had reported expenses of only \$31.2 million (69 percent) during that same timeframe. As of September 30, 2021, the AAAs in California had approximately \$9 million (20 percent) of CARES Act funds that remained unspent. See Appendix E for details related to the amount of home-delivered meal funds the AAAs had on hand during the audit period.

The State agency did not follow its Program Memo 20-18, which required AAAs to report expenditures related to the initial 75-percent of distributed CARES Act funds. The 75-percent threshold must be met for the AAAs to be eligible to receive the final 25-percent allocation under the CARES Act. Instead, the State agency advanced payments for the final 25-percent allocation regardless of whether the AAA had reported the initial 75-percent of expenditures.

## **CONCLUSION**

The State agency did not have adequate policies and procedures to ensure the AAAs were reviewing the expenses incurred by its local service providers. Without the requirement to validate or support the number of meals served or services provided, there is no assurance that CARES Act funds were used to provide the nutrition services to older Americans in need during the COVID-19 pandemic. The lack of adequate policies and procedures requiring the review of supporting documentation puts Federal dollars at risk for fraud, waste, and abuse. In addition, the State agency did not minimize the time that elapsed between advance payment of CARES Act funds to AAAs and the AAAs' disbursement of funds for direct program costs. As a result, AAAs sometimes had excessive CARES Act funds on hand during the reporting period, which can increase the risk for waste or mismanagement.

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<sup>12</sup> State agency, Program Memo 20-18, reissued: July 31, 2020. Accessed at <https://aging.ca.gov> on Feb. 26, 2024.

## RECOMMENDATIONS

We recommend that the California Department of Aging:

- refund the estimated \$1,087,459 of CARES Act funds that were not in compliance with Federal and State requirements,
- work with ACL to determine the allowability of the estimated \$2,484,631 in local service provider expenses and refund any amount determined to be unallowable,
- clarify in the Standard Agreement that AAAs review local service provider expenses to ensure they are documented and supported, and
- update procedures to include approving advanced payments as close as administratively feasible to when the AAAs will expend the funds.

### STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency did not indicate concurrence or nonconcurrence with our recommendations. The State agency partially agreed or did not agree with our findings. The State agency provided what it believes is important context to some findings and outlined actions it has taken and plans to take to address the findings.

A summary of the State agency's comments and our responses follows. The State agency's comments are included in their entirety as Appendix G.

### THE STATE AGENCY DID NOT ENSURE CARES ACT FUNDS WERE USED IN ACCORDANCE WITH FEDERAL AND STATE REQUIREMENTS

#### Certain CARES Act Expenditures Were Not In Compliance With Federal and State Requirements

##### *State Agency Comments*

The State agency disagreed with our finding that it did not ensure CARES Act funds were used in accordance with Federal and State requirements. The State agency indicated that it prioritizes fiscal accountability of the AAAs and compliance with laws, regulations, and the terms and conditions of awards by performing fiscal monitoring on a biennial basis and programmatic monitoring every 4 years. In addition, State agency staff verify whether performance goals are achieved, and awards are used for authorized purposes. The State agency noted that it has completed 8 of 33 fiscal audits of the AAAs' use of CARES Act funds and has identified \$50,807 in recoverable funds. The State agency stated that it will continue to recover funds that are not allowable or supported, or both, during its fiscal audits.

The State agency partially agreed that certain CARES Act expenditures were not in compliance with Federal and State requirements. The State agency agreed that the AAAs may have made payments for unsupported costs because the State agency does not always request or review documentation from the AAAs to support costs claimed. However, the State agency noted that it regularly audits the AAAs and recovers funds for unsupported expenditures.

Finally, the State agency commented that OIG's audit failed to provide a full representation of the State agency's grant and audit process. Specifically, OIG's audit scope was through September 30, 2021, and CARES Act expenditures were eligible through September 30, 2022, thus excluding 1 year in which to account for additional expenditures that would qualify for the CARES Act funding. The State agency added that it did not have the opportunity to address any of the issues related to the sample items until after the draft report was issued and was not provided time to research the specific findings of non-compliance.

#### *Office of Inspector General Response*

We commend the State agency for prioritizing fiscal accountability of the AAAs for compliance with laws, regulations, and terms and conditions of awards and for reviewing the AAAs' use of CARES Act funds and identifying recoverable funds. We agree with the State agency that the AAAs may have made payments for unsupported costs because documentation to support costs claimed was not always requested or reviewed.

We note that we set the audit scope's end date of September 30, 2021, to capture the most current data available at the start of this audit. Federal regulations require expenses claimed to have adequate documentation to support that the costs are allowable. Because the AAAs were unable to provide us with supporting documentation for certain CARES Act expenses, we maintain the validity of our findings.

With respect to the State agency's comment that it was not provided time to research findings related to our sample items, we note that throughout our fieldwork, the audit team communicated with the State agency regarding delays with obtaining support from the AAAs for specific sample item expenditures incurred at the local service provider level. The State agency also communicated to us challenges it faced with obtaining the documentation on our behalf and did not provide us additional documentation related to the specific sample items prior to issuance of this report. In addition, during an exit conference with the State agency to discuss our audit results, the audit team shared the number of errors and types of issues identified. The audit team finalized its analysis of the sample items and specific findings of non-compliance after the exit conference and subsequently issued the draft report to the State agency.

## **The State Agency Did Not Have Sufficient Documentation for Certain CARES Act Expenditures To Determine Whether They Complied With Federal and State Requirements**

### *State Agency Comments*

The State agency partially agreed with our finding that it did not ensure that documentation was sufficient to determine whether expenses paid with CARES Act funds were allowable. The State agency agreed that it does not require the AAAs to submit support for claimed costs. Rather, it performs audits and monitors the AAAs to ensure compliance and reviews supporting documentation. The State agency noted that its audits of the CARES Act funds are currently ongoing.

The State agency indicated that, as of July 1, 2023, it implemented new audit procedures, including an internal control assessment to gain an understanding of how AAAs ensure expenditures incurred by local service providers are supported and allowable. The State agency also stated that many local service providers are required to have what is known as a Single Audit that the AAAs rely on for accuracy and completeness of expenditures.<sup>13</sup>

### *Office of Inspector General Response*

We acknowledge that the State agency requires all AAAs to be responsible for compliance with Federal regulations, including ensuring adequate supporting documentation. However, we found that not all the AAAs reviewed expenses incurred by local service providers to ensure expenses are supported, accurate, and allowable. Our determination regarding the State agency's enforcement of its policies and procedures is unchanged.

We commend the State agency for implementing new audit procedures to gain an understanding of how AAAs ensure that expenditures incurred by local service providers are supported and allowable. However, because these procedures were implemented after the end of our audit period, we have not confirmed their implementation.

## **THE STATE AGENCY DID NOT EFFECTIVELY SAFEGUARD CARES ACT FUNDS**

### **State Agency Comments**

The State agency disagreed with our finding that it did not minimize the time that elapsed between the advance payment of CARES Act funds to AAAs and the AAAs' disbursement of funds for direct program costs. The State agency stated that the CARES Act funds were disbursed in stages according to its Program Memo 20-18 and based on reported quarterly

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<sup>13</sup> A Single Audit is an organization-wide financial statement and Federal awards' audit of a non-Federal entity that expends \$750,000 or more in Federal funds in 1 year. <https://www.hhs.gov/about/agencies/asfr/data-act-program-management-office/single-audit/index.html>

expenditures. Once AAAs reported expenditures of their initial 75 percent of CARES Act funding, they would receive the remaining 25 percent.

**Office of Inspector General Response**

We acknowledge that CARES Act funds were disbursed in stages; however, our review identified that some AAAs had not met the initial 75-percent threshold requirement to be eligible to receive the final 25 percent distribution of CARES Act funds. Therefore, our determination regarding this finding remains unchanged.

## APPENDIX A: AUDIT SCOPE AND METHODOLOGY

### SCOPE

We reviewed the State agency's policies and procedures and evaluated measures that the AAAs implemented to administer the OAA Nutrition Services Program for the CARES Act award period April 1, 2020, through September 30, 2021 (audit period).

Our audit covered 2,605 transactions totaling \$39,644,551 that the 33 AAAs recorded as OAA Nutrition Services Program expenditures during our audit period. We selected a stratified random sample of 100 transactions for review. We reviewed supporting documentation for the 100 selected transactions (which totaled \$12,115,055) to analyze the State agency's use of CARES Act funds for the OAA Nutrition Services Program.

We interviewed State agency staff and staff from the 33 AAAs to gather information that helped us evaluate the State agency's oversight of the OAA Nutrition Services Program implemented by AAAs and, more specifically, to determine compliance with requirements governing the use of CARES Act funds for the program.

We determined that the State agency's control activities, information and communication, and monitoring were significant to the audit objective. We reviewed the State agency's documentation of responsibilities through policies and assessed the State agency's efforts to conduct periodic review of control activities for the program. We also reviewed the State agency's information requirements and reviewed external communication with the AAAs for the Nutrition Services Program. Finally, we reviewed the State agency's internal control system monitoring and evaluation of issues and corrective actions for California's OAA Nutrition Services Program.

We performed audit work from March 2022 through June 2024.

### METHODOLOGY

To accomplish our objective, we performed the following steps:

- We reviewed applicable Federal and State regulations, policies, and guidance. Specifically, we reviewed the OAA, the CARES Act, ACL program guidance, including CARES Act flexibilities for the OAA Nutrition Services Program, the California Code of State Regulations, and the California State Plan on Aging.
- We interviewed State agency officials to obtain an understanding of California's OAA Nutrition Services Program and the State agency's oversight of the program.
- We assessed the design and implementation of internal controls applicable to our objective.

- We verified the amount of CARES Act funds that California received for the OAA Nutrition Services Program.
- We reconciled the State agency's records with financial reports that the State agency submitted to ACL for CARES Act funds for the Nutrition Services Program.
- We reviewed the State agency's allocation of CARES Act funds to AAAs for California's OAA Nutrition Services Program to determine whether funds were allocated in compliance with Federal and State requirements.
- We reviewed State agency programmatic and financial monitoring reports for the AAAs' OAA activities before and during our audit period.
- We surveyed and interviewed AAA staff to evaluate how the AAAs used CARES Act funds for the OAA Nutrition Services Program and to further evaluate the State agency's program oversight.
- We performed testing for the use of CARES Act OAA Nutrition Services Program funds by selecting a stratified random sample of 100 expenditure transactions from the 2,605 transactions that the 33 AAAs recorded as OAA Nutrition Services Program home-delivered meal expenditures during our audit period.
- We reviewed the AAAs' supporting documentation for the selected transactions to determine, to the extent possible, whether the State agency used CARES Act OAA Nutrition Services Program funds in accordance with Federal and State requirements.
- We discussed the results of our audit with State agency officials on February 7, 2024.

We conducted this performance audit 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.

## APPENDIX B: CALIFORNIA PLANNING AND SERVICE AREAS

The State is divided geographically into 33 Planning and Service Areas (PSAs). Within each PSA is one AAA responsible for planning and administering services for seniors.

### PSA/County

- PSA 1:** Del Norte, Humboldt
- PSA 2:** Lassen, Modoc, Shasta, Siskiyou, Trinity
- PSA 3:** Butte, Colusa, Glenn, Plumas, Tehama
- PSA 4:** Nevada, Placer, Sacramento, Sierra, Sutter, Yolo, Yuba
- PSA 5:** Marin
- PSA 6:** San Francisco
- PSA 7:** Contra Costa
- PSA 8:** San Mateo
- PSA 9:** Alameda
- PSA 10:** Santa Clara
- PSA 11:** San Joaquin
- PSA 12:** Alpine, Amador, Calaveras, Mariposa, Tuolumne
- PSA 13:** San Benito, Santa Cruz
- PSA 14:** Fresno, Madera
- PSA 15:** Kings, Tulare
- PSA 16:** Inyo, Mono
- PSA 17:** San Luis Obispo, Santa Barbara
- PSA 18:** Ventura
- PSA 19:** Los Angeles
- PSA 20:** San Bernardino
- PSA 21:** Riverside
- PSA 22:** Orange
- PSA 23:** San Diego
- PSA 24:** Imperial
- PSA 25:** Los Angeles City
- PSA 26:** Lake, Mendocino
- PSA 27:** Sonoma
- PSA 28:** Napa, Solano
- PSA 29:** El Dorado
- PSA 30:** Stanislaus
- PSA 31:** Merced
- PSA 32:** Monterey
- PSA 33:** Kern



## APPENDIX C: STATISTICAL SAMPLING METHODOLOGY

### SAMPLING FRAME

The sampling frame consisted of an Excel worksheet containing 2,605 transactions totaling \$39,644,551 that AAAs recorded as OAA Nutrition Services Program home-delivered meal expenditures from April 1, 2020, through September 30, 2021. These transaction line items are non-netting transactions and have a value equal to or greater than \$100.<sup>14</sup>

### SAMPLE UNIT

The sample unit is a general ledger expenditure transaction.

### SAMPLE DESIGN AND SAMPLE SIZE

Our sample design was a stratified random sample containing three strata, as shown in Table 1:

**Table 1: Division of Strata for Sample Design**

<b>Stratum</b>	<b>Dollar Range</b>	<b>Number of Frame Units</b>	<b>Frame Dollar Value</b>	<b>Sample Size</b>
1	\$100 to \$11,841	2,047	\$4,316,888	15
2	\$11,981 to \$97,010	471	16,479,915	40
3	\$103,314 to \$646,103	87	18,847,748	45
	<b>Total</b>	<b>2,605</b>	<b>\$39,644,551</b>	<b>100</b>

For the transactions with multiple line items, we selected the top six unique dollar line items to review. We reviewed all line items that consisted of the same amount as the top six unique dollar line items. We considered line items we did not review as non-errors.

### SOURCE OF RANDOM NUMBERS

We generated the random numbers using the OIG, Office of Audit Services (OAS), statistical software.

### METHOD OF SELECTING SAMPLE ITEMS

We sorted the items in each stratum by date and amount and then consecutively numbered the items in each stratum in the sampling frame. A statistical specialist generated the random

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<sup>14</sup> Our sample covered all 2,605 transactions in our sampling frame but did not cover all of the \$39,644,551 in line items associated with these transactions. For each selected transaction with multiple line items, we reviewed the six highest dollar line items. We considered the remaining line items in the selected transaction to be low risk and treated them as allowable for the purpose of our statistical estimate.

numbers for our sample according to our sample design, and we selected the corresponding frame items for review.

## **ESTIMATION METHODOLOGY**

We used the OIG, OAS, statistical software to estimate the unallowable and potentially unallowable transactions in the sampling frame at the lower limit of the two-sided, 90-percent confidence interval (Appendix D). Lower limits calculated in this manner are designed to be less than the actual overpayment total 95 percent of the time.

**APPENDIX D: SAMPLE RESULTS AND ESTIMATES**

**Table 2: Sample Details and Results**

<b>Stratum</b>	<b>Frame Size</b>	<b>Value of Frame</b>	<b>Sample Size</b>	<b>Value of Sample</b>	<b>Number of Unallowable Transactions in Sample</b>	<b>Value of Unallowable Transactions in Sample</b>	<b>Number of Potentially Unallowable Transactions</b>	<b>Value of Potentially Unallowable Transactions</b>
1	2,047	\$4,316,888	15	\$39,035	0	\$0	1	\$4,100
2	471	16,479,915	40	1,455,840*	6	213,385	3	40,849
3	87	18,847,748	45	10,620,180 <sup>†</sup>	5	270,188	10	1,681,452
<b>Total</b>	<b>2605</b>	<b>\$39,644,551</b>	<b>100</b>	<b>\$12,115,055</b>	<b>11</b>	<b>\$483,573</b>	<b>14</b>	<b>\$1,726,401</b>

\* Because of the methodology used to review transactions with multiple line items, we did not review \$5,772 of this stratum, and we treated it as allowable for our estimate.

† Because of the methodology used to review transactions with multiple line items, we did not review \$1,366,107 of this stratum, and we treated it as allowable for our estimate.

**Table 3: Estimated Value of Unallowable Transactions in the Sampling Frame  
(Limits Calculated at the 90-Percent Confidence Level)**

<b>Estimate Description</b>	<b>Point Estimate</b>	<b>Lower Limit</b>	<b>Upper Limit</b>
Amount of unallowable transactions	\$3,034,973	\$1,087,459	\$4,982,488
Amount of potentially unallowable transactions	\$4,291,3202	\$2,484,631	\$6,098,008

**APPENDIX E: CARES ACT HOME-DELIVERED MEAL FUNDS REMAINING UNSPENT AT THE AAAs  
AS OF SEPTEMBER 30, 2021**

<b>Date</b>	<b>Home-delivered Meal Funds Disbursed to the AAAs</b>	<b>Home-delivered Meal Expenditures Reported by AAAs</b>	<b>CARES Act Home-delivered Meal Funds Remaining at the AAAs</b>
July 2020	\$20,121,033	\$0	\$20,121,033
August 2020	6,687,772	0	26,808,805
September 2020	0	2,198,625	24,610,180
October 2020	7,140,489	1,918,846	29,831,823
November 2020	0	1,221,359	28,610,464
December 2020	0	1,172,823	27,437,641
January 2021	0	2,125,963	25,311,678
February 2021	6,571,286	3,079,966	28,802,998
March 2021	0	4,728,321	24,074,677
April 2021	0	4,219,758	19,854,919
May 2021	2,882,225	2,565,197	20,171,947
June 2021	0	5,471,889	14,700,058
July 2021	1,751,957	2,447,744	14,004,271
August 2021	0	2,192,237	11,812,034
September 2021	0	2,678,628	9,133,406
<b>CARES Act Home-delivered Meal Funds Remaining Unspent as of September 30, 2021</b>			<b>\$9,133,406</b>

## APPENDIX F: FEDERAL AND STATE REQUIREMENTS AND GUIDANCE

### FEDERAL REGULATIONS

Federal regulations (31 CFR §§ 205.11 (a) and (b)) stipulate that a State and a Federal Program Agency must minimize the time elapsing between the transfer of funds from the United States Treasury and the State's payout of funds for Federal assistance program purposes, whether the transfer occurs before or after the payout of funds. A State and a Federal Program Agency must limit the amount of funds transferred to the minimum required to meet a State's actual and immediate cash needs.

Federal regulations (45 CFR § 75.302 (a)) stipulate that each State must expend and account for the Federal award in accordance with State laws and procedures for expending and accounting for the state's own funds. In addition, the State's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions, and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

Federal regulations (45 CFR §§ 75.302(b)(2) and (3)) stipulate that the financial management system of each grant recipient must provide accurate, current, and complete disclosure of the financial results of each Federal award or program. The grant recipient's records must identify the source and application of funds for federally funded activities and must be supported by source documentation.

Federal regulations (45 CFR § 75.305(a)(1)) stipulate that for States, payments are governed by Treasury-State Cash Management Improvement Act agreements and default procedures codified at 31 CFR part 205 and *Treasury Financial Manual* 4A-2000 Overall Disbursing Rules for All Federal Agencies.

Federal regulations (45 CFR § 75.352(6)(d)) stipulate that all pass-through entities must monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved.

Federal regulations (45 CFR § 75.361) stipulate that financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of 3 years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of submission of the quarterly or annual financial report, respectively, as reported to the HHS awarding agency or pass-through entity in the case of a subrecipient.

## **CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT**

The CARES Act (footnote 1) made available Federal funds to prevent, prepare for, and respond to the COVID-19 pandemic for activities authorized under the OAA, including \$480 million for nutrition services (Division B, Title VIII). These funds could be used only to prevent, prepare for, and respond to the COVID-19 public health emergency (section 23004). The CARES Act further specified that each amount appropriated or made available by the CARES Act would be in addition to amounts otherwise appropriated for the Federal fiscal year involved (section 23001).

## **ADMINISTRATION FOR COMMUNITY LIVING GUIDANCE**

ACL issued guidance to States that they should be prepared to track the number of persons served, units provided, and related expenditures insofar as their use of CARES Act funds and other pandemic-related funds were concerned. ACL guidance required funds to be expended on allowable OAA activities as defined by the OAA and State and local policy. In addition, the guidance directed States to separately track and report other sources of funding, including supplemental funding under the Families First Coronavirus Response Act, P.L. No. 116-127 (Mar. 18, 2020) and the CARES Act. States are required to continue maintaining appropriate records and documentation to support the charges against the Federal awards (footnote 6).

## **STATE REGULATIONS**

California Code of Regulations (22 CCR §§ 7636.7(b) and (c)) states:

- (b) The nutrition services provider shall establish procedures in order to comply with subsection 7500(c) of this Division, which ensure[s] the accuracy and authenticity of the number of eligible participant meals served each day. Such procedures shall be kept on file at the provider's site.
- (c) Nutrition services provider records and reports shall be made available for audit, assessment, or inspection by authorized representatives of the AAA, or the Department.

California Code of Regulations (22 CCR § 7500(c)) states services providers shall:

- (1) Comply with the terms and conditions of the contracts with the AAA.
- (2) Not subcontract any interest or obligation from a contract with an AAA without the written agreement of the AAA.
- (3) Provide complete, accurate programmatic and fiscal reports to the AAA.

## **STATE STANDARD AGREEMENT WITH AREA AGENCIES ON AGING**

The Standard Agreement for contracts between the State agency and the AAAs states:

The Contractor shall have the responsibility for resolving its contracts with subcontractors to determine whether funds provided under this agreement are expended in accordance with applicable laws, regulations, and provisions of contracts or agreements. The Contractor shall, at a minimum, perform contract resolution within fifteen months of the “Financial Closeout Report.”

Contract resolution includes:

- ensuring that subcontractors expending \$750,000 or more in Federal awards during the subcontractor’s fiscal year have met the audit requirements of 2 CFR § 200.501 - 200.521 and 45 CFR § 75.501 - 75.521 and
- reconciling expenditures reported to the contractor to the amounts identified in the single audit or other type of audit if the subcontractor was not subject to the single audit requirements.

## APPENDIX G: STATE AGENCY COMMENTS

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY

GAVIN NEWSOM Governor

**CALIFORNIA DEPARTMENT OF AGING**

2880 Gateway Oaks Drive, Suite 200  
Sacramento, CA 95833  
www.aging.ca.gov  
TEL 916-419-7500  
FAX 916-928-2267  
TTY1-800-735-2929



Patricia Wheeler  
Regional Inspector General for Audit Services  
Department of Health and Human Services  
Office of Inspector General

July 29, 2024

Dear Patricia Wheeler:

We appreciate the efforts of the OIG auditors performing an audit of the CARES Act Funds.

Please see the California Department of Aging response to the Department of Health and Human Services, OIG draft report *California Used CARES Act Funds for Unallowable Nutrition Services Program Expenditures*.

Respectfully,

Handwritten signature of Susan DeMarois in blue ink.

Susan DeMarois  
Director  
California Department of Aging

**Finding 1:**

**The State Agency did not ensure CARES Act funds were used in accordance with Federal and State requirements.**

Federal regulations (45 CFR § 75.302(b)(3)) stipulate that the grant recipient's records must identify the source and application of funds for federally funded activities and must be supported by source documentation. Additionally, Federal regulations (45 CFR § 75.352(6)(d)) stipulate that all pass-through entities must monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved.

RESPONSE: CDA does not agree with this finding. As a pass-through entity of federal and state funds, CDA prioritizes fiscal accountability of the AAAs and compliance with laws, regulations, and terms and conditions of awards. CDA performs fiscal monitoring of subrecipients on a biennial basis and programmatic monitoring every four years. Monitoring procedures include ensuring the AAAs are in compliance with federal and state laws, regulations, policies, contracts, and grant agreements. Additionally, CDA staff verify whether performance goals are achieved, and awards are used for authorized purposes.

Process and timing issues of the OIG audit fail to provide a full representation of the CDA's grant and audit process. Specifically, the OIG audit's scope ends September 30, 2021; however, the CARES expenditures are eligible through one year later – September 30, 2022. There is an entire year excluded from the audit which may account for additional expenditures that would qualify for the CARES funding. CDA conducts audits one to two years after the end of a contract term and is in the process of auditing all the AAAs for the allowable use of the CARES funds. Our audits include procedures to ensure claimed expenditures are allowable costs supported by source documentation.

Further, OIG did not provide CDA with the specific samples that were not supported until June 27, 2024, after the draft audit report was issued. CDA did not have the opportunity to address any of these issues during the

fieldwork of the audit and was not provided the time to research all the instances of non-compliance specific findings.

**CORRECTIVE ACTION:** As of the date of this response, CDA has completed 8 of 33 audits of the AAAs use of CARES Act funds and identified \$50,807 in recoverable funds. CDA will continue its regular audit and monitoring schedules of AAAs and will recover funds that are not allowable and/or supported.

In its fiscal audits, CDA will ensure that it reviews the transactions included in the OIG sample of unsupported expenses. CDA will recover any funds related to activities and expenses that are unsupported or unallowable and remit these funds to ACL after each AAA audit is completed.

California regulations (22 CCR §§ 7636.7(b) and (c)) state that the nutrition services provider must establish procedures to comply with 22 CCR § 7500(c) to ensure the accuracy and authenticity of the number of eligible participant meals served each day. Such procedures must be kept on file at the provider's site. Nutrition services provider records and reports must be made available for audit, assessment, or inspection by authorized representatives of the AAA or the Department. The Standard Agreement for contracts between the State agency and the AAAs states that the contractor is responsible for resolving its contracts with subcontractors and determining whether funds provided under this agreement are expended in accordance with applicable laws, regulations, and provisions of contracts or agreements. The contractor must, at a minimum, perform contract resolution within 15 months of the "Financial Closeout Report."

**RESPONSE:** In the monitoring visits described above, CDA always requests the AAA's Title III C Policy and Procedure manual. CDA reviews the AAA's manual to validate whether the written procedures include that the AAA ensure authenticity and accuracy of the number of meals served.

**Finding 2:**  
**Certain CARES Act expenditures were not in compliance with Federal and State requirements.**

The State agency did not ensure that AAAs reviewed local service provider expenses that were charged against CARES Act funds to determine whether the expenses were allowable and adhered to Federal and State requirements. For 11 of the 100 sample items reviewed, the State agency made payments of \$483,573 to AAAs for nutrition services that are not in compliance with Federal or State requirements.

For example, the State agency made CARES Act payments to AAAs for:

- expenses that were not supported with documentation maintained by the AAAs' local service provider, which included supplies, rent, and consulting;
- payment for food items made to a local service provider of an AAA that was more than the vendor invoices submitted, resulting in an overpayment; and
- local service provider payments based on the number of meals reportedly served, even though local service providers and AAAs were unable to support the actual number of meals provided.

On the basis of our sample results, we estimated that the State agency claimed unallowable costs under the CARES Act totaling at least \$1,087,459.

During the audit period, AAAs reconciled local service providers' reported costs with the allocated funds. However, they did not always request or review documentation from the local service providers to support the costs claimed, which would identify whether the funds had been used for authorized purposes.

**RESPONSE:** CDA partially agrees with the finding. As explained in the response to Finding 1, CDA ensures AAA compliance through audits and monitoring. CDA does not always request or review documentation from the AAAs to support the costs claimed; therefore, CDA agrees that the AAAs may have made payments for unsupported costs. However, as explained in the response to Finding 1, CDA does audit the AAAs and recovers funds for unsupported expenditures.

**CORRECTIVE ACTION:** As of the date of this response, CDA has completed 8 of 33 audits of the AAAs CARES funds and identified \$50,807

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in recoverable funds. CDA will continue its regular audit and monitoring schedules of AAAs and will recover funds that are not allowable and or supported.

One unallowable transaction for \$84,921.79 in rental costs was identified by OIG because the AAA didn't have a Memorandum of Understanding for the period the rental costs were incurred. CDA auditors identified this same issue, but for different funding sources. This is identified as Finding 2 in the audit report issued April 17, 2024. The audit report is attached for OIG review. This audit's scope ended June 30, 2021, and therefore didn't include the CARES Act funding as that contract term ended September 30, 2022. However, as this issue was discovered with the other funding sources, it would be a high-risk item during the next audit which scope would include the CARES funds. This CDA audit finding demonstrates that CDA is reviewing AAA expenses to ensure they are allowable and adhere to Federal and State requirements.

The State agency did not have adequate policies and procedures to ensure that the AAAs were reviewing the expenses incurred by its local service providers to ensure that the costs claimed as CARES Act expenses were sufficiently documented and supported. Additionally, the State agency did not require AAAs to obtain the supporting documentation from its local service providers, nor did it require the AAAs to ensure its local service providers maintained the supporting documentation.

RESPONSE: CDA does not agree with the finding. CDA requires all AAAs be responsible for upholding all federal regulations, including ensuring adequate source documentation, when a AAA subcontracts with a local provider. Specifically, CDA enforces the regulations set forth in the Code of Federal Regulations:

Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the State under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to guidelines set forth in 2 CFR 200.302 and 45 CFR 75.302, the expenditures will be

questioned in the audit and may be disallowed by CDA during the audit resolution process.

CDA's policies and procedures to ensure the AAAs are reviewing expenses incurred by the local service providers are explained in the response to Finding 1. CDA audits AAA to ensure expenses are supported, accurate, and allowable. These CDA audit policies are documented in the audit program in the software TeamMate+. CDA also carries out fiscal monitoring to ensure funds are used for authorized purposes. Both bi-annual audits and monitoring include procedures to determine how the AAAs monitor their local service providers.

**CORRECTIVE ACTION:** CDA will continue to audit and monitor the AAAs to ensure they are reviewing their local provider expenses. CDA will recover any funds of unsupported expenses and remit the funds to ACL as necessary.

**Finding 3:**

**The State agency did not have sufficient documentation for certain CARES Act expenditures to determine whether they complied with Federal and State requirements.**

The State agency did not ensure that documentation was sufficient to determine whether expenses paid with CARES Act funds were allowable. For 14 of the 100 sample items reviewed, the State agency made payments of \$1,726,401 to AAAs for nutrition services that we could not determine whether they complied with Federal or State requirements based on the documentation provided.

For example, the State agency made CARES Act payments to the AAAs for:

- local service provider expenses that were not supported with sufficient documentation to determine whether the expenses were related to providing nutrition services, including expenses for health and wellness, salaries, insurance, and indirect costs;

- the number of meals served, which did not reconcile with the number of meals invoiced, and without the sufficient supporting documentation we could not determine how many allowable meals were provided; and
- the purchase of emergency kits that included food and a variety of items unrelated to home-delivered meals, (e.g., emergency radio, duct tape, poncho, and walking cane).

Because documentation that supports expenses was not sufficient, we are unable to determine whether an estimated \$2,484,631 of CARES Act funds was spent appropriately and in accordance with Federal and State requirements.

The State agency did not have adequate policies and procedures to ensure that the AAAs were reviewing the expenses incurred by its local service providers to ensure that the costs claimed as CARES Act expenses were sufficiently documented and supported. Additionally, the State agency did not require AAAs to obtain the supporting documentation from its local service providers, nor did it require the AAAs to ensure its local service providers maintained the supporting documentation.

**RESPONSE:** CDA partially agrees with the finding. CDA agrees it does not require the AAAs to submit support for claimed costs. However, as stated in the other responses, CDA performs audits and monitoring of all the AAAs to ensure compliance and reviews supporting documentation. Audits of the CARES funds are currently ongoing, and as of the date of this response, CDA audits have identified \$50,807 of unsupported costs that are in the process of being recovered.

As of July 1, 2023, CDA implemented new audit procedures. These procedures include an extensive review of the AAA's internal control systems over funds passed through by CDA. Part of the internal control assessment includes gaining an understanding of how the AAA ensures expenditures incurred by its local service providers are supported and allowable.

CDA requires the AAAs to perform their own monitoring of their local providers to ensure compliance and that the local providers have

supporting documentation for the claimed expenditures. This monitoring was suspended for a time during the COVID emergency but is fully underway now. Additionally, many of the local service providers are required to get a Single Audit by a CPA. The AAAs rely on the Single Audit for accuracy and completeness of expenditures.

Finally, California was granted the Major Disaster Declaration (MDD) under the Stafford Act. This allowed AAAs maximum flexibility with all Title III and CARES Act funding. Section 310(c) permits states to use any portion of the funds made available under any, and all, sections of the Act for disaster relief for older individuals. The OIG samples cited in the finding state that many of the expenses lack adequate documentation to determine the expenses are reasonable and allowable. OIG did not provide CDA with the opportunity to review the documentation for these samples. Given the flexibility of the MDD, CDA's lack of time to review OIG's sample, and our lack of opportunity to discuss these findings with the AAAs, CDA cannot attest that the expenses are not allowable or unreasonable. Again, CDA will ensure that that transactions captured in OIG's sample are included in CDA's AAA audits and will recover and remit to ACL any disallowed or unsupported costs.

**CORRECTIVE ACTION:** CDA will continue to audit and monitor the AAAs to ensure they are reviewing their local provider expenses. CDA will recover any funds of unsupported expenses and remit to ACL as necessary.

**Finding 4:**

**The State agency did not effectively safeguard CARES Act funds.**

Federal regulations (45 CFR § 75.305(a)) stipulate that payments to States are governed by the Treasury-State Cash Management Improvement Act agreements and procedures codified at 31 CFR part 205. States must minimize the time elapsing between the transfer of funds from the State's payout of funds for Federal assistance program purposes and must limit the amount of funds transferred to the minimum required amount (31 CFR § 205.11). Additionally, each state must expend and account for the Federal award in accordance with its own State laws and procedures (45 CFR § 75.302(a)). The State agency Program Memo 20-18 stated that

AAAs were eligible for their final 25 percent allocation of CARES Act funds upon reporting expenditures of the initial 75 percent of the CARES Act allocations.

The State agency did not minimize the time that elapsed between advance payment of CARES Act funds to AAAs and the AAAs' disbursement of funds for direct program costs. For example, AAAs had received advanced payment of their CARES Act funds totaling \$45.2 million (100 percent) by July 2021 and had reported expenses of only \$31.2 million (69 percent) during that same timeframe. As of September 30, 2021, the AAAs in California had approximately \$9.0 million (20 percent) of CARES Act funds that remained unspent. See Appendix E for details related to the amount of home-delivered meal funds the AAAs had on hand during the audit period.

The State agency did not follow its Program Memo 20-18, which required AAAs to report expenditures related to the initial 75 percent of distributed CARES Act funds. The 75 percent threshold must be met for the AAAs to be eligible to receive the final 25 percent allocation under the CARES Act. Instead, the State agency advanced payments for the final 25 percent allocation regardless of whether the AAA had reported the initial 75 percent of expenditures.

**RESPONSE:** CDA does not agree with this finding. The CARES Act funds were not paid out in one disbursement. The CARES Act funds were released in stages, as stated in Program Memo in PM 20-18, based upon expenditures reported on the quarterly reporting dates listed. The AAAs that spent 25% of their FFCRA funding received the initial 75% of CARES Act funding. Once the AAAs reported the expenditure and/or obligation of the initial 75% of the CARES Act funding, they were disbursed the final 25%.

**CORRECTIVE ACTION:** None.

In closing, CDA appreciates the opportunity to respond to the OIG and their preliminary findings. We understand the importance of this funding for Californians and will continue to collaborate with the AAAs to ensure that all federal and state funds are used appropriately for the intended purposes

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and compliant with all laws, regulations, and terms and conditions of awards.

# Report Fraud, Waste, and Abuse

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Anyone who suspects fraud, waste, and abuse should report their concerns to the OIG Hotline. OIG addresses complaints about misconduct and mismanagement in HHS programs, fraudulent claims submitted to Federal health care programs such as Medicare, abuse or neglect in nursing homes, and many more. [Learn more about complaints OIG investigates.](#)

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## Who Is Protected?

Anyone may request confidentiality. The Privacy Act, the Inspector General Act of 1978, and other applicable laws protect complainants. The Inspector General Act states that the Inspector General shall not disclose the identity of an HHS employee who reports an allegation or provides information without the employee's consent, unless the Inspector General determines that disclosure is unavoidable during the investigation. By law, Federal employees may not take or threaten to take a personnel action because of [whistleblowing](#) or the exercise of a lawful appeal, complaint, or grievance right. Non-HHS employees who report allegations may also specifically request confidentiality.

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U.S. Department of Health and Human Services  
Office of Inspector General  
Public Affairs  
330 Independence Ave., SW  
Washington, DC 20201

Email: [Public.Affairs@oig.hhs.gov](mailto:Public.Affairs@oig.hhs.gov)