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PERFORMANCE REVIEW DEPARTMENT OF EDUCATION

AUDIT OVERVIEW

The West Virginia Department of Education Lacks Adequate Capacity or Structure to Monitor Local School Districts' Use of Federal Emergency Education Funds Which Has Resulted in an Increased Risk of Fraud, Waste, and Abuse of these Funds



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**John Sylvia
Director**

November 13, 2023

The Honorable Jack Woodrum
West Virginia State Senate
Building 1, Room 214W
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Charleston, WV 25305-0470

The Honorable Chris Phillips
West Virginia House of Delegates
Room 213E, Building 1
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Charleston, WV 25305-0470

Dear Chairs:

Pursuant to the West Virginia Performance Review Act, we are transmitting a Performance Review of the Department of Education. The issue covered herein is: *"The West Virginia Department of Education Lacks Adequate Capacity or Structure to Monitor Local School Districts' Use of Federal Emergency Education Funds Which Has Resulted in an Increased Risk of Fraud, Waste, and Abuse of these Funds."*

We transmitted a draft copy of the report to the Department of Education on October 5, 2023. We received the agency response on October 12, 2023. Please let me know if you have any inquiries on this report.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

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EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD), within the Office of the Legislative Auditor, conducted an Agency Review of the West Virginia Department of Education (WVDE) pursuant to West Virginia Code §4-10-8. The objective was to determine whether the WVDE and local education agencies (LEAs) are following procedures for sub-recipient audits. The issues of this report are highlighted below.

Frequently Used Acronyms in This Report:

ARP - American Rescue Plan
CARES - Coronavirus Aid, Relief, and Economic Security
COVID - Coronavirus Disease
CRSSA - Coronavirus Response and Relief Supplemental Appropriations
ESEA - Elementary and Secondary Education Act
ESSER – Elementary and Secondary School Emergency Relief
GPS - Grants and Planning System
LEA – Local Education Agency
OASIS - Our Advanced Solution with Integrated Systems
OFP - Office of Federal Programs
PERD – Performance Evaluation and Research Division
SEA - State Educational Agency
SOS- Secretary of State
USDOE – United States Department of Education
WVBE – West Virginia Board of Education
WVDE – West Virginia Department of Education

Report Highlights:

The West Virginia Department of Education Lacks Adequate Capacity or Structure to Monitor Local School Districts’ Use of Federal Emergency Education Funds Which Has Resulted in an Increased Risk of Fraud, Waste, and Abuse of these Funds

- Beginning in March 2020, the WVDE received nearly \$1.2 billion in ESSER funds, most of which has been distributed to LEAs in support for areas impacted by COVID-19.
- The agency reported that the OFP used three personnel to conduct cyclical monitoring of ESSER I funds for 54 counties.
- Out of the 54 West Virginia school districts reviewed by OFP monitors for ESSER I grants, 37 LEAs were deemed noncompliant for improper purchasing procedures, using funds for unallowable activities, and/or exceeding indirect cost rates.
- After the WVDE reported 37 LEAs were deemed noncompliant, no risk assessment was completed by the agency to determine if more staff should be hired to maintain adequate oversight.
- The OFP has recovered from ESSER I \$134,554.08 from a total of 19 LEAs and \$323,302 from ESSER II and ARP ESSER funds from 13 LEAs.

- Of the 29 LEAs that the WVDE determined were compliant with proper purchasing procedures, PERD’s review of the same transactions found that 7 transactions, totaling over \$285,000, were noncompliant.
- Because the OFP’s cyclical monitoring does not consider if vendors are registered to do business in the State, the vast majority of LEAs made federal grant purchases with unregistered vendors totaling over \$2.1 million.
- Results of ESSER II/ARP monitoring by the OFP preceded an ongoing Special Circumstance Review of Upshur County that highlighted use of federal funds on unallowable costs, and identified internal control issues.
- The OFP’s review of Logan County should have flagged a \$500,000 contract for virtual education services that did not follow competitive bidding procedures or establish a written contract.
- Preliminary findings from the ESSER II/ARP cyclical monitoring reports suggest similar issues of non-adherence of purchasing guidelines with eight counties being repeat offenders.

PERD’s Response to the WVDE’s Written Response

The WVDE provided its response on October 12, 2023 (Appendix C). With respect to the first recommendation, the agency stated that most of its employees are on restricted payroll for other areas within the OFP, and the few individuals who are not restricted do not have expertise in financial auditing. Regarding the second recommendation, the WVDE stated that it is not feasible to employ additional employees to assist with fiscal monitoring because the remaining ESSER monies are set to expire in September 2024, which is “*just ten months*” from this recommendation being offered. The agency accepts, and has indicated plans to implement, recommendations 3 – 8.

Because the final round of COVID monies contain the largest sum out of the three ESSER grants, PERD maintains that the WVDE should still attempt to utilize the administrative portion of ESSER funds to hire additional temporary staff to assist with fiscal monitoring, despite the September 2024 deadline. The agency missed seven different ESSER I purchases that were non-compliant for proper purchasing procedures, and ARP ESSER monitoring will be dealing with a grant award totaling over \$761.9 million. Therefore, PERD asserts that it would still be advisable to add more monitoring personnel beyond the four coordinators, one program assistant, and one director currently on staff under the Office of ESEA Programs.

Recommendations

1. *The WVDE should increase its monitoring and internal controls capacity by assigning more personnel to assist with cyclical monitoring.*
2. *Consideration should be given by the WVDE to use the administrative portion of ESSER funds to hire additional temporary staff to assist in the fiscal monitoring.*
3. *The fiscal monitoring process should be established in writing with specifics on what program monitors should examine. Such monitoring instruments should instruct program monitors to examine*

if vendors are registered with the Secretary of State, list every type of purchasing violations that should be reviewed, specify key aspects of internal control that must be reviewed, such as segregation of duties, the approval chain of command, the proper use of P-cards and credit cards, and other specific elements of internal control as the WVDE determines appropriate.

4. *The WVDE should renew its communication with LEAs to re-emphasize proper purchasing procedures.*
5. *The WVDE should routinely review purchasing practices of LEAs during non-emergency conditions to reinforce proper purchasing procedures.*
6. *When appropriate, the WVDE should encourage LEAs to utilize alternative procurement options designated by Policy 8200, such as educational services cooperatives and pre-existing state contracts that permit “piggybacking” to facilitate purchasing processes during states of emergency.*
7. *The WVDE should incorporate in Policy 8200, and in the monitoring instrument for ESSER monitoring, the requirement that LEAs use vendors that are appropriately registered with the SOS and State Tax Department to be authorized to do business in West Virginia.*
8. *The WVDE should clearly define which section of Policy 8200 applies to LEAs for ESSER-related purchases, and for purchases made in the future under potentially similar circumstances.*

ISSUE 1

The West Virginia Department of Education Lacks Adequate Capacity or Structure to Monitor Local School Districts' Use of Federal Emergency Education Funds Which Has Resulted in an Increased Risk of Fraud, Waste, and Abuse of these Funds

Issue Summary

The West Virginia Department of Education (WVDE) has received nearly \$1.2 billion in Elementary and Secondary Schools Emergency Relief (ESSER) funds through three separate federal Acts to support the safe reopening of schools and recover from the effects of the 2019 coronavirus disease pandemic (COVID-19) on the academics, social, emotional, and mental health of students. A stipulation of receiving these emergency federal grant funds is for the WVDE to implement an adequate capacity for appropriate fiscal monitoring and internal control over the use of the funds to ensure they are used for allowable purposes and to guard against potential sources of waste, fraud, and abuse. The Performance Evaluation and Research Division (PERD) finds that the WVDE implemented a fiscal monitoring and internal control system; however, its capacity is inadequate for ensuring proper use of ESSER funds, and the structure lacks specific criteria that should be reviewed in all cases. **Consequently, there are more violations the system is not detecting than it is finding.** The evidence of this is revealed in that the WVDE reviewed samples of ESSER I transactions from 54 local education agencies (LEAs), 29 of which were determined compliant with proper purchasing procedures; however, PERD reviewed those same transactions and found 7 of the 29 LEAs were non-compliant with required purchasing practices, such as not following proper bid protocol, failing to solicit the correct number of bids for larger contracts, lacking appropriate bid documentation, and many vendors used were not registered to do business with the State of West Virginia. In addition, ESSER II reviews are ongoing, and several LEAs have repeated similar violations that they were cited for under ESSER I monitoring.

The WVDE's fiscal monitoring system has missed some instances of improper procurement practices by local school districts, and the overall impact is that the risk of fraud, waste, and abuse is increased, with the likelihood of funds not being used for intended purposes. Although the U.S. Department of Education (USDOE) required and encouraged States to re-assess their capacities to monitor the ESSER funds from the American Rescue Plan Act and consider expanding capacity if needed, the WVDE continued to use no more than a total of five staff personnel to monitor the use of ESSER funds with most of the monitoring done by one to three individuals. It is permissible to hire additional staff using the administrative portion of ESSER funds to expand the State's monitoring

The Performance Evaluation and Research Division (PERD) finds that the WVDE implemented a fiscal monitoring and internal control system; however, its capacity is inadequate for ensuring proper use of ESSER funds, and the structure lacks specific criteria that should be reviewed in all cases.

Although the U.S. Department of Education required and encouraged States to re-assess their capacities to monitor the ESSER funds from the American Rescue Plan Act and consider expanding capacity if needed, the WVDE continued to use no more than a total of five staff personnel to monitor the use of ESSER funds with most of the monitoring done by one to three individuals.

capacity. According to the agency, out of ESSER I administrative expenditures, “No funds were allocated for cyclical monitoring or to pay any staff.” Further, while two positions were hired with ESSER II funds, and two positions were hired with ARP ESSER funds within the OFP, none of those positions “supported the cyclical monitoring of the ESSER grants.” **Therefore, the legislative auditor recommends the WVDE expand its monitoring capacity of ESSER funds and improve its structure.**

Beginning In March 2020, the WVDE Has Received Nearly \$1.2 Billion in ESSER Funds, Most of Which Has Been Distributed to Local Educational Agencies in Support for Areas Impacted by COVID-19

Shortly after President Donald Trump declared the Coronavirus disease (COVID-19) a state of emergency on March 13, 2020, he signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act on March 27, 2020. Among its provisions, the Act included specific funding sources for local boards of education, better known as LEAs. Section 18003 of the CARES Act established the Elementary and Secondary Schools Emergency Relief (ESSER) Fund to support areas impacted by the disruption and closure of schools from COVID-19. Also, ESSER funds were to assist in continuing educational services while schools were closed, assist in remote learning and to assist in developing and implementing plans for the return to normal operations. Funding was further supported under the Coronavirus Response and Relief Supplemental Appropriations (CRSSA) Act, Public Law No. 116-260 (December 27, 2020).

The American Rescue Plan also continued ESSER funding programs that were started under the CARES Act and supplemented under the CRSSA Act to further enable states to safely reopen schools for in-person instruction, and to address the learning disruption resulting from the pandemic.

Under President Joe Biden, the American Rescue Plan (ARP) Act of 2021, Public Law No. 117-2 (March 11, 2021) was enacted. The ARP Act provided economic assistance for several sectors of the economy and governmental agencies. However, it also continued ESSER funding programs that were started under the CARES Act and supplemented under the CRSSA Act to further enable states to safely reopen schools for in-person instruction, and to address the learning disruption resulting from the pandemic. As with the CARES Act, the CRSSA and ARP ESSER funds were awarded to State Departments of Education, better known as State Educational Agencies (SEAs), which in turn would be allocated to LEAs to address the educational impact the COVID-19 pandemic had at the local level.

Table 1 outlines the three major emergency relief Acts directed towards elementary and secondary schools in the nation. ESSER funding that originated under the CARES Act in March 2020 is categorized as ESSER I. ESSER funding that was enacted through the CRSSA Act

in December 2020 is categorized as ESSER II, and ARP ESSER funds, enacted in March 2021, are sometimes categorized as ESSER III. West Virginia was awarded \$86,640,471 of ESSER I funds on May 7, 2020. On January 13, 2021, West Virginia was awarded \$339,032,096 in ESSER II funds, and West Virginia received ARP ESSER funding totaling \$761,960,095, two-thirds of which (\$507,611,952) was received March 24, 2021, and the remaining \$254,348,143 was received on July 15, 2021. The expiration dates of ESSER funds differ. ESSER I funds expired on September 30, 2022. ESSER II funds expire on September 30, 2023, and ARP ESSER funds expire on September 30, 2024. Any unexpended funds remaining after these deadlines are to be returned to the U.S. Department of Education (USDOE).

Any unexpended funds remaining after these deadlines are to be returned to the U.S. Department of Education (USDOE).

Table 1 ESSER Grant Fundings			
Topic	ESSER I Funding (CARES Act)	ESSER II Funding (CRSSA Act)	ARP ESSER Funding (ARP Act)
Authorizing Legislation	Section 18003 of Division B of the CARES Act	Section 313 of the CRSSA Act	Section 2001 of the ARP Act
Period of Funds Availability	Available for obligation by SEAs and subrecipients through September 30, 2021.	Available for obligation by SEAs and subrecipients through September 30, 2022.	Available for obligation by SEAs and subrecipients through September 30, 2023.
Expiration of Funds	September 30, 2022	September 30, 2023	September 30, 2024
ESSER Awards	\$86,640,471	\$339,032,096	\$761,960,095
<i>Source: U.S. Department of Education, Fact Sheets for CARES Act, CRSSA Act, American Rescue Plan Act, and ARP ESSER.</i>			

Table 2 shows the amount of unspent ESSER funds as of October 6, 2023. Nearly 100 percent of ESSER I monies have been spent. These unspent monies are expected to revert to the USDOE. Over 86 percent of ESSER II funds have been spent, leaving over \$45 million unspent as the State approaches the September 30, 2023 expiration date. Over \$467 million in ARP ESSER monies have yet to be spent with the expiration deadline being September 30, 2024 for those funds.

Table 2
ESSER Fund Balances as of October 6, 2023

Topic	ESSER I (CARES Act)	ESSER II (CRSSA Act)	ARP ESSER (ARP Act)
Amount Awarded	\$86,640,471	\$339,032,096	\$761,960,095
Amount Spent	\$86,613,872	\$293,875,018	\$294,427,526
Unspent Amount	\$26,599	\$45,157,108	\$467,532,569
Percent of Awarded Funds Spent	99.97%	86.7%	38.6%
Expiration of Funds	Sept. 30, 2022	Sept. 30, 2023	Sept. 30, 2024

Source: U.S. Department of Education, Economic Stabilization website (<https://covid-relief-data.ed.gov/profile/state/WV>), as of October 6, 2023.

West Virginia Submitted a State Plan for ARP ESSER Funds to the U.S. Department of Education on June 7, 2021

The USDOE required each state to submit a State Plan by June 7, 2021, for its intended use of ARP ESSER funds. The USDOE was required to approve the SEA plan to make the State's remaining ARP ESSER allocation available for use. The USDOE approved West Virginia's State Plan on July 15, 2021. The State Plan was intended to be a blueprint on how local districts and schools in West Virginia could continue to reopen safely; support sustained access to in-person instruction throughout the summer and into the next year; and address the social, emotional, mental health and academic needs of students due to the impact of the coronavirus pandemic, particularly those students disproportionately impacted.

The USDOE required State Plans to respond to seven major components to ensure the proper and effective use of ARP ESSER funds. These sections are as follows:

1. Describing the State's Current Status and Needs,
2. Safely Reopening Schools and Sustaining Their Operations,
3. Planning for the Use and Coordination of ARP ESSER Funds,
4. Maximizing State-Level Funds to Support Students,
5. Supporting LEAs in Planning for and Meeting Students' Needs,
6. Supporting the Educator Workforce, and

The State Plan was intended to be a blueprint on how local districts and schools in West Virginia could continue to reopen safely; support sustained access to in-person instruction throughout the summer and into the next year; and address the social, emotional, mental health and academic needs of students due to the impact of the coronavirus pandemic, particularly those students disproportionately impacted.

7. Monitoring and Measuring Progress.

PERD decided to examine various components of the WVDE's State Plan and how it has responded to the USDOE's expectations. This current report focuses on the seventh component, Monitoring and Measuring Progress. However, there are two elements to Monitoring and Measuring Progress. One is fiscal monitoring as it relates to the USDOE requirement that States implement monitoring and internal controls to ensure that ESSER funds are used for allowable purposes and that they are safeguarded against waste, fraud, and abuse. The second element is measuring the progress of evidence-based programs that are designed to address learning loss and determine if the programs are having positive impacts or if changes in strategies are necessary. This report examines only the fiscal monitoring of ESSER funds. Another PERD report will review several aspects of the State Plan as they relate to measuring the extent of the pandemic's impact on student learning from lost instructional time, and the extent to which the WVDE is measuring the progress of evidence-based interventions in terms of their effectiveness or needs for alternative strategies.

The WVDE's State Plan Proposed a Fiscal Monitoring and Internal Controls System for All ESSER Funds to LEAs

In response to the USDOE's requirement for fiscal monitoring of ESSER funds, the WVDE proposed in its State Plan a fiscal monitoring system that consists of six components. These components are described as follows:

1. The State's LEAs will individually submit an ESSER Application through the WVDE Grants and Planning System (GPS) platform.
2. The WVDE E-Grants system and financial drawdown system provides detailed expenditure information to monitor the allowability of expenditures and the extent to which LEAs spent funding as they proposed within their applications.
3. The WVDE's financial system will allow LEAs to request, and the WVDE to approve, line-item transfers throughout the grant period.
4. The WVDE will monitor the provision of equitable services to non-public schools by reviewing equitable services allocations processes through the ESSER Application in the GPS platform.
5. The WVDE will monitor fund balances for this program quarterly to identify LEAs that are lagging in use of funding to assure that all funds are spent in a timely manner.

This current report focuses on the seventh component, Monitoring and Measuring Progress.

6. The WVDE will monitor LEA internal controls through the cyclical Elementary and Secondary Education Act (ESEA) Consolidated Monitoring process.

In essence, this proposed monitoring system would give the WVDE oversight and internal control of LEAs' proposed and actual expenditures of ESSER funding. The system, as proposed, would provide various elements of internal control such as organizational structure in which the WVDE assumes management authority over how ESSER funds are to be spent by LEAs, an approval process, providing knowledgeable WVDE personnel to support and assist LEAs, monitoring LEA expenditures, assessing the risk of improper use, and communicating appropriate information to LEAs in order to achieve the objectives of ESSER funding.

Although the WVDE Implemented Fiscal Monitoring and Internal Control of ESSER Grants, Its Capacity Is Inadequate

PERD reviewed documentation received from the WVDE to determine the extent to which the agency implemented the proposed fiscal monitoring system as it proposed. PERD did not examine the area of equitable services to non-public schools. The following subsections describe PERD's findings as they relate to the fiscal monitoring system.

1) Submission of ESSER Applications Using the GPS Platform

PERD finds that the WVDE, through its Office of Federal Programs (OFP), has implemented its proposed fiscal monitoring system. A review of fiscal years 2020, 2021 and 2022, which coincides with the funding applications for ESSER I, ESSER II and ARP ESSER, shows that all counties submitted applications and fiscal year budgets through the WVDE's GPS) platform for review. Once grant applications are approved by the counties, they are sent to OFP for its review and approval. Once approved by the OFP, counties receive an official grant award to accept and sign. The OFP's review of LEA applications provides a blueprint of what the LEAs intend to do, which also facilitates the OFP's monitoring of allowability issues by observing proposed grant activities and uses for all ESSER funds. Any type of proposed grant activity that are is not allowed can be flagged at this early review stage.

In essence, this proposed monitoring system would give the WVDE oversight and internal control of LEAs' proposed and actual expenditures of ESSER funding.

2) The WVDE E-Grants System and Financial Drawdown System

The WVDE’s E-Grant system was proposed to monitor the allowability of expenditures. However, the WVDE indicated that the E-Grant system is only used to approve and send out grant awards to counties, not to track expenditures. The WVDE stated that the E-Grant system allows it to run detail project financial reports to track budget and expenditures on grant awards. The OFP also reported, “*While the E-Grants system does not contain expenditure data it does house the official electronic grant award with approvals and required project code that the county is to use when coding all related expenditures. The grant award from E-Grants is used in conjunction with financial drawdown expenditure data as it contains the project code as well as the obligation dates and liquidation dates that the grantee is required to follow.*” PERD determined that although the E-Grant system is used for other oversight functions other than monitoring allowable expenditures as proposed, allowable expenditures are being monitored through a cyclical monitoring process which is discussed below.

3) Fund Balance Monitoring

One important area of the State Plan is for the WVDE to monitor ESSER fund balances quarterly to determine a county’s progress in spending these funds. Actual expenditures can also be monitored through quarterly project financial reports for each county. The OFP also uses the State’s Our Advanced Solution with Integrated Systems (OASIS) to monitor county drawdowns. These grant balance reports show the amount remaining on the grant award that the counties have available to drawdown. The reports are analyzed for actual grant activity to make sure that the county is encumbering and spending the grant awards timely. Since there are time limits on the use of ESSER funds, it is important for the WVDE to promptly identify when LEAs are lagging in spending ESSER funds for planned objectives. ESSER I balance logs indicate that as of March 31, 2023, five counties (Clay, Greenbrier, Kanawha, Lewis, Nicholas) did not spend all their ESSER I funds. However, the unspent funds were minimal with the average unspent being \$10,759. Table 2 above shows that the total unspent and expired ESSER I funds, as of October 6, 2023 is \$26,599. This is 0.03% of the \$86,640,471 awarded to the State. ESSER II and ARP ESSER quarterly reviews are ongoing. However, Table 2 above shows that as of October 6, 2023, over 86 percent of ESSER II funds have been spent and the expiration date for those funds is September 30th, 2023. Nearly 39 percent of ARP ESSER monies have been spent and the expiration date for those funds is September 30th, 2024.

ESSER I balance logs indicate that as of March 31, 2023, five counties (Clay, Greenbrier, Kanawha, Lewis, Nicholas) did not spend all their ESSER I funds. However, the unspent funds were minimal with the average unspent being \$10,759.

4) Monitoring Allowable Expenditures

An important responsibility for States receiving ESSER funds is to review LEA internal control over ESSER funds and monitor the LEA's use to ensure they spend on allowable goods and services. PERD finds that the OFP followed an extensive process in evaluating each LEA's internal control governing ESSER funds. According to the West Virginia State Plan, the OFP proposed to monitor all ESSER grants to LEAs by monitoring internal controls through the cyclical ESEA Consolidated Monitoring process. According to the OFP:

Internal Controls are reviewed during the county's scheduled monitoring. Monitoring is cyclical and based upon risk so not every county will get monitored every year. LEA's are required to upload their own Conflict of Interest policies and certifications. Interview questions are also completed to have the county explain their control process over allowability of costs, time and effort reporting, and equipment control. If the county has a purchasing or equipment control policy or equipment control policy in addition to the required state board policy they are also required to upload it for monitoring.

The OFP also stated, "*WVDE's monitoring protocol was designed based off of the monitoring protocol used by US ED to monitor States and Districts on the respective fund and considering the requirements of pass-throughs contained in the Federal Uniform Grant Guidance 2 CFR 200.*" For each of the seven ESSER I monitor indicators (questions), program compliance and or effectiveness is determined based on interview responses, supporting evidence provided by the LEA, as well as information gathered through the statewide WVEIS data collection and GPS.

Each LEA submits required documentation to assist the OFP in answering each monitoring indicator. Once the OFP has enough information to help answer each monitoring indicator, a rating for each is completed by the OFP program monitor of either compliance, meets compliance with recommendations, or does not meet compliance with a finding issued by the OFP. Ultimately, the monitoring report is completed by OFP, and forwarded to the county. For those counties that received a rating of non-compliance and a finding, the OFP initiates a corrective action plan that is reported within each report. PERD asked how many staff members conduct the monitoring process, the OFP reported that, "*There are 3 people that work on the monitoring of grantees. There is one main individual that does both the selections for the monitoring sample and that same individual does the findings and reporting. The other two assist with the programmatic aspects of the monitoring and the county communications.*"

PERD asked how many staff members conduct the monitoring process, the OFP reported that, "There are 3 people that work on the monitoring of grantees. There is one main individual that does both the selections for the monitoring sample and that same individual does the findings and reporting. The other two assist with the programmatic aspects of the monitoring and the county communications."

Once the report is completed by the OFP, a letter with the enclosed report is sent to each county requesting a written response acknowledging acceptance of each finding, corrective action, or recommendation. Counties are required to either submit the documentation that proves proper procedures were followed or to provide written procedures on how the LEA will ensure adherence to the proper procedure moving forward. However, *“If the district provides the information after a finding has been cited and in response to the report as a corrective action then the finding stays, and the county response becomes part of their corrective action plan file.”*

As of March 2023, all counties have been reviewed for their ESSER I funded program except Clay County. The agency indicated that Clay County was not reviewed because the monitoring is cyclical, so not every LEA would likely be reviewed. PERD inquired on Clay County because the magnitude of funds would warrant that all LEAs be reviewed, and it may further support the inadequate capacity of the monitoring process. The OFP reported that it has decided to monitor all LEAs every year until the money expires. The completion dates of each ESSER I review were between May 2022 and March 2023. ESSER II and ARP monitoring reviews started in September 2022 and are scheduled to be completed by the end of May 2023. As of June 9, 2023, 16 counties had not submitted information, therefore PERD could not conduct a complete formal review as was achieved with the ESSER I monitor reports.

The CARES Act enumerated 12 categories of allowable uses of the funds, all of which relate to preventing, preparing for, and responding to COVID-19.

Allowable Uses of ESSER Funds

The CARES Act enumerated 12 categories of allowable uses of the funds, all of which relate to preventing, preparing for, and responding to COVID-19. ESSER I funding under the CARES Act, Section 18003 (d) specified the following 12 allowable activities:

1. any activities authorized under the Elementary and Secondary Education Act, IDEA, Carl D. Perkins Career and Technical Education Act, Adult Education and Family Literacy Act, and McKinney-Vento;
2. coordination and preparedness and response efforts to LEAs with state, local, tribal, and territorial public health departments, and other relevant agencies, to prevent, prepare for and respond to the coronavirus;
3. providing resources for principals and other school leaders to address school specific needs;
4. activities that address unique needs of low-income children or

students with disabilities, English learners, racial and ethnic minorities students, experiencing homelessness and foster care youths, including how outreach and service delivery will meet the needs of each population;

5. developing and implementing procedures and systems to improve preparedness and response efforts of LEAs;
6. training and professional development for LEA staff on sanitation and minimizing the spread of infectious diseases;
7. purchasing supplies to sanitize and clean facilities operated by an LEA;
8. planning and coordination during long-term closures, including how to provide meals to eligible students, how to provide online learning technology to all students, how to provide guidance on meeting IDEA requirements and how to ensure other educational services can continue to be provided consistent with federal, state, and local requirements;
9. purchasing educational technology, which could include hardware, software, and connectivity, for students served by the LEA that aids in regular, substantive educational interaction between students and educators, including low-income students and students with disabilities;
10. providing mental health services and supports;
11. planning and implementing summer learning and supplemental afterschool program activities, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care; and
12. other activities necessary to maintain the operation and continuity of services in LEAs and continuing to employ existing staff.

Although ESSER II funding provided a few “additional” use categories to address learning loss; preparing schools for reopening; and testing, repairing, and upgrading projects to improve air quality in school buildings; these allowable uses were already permitted for ESSER funds under the CARES Act. These “additional” allowable categories as listed as follows:

13. addressing learning loss amount all students in all subgroups including by administering high quality, reliable assessments that can access student academic progress and assist educators in meeting student needs, including by using different instruction, implementing evidence-based activities to meet the comprehensive needs of students, proving information and assistance to parents

Although ESSER II funding provided a few “additional” use categories to address learning loss; preparing schools for reopening; and testing, repairing, and upgrading projects to improve air quality in school buildings; these allowable uses were already permitted for ESSER funds under the CARES Act.

and families and tracking student performance and engagement in distance learning environments;

14. school facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards and support student health needs; and
15. inspecting, testing, maintaining, repairing, replacing and upgrading projects to improve the indoor air quality in school facilities, including HVAC systems, filtering, purification and other air cleaning, fans, control systems, and window door repair and replacement.

The American Rescue Plan allows for uses permitted in the CARES Act and the ESSER II funding; however, ARP ESSER funding requires that LEAs reserve at least 20 percent of funds to address learning loss through establishing evidence-based interventions to ensure that the interventions respond to students' social, emotional, and academic needs, and address the disproportionate impact COVID-19 had on underrepresented student subgroups (major racial and non-racial groups). Such programs may consist of summer learning, extended day, comprehensive afterschool programs, or extended school year programs. Again, the general principles to determine allowable cost under ESSER funding are if the costs are associated with preventing, preparing for, and responding to COVID-19, including addressing learning loss.

The American Rescue Plan allows for uses permitted in the CARES Act and the ESSER II funding; however, ARP ESSER funding requires that LEAs reserve at least 20 percent of funds to address learning loss through establishing evidence-based interventions to ensure that the interventions respond to students' social, emotional, and academic needs, and address the disproportionate impact COVID-19 had on underrepresented student subgroups (major racial and non-racial groups).

The WVDE's Fiscal Monitoring System Identified Numerous Violations of Unallowable Expenditures and Improper Purchasing Procedures

As previously identified, the WVDE implemented its proposed fiscal monitoring system in response to the USDOE's directive for the ESSER grant funds. The system has the elements that provide for appropriate internal control. There is organizational structure in which LEAs must seek approval of their applications from the WVDE. The WVDE evaluates if:

- LEAs' applications are in line with the purposes and allowability of ESSER funding,
- technical assistance and information are communicated by the WVDE to LEAs,
- data collections allow the WVDE to identify LEAs that are lagging in spending ESSER funds,
- the level of risk of non-compliance can be assessed, and

- LEA expenditures can be monitored for allowability and proper procurement practices.

The OFP provided PERD with an understanding of the State’s monitoring of LEA transactions using ESSER funds. It indicated that it monitors LEAs in seven areas. These seven areas are listed as follows:

1. The LEA provides services to private school students and teachers in an equitable manner based on the needs of the private schools choosing to participate.
2. The LEA complies with all requirements for notification and consultation with private school officials.
3. The LEA only spends funds for allowable activities based on an approved ESSER Application.
4. The LEA does not exceed their approved indirect costs rate.
5. The LEA supports an updated equipment list for all federally funded purchased items (public and private schools) and conducts a physical inventory of all equipment (individual item cost of \$5K or more) at least once every two years.
6. The staff funded by ESSER I funds complete Time and Effort reports (monthly or semi-annual).
7. The LEA has a system of internal controls.

For the most part, the OFP conducts a “Desk Review” of information that LEAs are required to upload and that the OFP obtains from other sources.

Items 3, 4, and 7 are of particular interest in this audit report. These categories address the issues of whether LEAs spent ESSER I funds on allowable activities (Item 3), which also considers whether the LEA purchased goods and services following proper purchasing procedures. Item 4 determines if LEAs exceeded the approved rate for indirect costs. Items 3 and 4 could find that the LEA must reimburse the federal funds by the amount of the violations. Item 7 examines if the LEA has a system of internal control in place by reviewing the LEA’s written policies and procedures.

For the most part, the OFP conducts a “Desk Review” of information that LEAs are required to upload and that the OFP obtains from other sources. The OFP reported, “*During monitoring we receive and review transaction activity reports that contain 100% of the current activity on the grant award. From those reports we then select a sample of transactions to request supporting documentation for.*” Regarding sampling, the OFP reported, “*The monitoring team looks through all of the transactions and picks a sample based upon their review of the population. It is not completely random because they will pick items that could appear questionable to them, high dollar items that would exceed*

bid thresholds, constructions items that appear to be subject to Davis Bacon. So, it is more of a mix of small random selections and larger targeted selections.”

Between May 2022 and March 2023, the WVDE conducted ESSER I cyclical monitoring reviews for all West Virginia LEAs, except Clay County. As a standard monitoring protocol, WVDE personnel requested and reviewed a sample of purchases, policies and procedures, financial data, and other information consistent with the seven areas of review. Appendix I shows the number of invoices and vendors represented by the samples, and the dollar amounts represented in the sample as a percentage of total ESSER I allocations for the 54 counties reviewed. Of the \$77.2 million allocated in total to these 54 LEAs in ESSER I funds, \$27.2 million, or approximately 35 percent, is represented in the sample. There is a wide variation in the percentages of allocated amounts reviewed ranging from 3 to 99 percent.

Table 3 below shows that of the 54 LEAs reviewed, 37 were deemed noncompliant in a combination of review areas 3, 4, or 7. As Table 3 shows, these LEAs had a combination of non-compliance findings involving exceeding the approved indirect cost rate, using funds for unallowable activities, or failing to follow proper competitive bid procedures, established in the WVDE’s Code of State Rules §Title 126, Series 202, better known as Policy 8200. This policy establishes the purchasing policies and procedures that LEAs are required to follow in purchasing goods and services. With certain modifications, Policy 8200 is patterned after the basic procurement policies and procedures established by the West Virginia Purchasing Division.

The supporting documentation provided by LEAs to the OFP, prior to a finding, may contain purchase orders, invoices, copies of checks, bid documentation, and internal control policies and procedures. Of the 37 LEAs that were deemed non-compliant in the three areas of focus, 21 were non-compliant due to the LEAs not following Policy 8200 for at least one of the invoices reviewed by the WVDE’s program monitors. Table 3 shows that these purchasing infractions involved transactions that totaled over \$1.5 million within the samples. The infractions varied, such as:

- lack of public advertising for the request for bids,
- a lack of the required number of competitive bids,
- lack of required number of written bids,
- lack of support for a sole-source purchase, and
- insufficient or no bid documentation being found or uploaded for OFP to review.

Counties that are deemed non-compliant are requested to either submit documentation by a specified date to support the purchases or to ensure proper bidding requirements will be adhered to moving forward

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and, in some instances, the OFP can request for a recovery of funds. Table 3 shows that 18 LEAs exceeded the indirect cost rate in the amount of \$90,316. This amount will need to be reimbursed to the federal grant by the respective LEAs. According to a July 2023 report, the OFP has recovered \$134,554.08 of ESSER I funds from a total of 19 LEAs and \$323,302 of ESSER II and ARP ESSER funds from 13 LEAs. Table 3 also shows that \$43,384 was determined to be unallowed activities under the ESSER I grant. These monies also will need to be reimbursed unless the LEA can provide documentation that the expenditures are allowable. When asked how much federal funding WVDE has recovered from LEAs since 2018 the OFP reported, “We do not keep summary data on the total amount of funds recovered across the department other than data provided for ARP and ESSER.”

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Table 3 ESSER I Funding Improper Purchasing Procedures, Excess Indirect Costs, and Unallowable Spending Activities				
LEA	Improper Purchasing Procedures	Unallowable Spending Amount	Exceeded Indirect Cost Rate	Description for Unallowable Activities
Barbour	\$26,954			
Boone	\$329,092			
Braxton			\$2,202	
Brooke	\$44,291			
Calhoun	\$85,939			
Doddridge	\$195,753		\$1,133	
Fayette			\$12,487	
Gilmer	\$91,294		\$290	
Greenbrier	\$97,329	\$22,500	\$459	Funds to various schools to forward funds to start the athletic and band seasons.
Hampshire	\$5,000			
Hancock	\$169,440		\$1,134	
Hardy	\$61,221			
Harrison	\$40,966			
Jackson	\$130,859			
Jefferson		\$8,066	\$10,401	Private schools reimbursement
Kanawha	\$11,036			
Lewis	\$13,337			
Lincoln			\$13,996	
Mason	\$53,685			
McDowell			\$1,506	

Table 3 ESSER I Funding Improper Purchasing Procedures, Excess Indirect Costs, and Unallowable Spending Activities				
LEA	Improper Purchasing Procedures	Unallowable Spending Amount	Exceeded Indirect Cost Rate	Description for Unallowable Activities
Mineral	\$25,999			
Mingo	\$16,360			
Monroe			\$159	
Morgan			\$283	
Nicholas		\$7,678		Private school reimbursement
Ohio			\$63	
Pleasants			\$2,596	
Pocahontas			\$255	
Preston	\$49,074			
Raleigh			\$9,703	
Randolph			\$1,342	
Ritchie			\$25,040	
Summers		\$140	\$7,267	Food provided to students who attended a seminar.
Taylor	\$8,634			
Upshur		\$5,000		Choir trip to D.C.
Wayne	\$11,998			
Wetzel	\$48,000			
Total	\$1,516,260	\$43,384	\$90,316	

Source: WVDOE ESSER I Cyclical Monitoring Documents

Although 21 counties were deemed non-compliant due to at least one invoice not adhering to Policy 8200 for improper purchasing procedures, 11 of the 20 counties (Boone, Brooke, Calhoun, Doddridge, Gilmer, Greenbrier, Hampshire, Hancock, Hardy, Mineral, and Preston) had multiple invoices that did not adhere to Policy 8200. Of the 21 counties listed, Taylor had until late August 2023 to respond, Doddridge had until June 2023 to respond, 9 LEAs (Barbour, Calhoun, Kanawha, Lewis, Mason, Mineral, Mingo, Wayne, Wetzel) stated proper bidding requirements will be followed in the future, 8 (Brooke, Gilmer, Greenbrier, Hancock, Hardy, Harrison, Jackson, Preston) provided documentation of why this occurred, and Boone responded so late the OFP “rolled it into their ESSER II/ARP monitoring.”

Of the 29 LEAs that the WVDE Determined Were Compliant with Proper Purchasing Procedures, PERD’s Review of the Same Transactions Found that 7 of Them Were Non-compliant

The previous subsection indicates that of the 54 LEAs that the OFP reviewed, 29 were determined to be compliant with the WVDE’s Policy 8200. However, PERD reviewed the same transactions of the 29 compliant LEAs and found that 7 of them had purchases that did not provide documentation in compliance with proper purchasing procedures. The agency provided a statement indicating that the same documentation PERD reviewed was also among the documentation the OFP reviewed. The statement was made by the WVDE’s Elementary and Secondary Education Act programs director to PERD in February 2023:

“We uploaded our entire files for each monitoring which also include trainings and information provided to the county. We thought it was easier to share the entire file with you all. We also uploaded the listings with what the counties provide.”

This indicates that there would have been the same absence of bid documentation during the OFP’s cyclical monitoring review, and therefore, should have been identified and questioned by the monitors at the time of the original review.

Table 4 below lists the seven LEAs that the OFP should have deemed non-compliant with Policy 8200. Most of these LEAs lacked bid documentation, and two of the samples also dealt with an absence of proper sole-source documentation. Collectively, the seven LEA samples in question contained improperly documented purchases totaling \$285,488. The individual purchase amounts ranged between \$6,000 - \$114,000. In a few examples of the sampled purchase documentation, the LEA acquired quotes, but not formal bids, for purchases over \$10,000. Section 7.11 of Policy 8200 differentiates between “bids” and “quotes” in various places, indicating that they are two separate methods that are not interchangeable when it comes to the competitive bid process.

Notably, three LEAs listed in Table 4 had transactions that totaled over \$50,000, which, as designated by section 7.11.5 of Policy 8200, requires public advertisement for the bid request “using such media as legal advertisements in local newspapers, the internet, trade journals, purchasing bulletins, mass mailings or other media considered advisable.” It is also required that “the solicitation for bids must specify that the bids are to be received in the form of sealed bids.” These requirements were not adhered to in these transactions. Most products listed in Table 4 were

Although 21 counties were deemed non-compliant due to at least one invoice not adhering to Policy 8200 for improper purchasing procedures, 11 of the 20 counties (Boone, Brooke, Calhoun, Doddridge, Gilmer, Greenbrier, Hampshire, Hancock, Hardy, Mineral, and Preston) had multiple invoices that did not adhere to Policy 8200.

commonly purchased with ESSER I funds by various LEAs throughout the state; however, other LEAs used a variety of vendors to purchase similar products outside of the vendors listed in the table. Therefore, evidence indicates that it was possible for the LEAs in Table 4 to secure bids from multiple sources for the same products.

Table 4 LEA Purchases Deemed Compliant By the WVDE that PERD Found Violated Proper Purchasing Procedures ESSER I Cyclical Monitoring Samples			
Purchase Amount	County District	Vendor	Description
\$114,000	Logan	Heritage Educational Services	Virtual learning
\$69,731	Berkeley	Mobile Citizen, LLC	Wireless Internet
\$59,745	Monroe	Pearson Online Academy	Virtual learning
\$15,563	Lincoln	Hubert Company	PPE dispensing cart
\$11,300	Marshall	National Equipment Co.	Hand sanitizer
\$8,800	Tyler	Houghton Mifflin Harcourt	Reading software
\$6,349	Monongalia	Flywheel	Desk shields
\$285,488			
Sources: LEA purchasing documentation and WVDE Cyclical Monitoring documentation.			

Furthermore, section 8.1 of Policy 8200, titled *Alternative Purchasing Procedures*, states, “The LEA may purchase equipment and other commodities or services directly from a vendor without competitive bidding” if:

- “The item is available from a statewide contract and ‘piggybacking’ by local government entities is permitted in the contract.”
- “The item is available from a local purchasing cooperative, such as a [regional educational service agency] or a group of county boards that are working together to use their combined purchasing volume to obtain more advantageous pricing through economies of scale.”

Evidence indicates that it was possible for the LEAs in Table 4 to secure bids from multiple sources for the same products.

PERD found examples of LEAs utilizing both types of the alternative purchasing procedures denoted above. County boards of education such as Logan and Preston, for example, piggybacked on the State’s contract with Liberty Distributors, which sells custodial supplies. Additionally, seven different LEAs used educational services

cooperatives to procure a variety of purchases, including virtual learning. Utilizing these alternative methods more frequently during the COVID-19 pandemic would have likely saved LEAs time, created more instances of compliance for cyclical monitoring, and reduced the amount of required bid documentation. **Therefore, to facilitate purchasing processes, the legislative auditor recommends that the WVDE encourage LEAs to utilize alternative procurement options designated by Policy 8200, such as educational services cooperatives and pre-existing state contracts that permit “piggybacking.”**

Utilizing these alternative methods more frequently during the COVID-19 pandemic would have likely saved LEAs time, created more instances of compliance for cyclical monitoring, and reduced the amount of required bid documentation.

The OFP’s Cyclical Monitoring Does Not Consider If Vendors Are Registered to Do Business in the State as the Vast Majority of LEAs Made Federal Grant Purchases with Unregistered Vendors

The vendors utilized for all purchases within the ESSER I samples were reviewed by PERD to verify registration with the West Virginia Secretary of State’s (SOS) business and licensing database. Table 5 shows that the sample contains a total \$2,170,932 spent by 48 of the 54 LEAs using unregistered vendors. Overall, the 48 LEAs completed 115 separate purchases involving 97 different unregistered vendors with ESSER I funds. Three of the vendors in question were previously in good standing with the SOS but held inactive/terminated status at the time of the purchase by the LEAs. Within the sample of invoices, 6 out of 54 LEAs used vendors that were properly registered with the SOS. All but two of the vendors listed in Table 5 are located outside of West Virginia, and based on the description of the purchases, the items were likely difficult to obtain during the COVID-19 pandemic.

Purchase Total	County School District	Number of Vendors	Description of Items Purchased
\$14,221	Barbour	3	Hand sanitizer, plexiglass barriers, masks
\$75,793	Berkeley	3	Wireless internet; desks and chairs
\$219,277	Boone	3	Partitions, masks, hand sanitizer, gloves
\$19,145	Braxton	3	Markerboards, food containers, bandages
\$19,558	Brooke	2	Seminar for school nurses, desk shields
\$242,954	Cabell	3	Desk shields, gloves, ear loop face masks
\$5,068	Calhoun	1	IT software, Bluetooth scanner
\$58,937	Doddridge	2	Body temperature detectors, stand-alone kiosks
\$27,825	Fayette	1	Industrial cleaner
\$3,668	Gilmer	1	Adobe Creative Cloud license
\$37,083	Grant	4	Water coolers, interactive white board
\$95,979	Greenbrier	5	Masks, gloves, tables, industrial cleaner
\$72,984	Hampshire	6	Non-contact temperature kiosks, tables/stands
\$40,146	Hancock	1	Desk shields
\$21,878	Hardy	2	Bell covers for band instruments, keyboards
\$24,963	Harrison	3	Desk shields, online learning subscriptions
\$191,857	Jackson	6	Masks, thermometers, table dividers, sanitizer
\$2,376	Jefferson	2	Entrance mats, rapid response system
\$5,116	Kanawha	3	Band equipment covers, cleaning kits
\$5,735	Lewis	1	Social distancing stickers
\$22,813	Lincoln	2	Educational consultant, protective equipment
\$40,350	Marion	1	Desk dividers
\$1,348	Marshall	2	Custom door, gloves, gauze sponges, bandages
\$94,299	Mason	1	65" touch screen monitors
\$132,162	McDowell	3	Telehealth training bundle, disinfectant
\$31,863	Mercer	2	Sanitizer, circle desk dividers
\$26,000	Mineral	2	1,000 laptop bags, online books
\$9,009	Mingo	2	T-shirts, school bus software (routing program)
\$6,349	Monongalia	1	Desk partitions
\$4,320	Monroe	1	Heat recovery ventilator units for classrooms
\$500	Morgan	1	Flex shields
\$19,916	Nicholas	3	iPad accessories, gloves, hand sanitizer
\$12,384	Ohio	3	Music books, playing masks for marching band

Table 5
LEA Purchases from Vendors Not Registered with SOS
ESSER I Cyclical Monitoring Samples

Purchase Total	County School District	Number of Vendors	Description of Items Purchased
\$1,274	Pendleton	1	Software licenses
\$10,265	Pocahontas	4	Breakaway lanyards, hand sanitizer
\$253,162	Putnam	3	Internet hotspot access, band instrument covers
\$59,944	Ritchie	1	Cafeteria furniture and chairs
\$68,103	Summers	5	Chromebook cases, laptop chargers, Wi-Fi
\$16,787	Taylor	6	Breakaway lanyards, band masks, sanitizer
\$3,830	Tucker	1	Desk dividers
\$2,248	Tyler	1	Active masks
\$280	Upshur	1	Protective face shields
\$11,962	Wayne	3	Disinfectant, bell covers for band instruments
\$3,025	Webster	2	Face shields, thermometers, wireless internet
\$108,035	Wetzel	3	Art supplies, sneeze guards, barrier shields
\$11,091	Wirt	3	Masks, air purifiers, infrared thermometers
\$32,550	Wood	1	Flexible dividers
\$2,504	Wyoming	1	Infrared thermometers and masks
\$2,170,932		115	

Sources: Secretary of State Business and Licensing Database, and WVDE Cyclical Monitoring documentation.

Although Policy 8200 designates the formal guidelines for LEA purchases, it does not explicitly comment on whether a vendor must be registered with the SOS to conduct business with a county school district. However, within the appendix of Policy 8200, “*vendor*” is formally defined as: “*An individual, partnership or business authorized to conduct business in the State of West Virginia that is able to furnish the desired commodity or service.*” Based on West Virginia State Code, an entity authorized to do business in the state involves registration with the State Tax Department. According to §11-12-3 of State Code, “*No person shall, without a business registration certificate, engage in or prosecute, in the State of West Virginia, any business activity without first obtaining a business registration certificate from the Tax Commissioner of the State of West Virginia.*” Chapter 11 further specifies that a business registration certificate authorizes a person to conduct business within the state. While the vendors in question are verified to not be registered with the SOS, it is likely that they are also not registered with the State Tax Department, and therefore, are not paying their share of state taxes. This further indicates the lack of appropriate structure in the monitoring process when Policy 8200 states that vendors must be authorized to conduct business in the state, but the OFP does not include this in the monitoring process.

This further indicates the lack of appropriate structure in the monitoring process when Policy 8200 states that vendors must be authorized to conduct business in the state, but the OFP does not include this in the monitoring process.

Furthermore, Legislative Rule CSR §148-1-6.1.7 explains purchasing protocol that “*applies to all spending units of State government.*” While county boards are not spending units of the State government, CSR 148 contains a *Registration of Vendors* section that could benefit LEA purchasing procedures if added to Policy 8200, as it requires the following:

The vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State’s Office, the West Virginia Tax Department, West Virginia Insurance Commission, or other state agencies or political subdivisions. The vendor must provide all necessary releases to obtain information necessary to verify that the vendor is licensed and in good standing with the above entities.

Also, CSR §148-1-6.1.4 states that “*vendors receiving orders for goods or services exceeding \$1,000, regardless of payment method, shall pay an annual fee of \$125.00.*” Of the sample invoices involving vendors not registered with the SOS, 95 different purchases totaled \$1,000 or more (including a \$20,000 purchase by Doddridge County Schools, from United Kingdom-based vendor DST Innovations, for stand-alone front and back kiosks). By not registering with the SOS, the vendor also avoids compliance with W. Va. Code §59-1-2A, which requires payment of an annual report fee and filing of an annual report. Proper registration with the SOS further ensures that the LEA is conducting business with a legitimate entity that is in good standing with the State of West Virginia.

Pursuant to W.Va. Code §5A-3-33f, the State of West Virginia and its political subdivisions may not solicit offers from, award contracts to, or consent to subcontract with a debarred vendor during the debarment period. The West Virginia Purchasing Division maintains a publicly available list of 30 vendors who are currently debarred from doing business with the State. By not verifying the registration status of vendors being used by LEAs, a potential consequence is that the school districts could use unsuitable vendors. There is no evidence in the sample that any LEA purchased from a debarred business. **The legislative auditor recommends that the WVDE incorporate in Policy 8200, and in the monitoring instrument for ESSER monitoring, the requirement that LEAs use vendors that are appropriately registered with the SOS and State Tax Department to be authorized to do business in West Virginia.**

By not registering with the SOS, the vendor also avoids compliance with W. Va. Code §59-1-2A, which requires payment of an annual report fee and filing of an annual report.

By not verifying the registration status of vendors being used by LEAs, a potential consequence is that the school districts could use unsuitable vendors.

Results of ESSER II/ARP Monitoring by the OFP Preceded a Special Circumstance Review of Upshur County that Highlighted Use of Federal Funds on Unallowable Costs, and Identified Internal Control Issues

On July 6, 2022, the OFP reviewed the Upshur County school district as part of the cyclical monitoring process of ESSER I funded programs. Four program monitors were assigned to the review. The monitors had a finding that \$5,000 of ESSER I funds was paid to Buckhannon Upshur High School without itemized invoices or receipts for the payment. The Upshur County LEA was ordered to either provide itemized receipts for the transaction or reimburse the federal grant by September 6, 2022. No documentation was provided by Upshur County and the LEA would be required to reimburse the federal grant. Although the LEA was later subject to internal control deficiencies during a 2023 Special Circumstance Review, the OFP explained to PERD, “*Upshur County was able to talk through and explain their internal control process during the interview call for ESSER I. At that time, we had no evidence to demonstrate that they were not following the procedures.*” Therefore, besides the single citation regarding spending on allowable activities, Upshur received compliance ratings for all ESSER I cyclical monitoring indicators.

Furthermore, the results of the ESSER II/ARP cyclical review for Upshur County, completed in February 2023, included a series of noncompliance findings related to funds spent on unallowable activities and purchasing procedures. Some of the OFP’s initial findings regarding funds spent on unallowable activities include the following:

- Over 1,000 WV State Wildlife Center family passes were purchased for the summer of 2021; however, monitors found that the purchase was unallowable due to a lack of evidence that these passes had a programmatic purpose and would need to reimburse the ESSER grant award in the amount of \$21,320.
- A C.J. Maggie’s room rental without a detailed invoice or supporting receipt required a reimbursement of \$1,150 to the ESSER II grant award.
- Over 1,200 family pool passes purchased from the Upshur County Commission were found by monitors to be without programmatic purpose and required reimbursement totaling \$62,325.
- Two other purchases at restaurants totaling over \$1,100 were also determined to be unallowable due to a lack of itemized receipts and called for reimbursement.

Besides the single citation regarding spending on allowable activities, Upshur received compliance ratings for all ESSER I cyclical monitoring indicators.

In addition to the ESSER cyclical monitoring findings, the WVDE received a letter written on behalf of a concerned citizens group in March 2023 that requested a “*complete and forensic audit*” of Upshur County Schools, with an emphasis on federal funding. In response to these concerns, the State Superintendent of Schools authorized a Special Circumstances Review in May 2023. Some of the Special Review’s findings regarding funds spent on unallowable activities include the following:

- The review team “*identified 12 instances of contracts that included food and beverage charges for staff retreats for Stonewall Resort totaling \$49,260. Food and beverage expenses for conferences are not an allowable expenditure with Federal funding. Overnight accommodation was provided for staff at Stonewall Resort, which is 25 miles from the board office.*” The LEA provided no documentation to validate the need to have a retreat at Stonewall or to justify it as an allowable expense under the ESSER II grant.
- Expenditures at local restaurant C.J. Maggie’s (in addition to what monitors cited during the ESSER II/ARP review) involved over \$21,000 of food and beverage charges that were purportedly part of a staff retreat. No meeting agendas or room rental agreements were provided to support the need to have the retreat at the location.
- A bed and breakfast staff retreat in Buckhannon totaled over \$1,400 in expenditures, but no supporting documentation was provided to validate the usage of the site, which was located six miles from the school board office.
- Three employees received \$75,100 in federal compensation, in addition to regular pay, despite no records showing actual time worked and no documentation confirming the payments were approved by the school board.

During an analysis of Upshur County internal controls, the Special Circumstance Review found several instances of overrides in internal controls.

Additionally, during an analysis of Upshur County internal controls, the Special Circumstance Review found several instances of overrides in internal controls. The review states, “*There were seven instances where purchases with federal funds were not approved by the Federal Program Director. We noted nine instances where an ‘approved’ stamp was used in the place of an authorizing signature.*” The Special Circumstance Review also found the LEA to be without proper written policies in the following ways:

- “*The district does not have a policy covering conflicts of interest. They do have a Policy of Fiscal Administration, but the policy does not address conflicts of interest.*”

- *“The district did not provide, and the finance review team could not locate online a local policy that governs the use of the county’s P-Card and other credit cards.”* Such internal control procedures are required of LEAs by the State Auditor’s Purchasing Card Policies and Procedures manual.
- Employee absence/leave policy *“was deemed to be insufficient as it does not address all types of leave currently provided to various groups of employees throughout the district,”* including aspects of annual/vacation leave, outside the school environment days, and out-of-calendar days (that are nonpaid days not included as part of the minimum employment term).

Finally, the Special Circumstances Review team became aware of two instances in which the district employed individuals who did not hold and did not apply for licenses/certificates from the WVDE. One of those instances appears to involve nepotism. These findings were presented to the West Virginia Board of Education in June 2023, which resulted in the Board immediately voting to seize authority of Upshur County Schools. Because the Special Circumstance Review included *“a sampling of financial records representing less than 1% of total transactions covering four fiscal years,”* the special review is ongoing, as of October 2023, while the OFP analyzes other federal expenditures made by the district.¹

In July 2022, the OFP assigned one person to monitor Logan County’s ESSER I activities. The program monitor gave the LEA a compliance rating in all seven areas. One of the invoices that the monitor sampled was for \$19,500. It was payment associated with a larger contract of more than \$500,000 for Heritage Educational virtual learning.

The OFP’s Review of Logan County Should Have Flagged a \$500,000 Contract for Virtual Education Services that Did Not Follow Competitive Bidding Procedures or Establish a Written Contract

The OFP’s ESSER I review of Logan County is another example of an inadequate monitoring capacity. In July 2022, the OFP assigned one person to monitor Logan County’s ESSER I activities. The program monitor gave the LEA a compliance rating in all seven areas. One of the invoices that the monitor sampled was for \$19,500. It was payment associated with a larger contract of more than \$500,000 for Heritage Educational virtual learning. The documentation for the \$19,500 gave ample evidence that it was for a larger contract with large previous payments that should have warranted attention by the program monitor. Nevertheless, no detailed review was conducted on the Heritage Education contract by the monitor, and compliance was assigned to the LEA in all categories.

¹*Findings by the Special Circumstance Review of Upshur County Schools in June 2023 prompted a federal investigation by the U.S. Attorney for the Northern District of West Virginia, which is ongoing as of October 2023.*

However, at the specific request of the West Virginia State Superintendent of Schools, the Office of Support and Accountability conducted an unannounced Special Circumstance Review of Logan County Schools, commencing September 15, 2022, to investigate official complaints submitted to the WVDE regarding board governance, central office leadership, and documentation provided to the WVDE through a Federal Programs Monitoring. The WVDE reviewed county financial data for all purchases made by the county between July 1, 2020, and August 9, 2022. The team conducting the special report noted several instances in which the district entered non-competitive contracts in which the only support for sole-source was a letter provided by the vendor. One example was the contract with Heritage Educational services that totaled \$565,200.

The special review ultimately included multiple “*focus areas*” of topical investigation, resulting in numerous findings. The WVDE noted a total of 47 different noncompliance citations in a variety of categories dealing with deficiencies in executive leadership, school system efficiencies, financial indicators, operation of federal programs, and other subjects. Consequently, the West Virginia Board of Education voted unanimously to take control over Logan County on October 27, 2022. As of early October 2023, Logan County remains under State supervision.

Considering the special review and its findings related to purchasing in Logan County, the legislative auditor directed PERD to examine Logan County’s federal COVID-19 expenditures, with emphasis on a contract between the district and a newly established vendor that was paid over \$500,000 to provide virtual learning services to K-12 students. Logan County chose to procure the virtual services even though the WVDE had already established the West Virginia Virtual School, and a virtual education platform known as WV Learns, that permitted virtual school opportunities for all counties.

PERD found that shortly before establishing an agreement with Logan County, a business called Heritage Educational Services, LLC (Heritage Educational) was established on July 23, 2020, after operating as Heritage Christian Primary and Preparatory School (Heritage Christian) since 2017. According to SOS records, both Heritage Educational and Heritage Christian are distinct and active businesses based in Logan County. The same individual listed as “*incorporator*” of Heritage Christian is also listed as an officer for Heritage Educational. On all Heritage Educational correspondence, agreements, and written communication, the person listed as the “*owner*” is also associated with Heritage Christian.

Roughly one month after Heritage Educational was established, Logan County entered into an agreement with the company “*to provide facilitation for our WVDE Virtual students,*” according to an internal

Logan County chose to procure the virtual services even though the WVDE had already established the West Virginia Virtual School, and a virtual education platform known as WV Learns, that permitted virtual school opportunities for all counties.

email sent to principals by the assistant superintendent of Logan County on August 26, 2020. The same email states the reason for the agreement was to alleviate the workload of school personnel because “*school-level staff members do not have the time to provide the support that our WVDE Virtual School students need.*” Principals were informed that Heritage Christian students would be enrolling with Logan County but “*are choosing WVDE Virtual.*” Therefore, the former private school students would be enrolled in public school but remain virtual and continue to receive their education through Heritage. The internal email states, “*They will receive the same opportunities to participate in school activities as students, who come to school face to face.*”

Heritage Educational delivered its virtual curriculum to Logan County students using the pre-existing WV Learns platform. County school districts pay a general cost to use WV Learns under normal circumstances, at a rate of \$600 for each student enrolled full-time in the West Virginia Virtual School. Logan County, for example, paid \$38,400 to the WVDE in March 2021 for spring semester virtual students, while simultaneously paying Heritage Educational \$19,300 for its virtual learning. **Financial records show that between fiscal years 2021 and 2023, Logan County paid Heritage Educational \$636,660.** This total is *in addition* to fees paid to the State for WV Learns.

Logan County, for example, paid \$38,400 to the WVDE in March 2021 for spring semester virtual students, while simultaneously paying Heritage Educational \$19,300 for its virtual learning.

The written agreement between Heritage Educational and Logan County is dated August 24, 2021 although the previously referenced email announcing the agreement with Heritage Educational, as well as financial records, indicate that the vendor began receiving payment for services from the district in the fall of 2020. A Logan County purchase order addressed to Heritage Educational, dated October 5, 2020, denotes a total of \$114,000 billed for virtual services, with an allocation schedule ranging between September 8, 2020 and January 25, 2021. Financial transactions confirm the first check was written to Heritage Educational on October 14, 2020. Considering the 2020 date of the first purchase order, compared to the August 2021 date of the written agreement, **Logan County was operating under a \$100,000 partnership, without a written contract, for the first school year during which the vendor was paid for services.**

Additional materials obtained by the WVDE show that Heritage Educational was named a sole-source provider; however, the only documentation used to validate this claim was a letter submitted by the vendor itself outlining the services it offers. The letter is dated August 1, 2021 – nearly one year after Logan County disbursed the first payment to Heritage Educational. (The Special Circumstances Report on Logan County by the WVDE incorrectly states that the sole-source letter was dated August 1, 2020.) The letter concludes, “*There is no other company that offers such a complete list of services at one contractual price.*”

Nonetheless, purchase records contained within ESSER I cyclical monitoring samples verify that other counties procured virtual learning services through multiple vendors as shown below, contradicting the assertion that Heritage was a sole-source:

- Summers County Schools utilized the Southern Educational Services Cooperative, which partnered with a vendor called Proximity Learning, Inc. to provide virtual learning. This collaboration was originally pursued in 2019, prior to the pandemic and the establishment of Heritage Educational.
- Hardy County Schools utilized the Eastern Panhandle Instructional Cooperative to “assist in the development, delivery, implementation, and evaluation of Hardy County Schools virtual learning program” beginning in July 2020.
- Monroe County Schools utilized Pearson Online and Blended Learning of Columbia, Maryland, in March 2021.

Additionally, the contract between Logan County and Heritage Educational contradicts the sole-source claim by prohibiting the district from contracting with another entity to provide virtual education facilitation: “So long as [Heritage Educational] is not in breach of this Agreement, the Board agrees it will not enter into an agreement with any third party to provide the services outlined in this Agreement to any students.” A WVDE investigator noted in their summary of evidence for the special review of Logan County that they “know from experience that many other individuals and places can provide facilitator and instructional support for WV Virtual students.”

The contract between Logan County and Heritage Educational contradicts the sole-source claim by prohibiting the district from contracting with another entity to provide virtual education facilitation.

Preliminary Findings from the ESSER II/ARP Cyclical Monitoring Reports Suggest Similar Issues of Non-Adherence of Purchasing Guidelines with Eight Counties Being Repeat Offenders

As previously reported, the final monitoring ESSER II/ARP reports issued by the OFP have yet to be completed. However, the OFP compiled files of those that have been completed and the legislative auditor noted continued issues of counties reported as non-compliant. Table 6 lists the LEAs that have been reviewed as of June 29, 2023. Thirty-nine (39) LEAs have been reviewed by the OFP and 17 have been issued non-compliance from the invoices sampled to determine allowable expenses and 15 LEAs (Boone, Braxton, Calhoun, Grant, Greenbrier, Hampshire, Harrison, Jefferson, Logan, Lewis, Lincoln, Mason, Preston, Taylor, and Upshur) are non-compliant due to not following Policy 8200, with cited infractions of:

- missing or no bid documentation;
- no invoices, purchase orders or requisitions provided;
- no evidence of sealed bids that were publicly advertised; and
- a lack of sole-source documentation.

Moreover, of the 15 counties, 9 (Boone, Calhoun, Greenbrier, Hampshire, Harrison, Lewis, Mason, Preston, and Taylor) were also issued non-compliance for purchasing violations under the ESSER I review. It is also evident that counties are continuing to utilize vendors that are not registered with the Secretary of State. For example, from the eight counties that were deemed non-compliant, two monitoring reviews in a row, Boone, Greenbrier, Hampshire, and Mason utilized vendors in both years that are not registered with the Secretary of State. It is worth noting that no LEA to date has yet to be cited for exceeding the indirect cost rate. This suggests that the WVDE has educated LEAs on the proper method for calculating indirect costs.

It is also evident that counties are continuing to utilize vendors that are not registered with the Secretary of State.

Table 6
ESSER II/ARP Funding
Improper Purchasing Procedures, Excess Indirect Costs,
and Unallowable Spending Activities

LEA	Improper Purchasing Procedures	Unallowable Spending Amount	Exceeded Indirect Cost Rate	Description for Unallowable Activities
Berkeley		\$315		Food purchased and provided to community members.
Boone	\$497,320			
Braxton	\$2,850			
Calhoun*	Unknown	Unknown		No documentation was submitted.
Doddridge		\$165		Tax was paid on food purchase.
Grant	\$277,500			
Greenbrier	\$169,169			
Hampshire	\$117,253	**\$172,147		No prior written approval for construction project.
Hancock**	Unknown	Unknown		No documentation was submitted.
Harrison	\$8,995	\$1,743		Food and beverage purchases for high school prom.
Jefferson	\$25,000			
Lewis	\$421,848			
Lincoln	\$24,579			
Marshall	\$11,190			
Mason	\$252,832			

Table 6
ESSER II/ARP Funding
Improper Purchasing Procedures, Excess Indirect Costs,
and Unallowable Spending Activities

LEA	Improper Purchasing Procedures	Unallowable Spending Amount	Exceeded Indirect Cost Rate	Description for Unallowable Activities
Mineral	\$95,488			
Nicholas		\$220		Walmart gift cards for attendance incentives.
Preston	\$26,322	\$1,008		Food purchased and provided to community members.
Raleigh	\$12,567			
Taylor	\$99,005			
Upshur	\$45,400	\$85,947		Entertainment costs with no programmatic purpose; no room rental agreement; no itemized receipts to confirm allowable costs.
Wayne		\$422		Gift baskets for businesses.
Wetzel	\$93,291			
Wyoming		\$10,899		Shoes meant for disadvantaged youth were purchased for all students.
Total	\$2,180,607	\$272,866	---	

Source: WVDE ESSER II/ARP Cyclical Monitoring Documents

*No documentation submitted by the LEA, so potential amount is unknown.

**Reimbursement was required if the LEA did not have supporting evidence to validate the expenditure. No response documentation from the agency could be found on the agency shared drive to verify if LEA ever responded with supporting evidence.

Several Causes Are Contributing to Deficiencies in the WVDE Cyclical Monitoring Process

While the WVDE's fiscal monitoring and internal control system has identified improper purchasing practices, unallowed expenditures, and excess indirect costs, PERD finds that the WVDE missed seven violations during ESSER I cyclical monitoring. PERD has identified five separate causes that contributed to deficiencies in the WVDE's execution of ESSER I cyclical monitoring, which also appear to be carried on into ESSER II monitoring.

1. The WVDE does not have adequate monitoring capacity. Eighty-five percent of the ESSER I monitoring has been conducted by one to three staff members.
2. The fiscal monitoring system lacks appropriate risk assessment. The frequency of improper purchasing procedures and other ESSER grant violations warranted a re-assessment of risk and adjustments to the system's capacity and structure.
3. The current monitoring process lacks appropriate structure. There were no written policies and procedures for the cyclical monitoring process, certain aspects of internal control that should be reviewed were not, and certain purchasing violations that should be identified are not part of the monitoring process.
4. The WVDE did not clearly communicate which purchasing procedures LEAs needed to follow during the ESSER I procurement process.
5. Local school districts may have been in the practice of improper purchasing procedures prior to the COVID-19 pandemic due to a lack of monitoring.

PERD has identified five separate causes that contributed to deficiencies in the WVDE's execution of ESSER I cyclical monitoring, which also appear to be carried on into ESSER II monitoring.

1) Inadequate Monitoring Capacity

According to the Governor's Executive Budget Operating Detail, the WVDE's Office of Federal Programs and Support, which oversees cyclical monitoring and other federal-related duties, has 56 full time-equivalent employees for fiscal year 2024. As previously stated, however, the agency indicated to PERD that it has no more than five individuals tasked with reviewing all of the state's LEAs for their use of ESSER I transactions and internal control policies and procedures. Table 7 below shows how the 5 individuals were assigned to monitor the 54 counties that were reviewed. Twenty-four (24) of the 54 LEAs, were reviewed by one of the five program monitors. Eighty-five (85) percent of the reviews were conducted by one to three program monitors. This has proven to be insufficient.

Table 7 The 54 LEAs Under ESSER I Review Broken Down by the Number of Program Monitors Assigned to the Review					
	1 Program Monitor	2 Program Monitors	3 Program Monitors	4 Program Monitors	5 Program Monitors
Number of LEAs Reviewed	24	9	13	7	1

Source: WVDE Cyclical Monitoring documentation.

It stands to reason that having fiscal monitoring conducted on 55 different LEAs by one to three staff may be an extensive undertaking and would possibly lead to mistakes and omissions. **More significant is that of the 54 LEAs reviewed, more than half did not follow proper procurement practices, and in the final analysis, all but 10 reviewed counties had some combination of non-compliance for the first two rounds of ESSER monitoring.** The evidence of many purchasing violations not being identified suggests that the current capacity of the fiscal monitoring system is inadequate in achieving effective monitoring of ESSER funds. Given that ESSER funds have administrative portions that may be used for employing additional staff, the WVDE should expand the monitoring capacity by hiring additional staff.

2) Inadequate Risk Assessment

As stated previously, the WVDE implemented a fiscal monitoring system that has the elements of proper internal control, including mechanisms that allow for risk assessments. Given the prevalence of non-compliance for all LEAs reviewed, an appropriate risk assessment suggests the need to expand the monitoring system’s capacity. **Therefore, the legislative auditor recommends that the WVDE increase its monitoring and internal controls capacity by assigning more personnel to assist with cyclical monitoring. In addition, the WVDE needs to renew its communication with LEAs to inform them of its findings and reemphasize proper procurement practices going forward.**

Given that ESSER funds have administrative portions that may be used for employing additional staff, the WVDE should expand the monitoring capacity by hiring additional staff.

3) Lack of Structure

When asked if the OFP has a policy or written procedures for sampling of the transaction reports, if they have a policy as to exactly what to request from each county and if there was a policy for repeat offenders, the OFP reported,

We do not have a policy or written procedures currently but are working on establishing one and are in the process of building our monitoring into the GPS system for a more formal process.

It is the legislative auditor's opinion that the lack of a standard written policy for the fiscal monitoring system runs the risk of inconsistencies, inaccuracies, and omissions, where some counties that should be deemed non-complaint are instead determined compliant, and some non-compliance issues are overlooked such as the case with Logan County. Moreover, a written policy would provide more specific guidance to monitors. It should be clearly understood that program monitors should examine if vendors are registered with the State, certain aspects of internal control should be examined and should be in writing by each LEA such as segregation of duties, the approval chain of command, and the proper use of P-cards and credit cards. **Therefore, the legislative auditor recommends that the WVDE establish in writing its fiscal monitoring policies and procedures to ensure consistency, completeness, and accuracy in its findings.**

4) Unclear Communication on Which Purchasing Procedures LEAs Need to Follow

Two separate sections of Policy 8200 were referenced at different times by the WVDE in terms of the specific criteria that the LEAs were supposed to follow for ESSER I purchases. Under normal circumstances, LEAs would follow Section 7.11 of Policy 8200, which dictates the competitive bid rules based on varying threshold limits. To define a threshold, Section 7.3 specifies, *"The threshold level to be used is determined by the total estimated cost of the item being purchased, which is the unit cost multiplied by the quantity."* Therefore, the grand total for a purchase containing multiple units of the same item qualifies as the real threshold, as opposed to the cost of each item as an individual product. Cyclical monitoring documents indicated that confusion surrounding threshold levels was a repeat occurrence with some LEAs that were under the impression that bids were *not* required for individual items costing less than a specific amount.

Table 8 below outlines the intricate nature of Section 7.11 of Policy 8200 to illustrate the specific bid requirements for purchases based on total amounts. The procedures manual notes that Request for Proposals *"are encouraged whenever possible,"* and most subsections of 7.11 place an emphasis on documentation and records retention. As can be observed, the competitive bid requirements become more stringent as the overall purchase costs increase.

It is the legislative auditor's opinion that the lack of a standard written policy for the fiscal monitoring system runs the risk of inconsistencies, inaccuracies, and omissions, where some counties that should be deemed non-complaint are instead determined compliant, and some non-compliance issues are overlooked such as the case with Logan County.

It should be clearly understood that program monitors should examine if vendors are registered with the State, certain aspects of internal control should be examined and should be in writing by each LEA such as segregation of duties, the approval chain of command, and the proper use of P-cards and credit cards.

Table 8 Competitive Bid Threshold Limits for LEAs Policy 8200, Section 7.11	
Purchase Range	Bid Requirement Summary
< \$5,000	Competitive bids are encouraged but not required.
\$5,000 - \$10,000	Minimum of three verbal quotes must be obtained.
\$10,000 - \$25,000	Minimum of three written bids must be obtained.
\$25,000 - \$50,000	Bids from at least three suppliers using advertisement media; effort must be made to solicit as many bids as practical.
>\$50,000	Public advertisement and sealed bids only.
<i>Source: Title 126 of Legislative Rule, Series 202, Policy 8200, Section 7.11.</i>	

With purchases costing over \$25,000, Section 7.11.4e allows:

An LEA may waive the requirement to advertise when a vendor is considered to be the sole source for the item being purchased, when it is determined to be in the best interest of the LEA, or when professional, technical, or specialized services are being acquired under an agreement. All waivers must be documented and those based on a best interest determination must be approved by the county superintendent, or the director of a [regional educational service agency]

Use of this waiver under this emergency condition could have alleviated some of the purchasing challenges some LEAs may have had.

Despite this permissive language for competitive bid waivers, the sampled purchases from the cyclical monitoring files provided by the WVDE did not contain instances that documented any attempt by an LEA to claim waivers in cases where the LEA was noncompliant for bid requirements. Use of this waiver, especially under this emergency condition could have alleviated some of the purchasing challenges some LEAs may have had.

Although the WVDE used Section 7 of Policy 8200 as the criteria for all ESSER I cyclical monitoring documents when testing whether funds were used for allowable activities, the agency had recommended use of a different section two years prior. Ten (10) days after Governor Jim Justice declared a state of emergency for all West Virginia counties on March 16, 2020, the WVDE sent a mass email to all K-12 chief school business officials directing the districts to utilize Section 28 of Policy 8200. Along with a complete copy of Section 28 within the body of the message to the chief school business officials, the email instructed:

As a reminder, West Virginia Board of Education (WVBE) Policy 8200 contains regulations for emergency procurement procedures when the Governor declares an emergency. For emergency needs related to COVID-19, county boards of education need to be sure they are following the minimum regulations set forth in Section 28 of WVBE Policy 8200. Regular procurement rules would still apply to purchases unrelated to the COVID-19 health emergency.

Despite these instructions, the WVDE did not use Section 28 for cyclical monitoring of COVID-related purchases. The conflicting references created the potential for confusion regarding the exact criteria that LEAs were expected to follow, particularly because they do not have the same policies regarding bid thresholds. The confusion is manifested in multiple cases where an LEA was initially cited as noncompliant for Section 7 purchasing procedures, the district responded to the WVDE's request for corrective action by uploading the March 26 email containing the state agency's directions to use the emergency section of Policy 8200.

Section 28 is less stringent than the guidelines established under Section 7 for regular competitive bidding, but still requires three verbal bids for purchases over \$1,000, and three written bids for purchases estimated to cost more than \$5,000. In contrast to Section 7, Section 28 is silent regarding purchases beyond \$5,000, which translates to the "three written bids" rule acting as an umbrella requirement for all estimated costs totaling over \$5,000.

Given the emergency status of Section 28, certain exceptions are made in the following capacities:

- 28.1.3i: *"If, in the opinion of the LEA, using sound judgment and discretion, time does not permit written bids to be received, verbal bids shall be obtained and documented, with written bids received within five working days of the request."*
- 28.1.3j: *"If, in the opinion of the LEA, using sound judgment and discretion, time does not permit verbal bids to be received, the public organization must secure written approval from the chief executive officer of the state agency to secure necessary services and supplies without bids for only that period of time absolutely necessary to abate the emergency."*

Although some LEAs attempted to cite Section 28 as a response for noncompliance citations identified by initial cyclical monitoring, there

The conflicting references created the potential for confusion regarding the exact criteria that LEAs were expected to follow, particularly because they do not have the same policies regarding bid thresholds.

In contrast to Section 7, Section 28 is silent regarding purchases beyond \$5,000, which translates to the "three written bids" rule acting as an umbrella requirement for all estimated costs totaling over \$5,000.

remained a lack of documentation to verify that these subsections were followed, as the entries listed above rely on written records regardless of emergency. Furthermore, had more LEAs followed 28.1.3j and acquired written approval from the WVDE chief executive officer to grant an emergency waiver of bidding rules, this would have likely reduced the number of legitimate non-compliant citations. **The legislative auditor recommends that the WVDE clearly define which section of Policy 8200 should be followed by LEAs for ESSER-related purchases, and for purchases made in the future under potentially similar circumstances.**

- 5) **Prior to the COVID-19 pandemic, LEAs may have been in the practice of improper purchasing procedures due to a lack of monitoring.**

The misunderstanding of thresholds, coupled with the numerous LEAs found noncompliant with Policy 8200, suggests that local school districts were likely practicing improper purchasing procedures prior to the COVID-19 pandemic. When PERD asked the WVDE if routine monitoring of LEAs' purchasing practices are conducted, the agency stated that it did not routinely review purchasing practices of LEAs. Monitoring the compliance of entities is an important internal control component. If LEAs are not monitored regularly for their compliance of purchasing requirements, then the risk is relatively high that their normal purchasing practices will be non-compliant with expected purchasing procedures.

Other States Have Been Found to Not Have Sufficient Capacity to Monitoring ESSER Funds

Below are examples of other state departments of education that have come under performance audits during the allocation of ESSER funds. The monitoring capacity of these states vary. However, in each case, the monitoring process was found to be insufficient.

- A December 2020 report by the North Carolina Office of the State Auditor found that the Department of Public Instruction distributed approximately \$76 million of CARES Act funding but did not monitor spending. The report stated, *“As a result, there was an increased risk that public school units could have misused the funds without the misuse being detected.”* The same report also found that \$31 million of pandemic relief funds were distributed for a summer learning program without a method to ensure student ability was improved.²

² North Carolina Office of the State Auditor, *Audit of Coronavirus Relief Funds at the Department of Public Instruction, December 2, 2020*, <https://dig.abclocal.gov/wtvd/docs/State-Auditor-Report.pdf>.

If LEAs are not monitored regularly for their compliance of purchasing requirements, then the risk is relatively high that their normal purchasing practices will be non-compliant with expected purchasing procedures.

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- The Auditor of the State of California released a report in October 2021 regarding COVID federal funds spending and the state Department of Education. The report identified inadequacies in the monitoring process, as the agency reviewed less than one percent of LEAs that received ESSER funding. The report states, *“The small number of LEAs that Education monitored is concerning given that it identified significant issues related to unsupported or unallowable expenditures at some of the 15 LEAs that it selected.”* The agency conveyed that it did not have enough staff to monitor a larger number of LEAs.³

The agency conveyed that it did not have enough staff to monitor a larger number of LEAs.

- A Single Audit report by the Mississippi Office of the State Auditor, released in November 2022, found that the state Department of Education failed to follow proper procurement guidelines. There was one specific case wherein the eventual winning bidder influenced changes to the vendor specification requirements within the final contract and was granted extra time to prepare bids before the request for quotes was publicly advertised. Further, the winning bid was not one of the two lowest-priced bids. The report concluded:

Failure to act in good faith in obtaining negotiations can open [the agency] to civil litigation claims. Additionally, implied preference to vendors could result in public distrust in the procurement process. Lastly, implied preference could result in fraud, waste, or abuse during the procurement process.⁴

- A Montana legislative audit on the Office of Public Instruction, released in May 2022, cited a lack of internal controls regarding the monitoring of federal grants, and identified over \$460,000 in alleged COVID-related expenditures that *“contained insufficient detail to demonstrate the funds were spent in accordance with ESSER regulations or could not be tied back to the approved budgets.”* This finding was accompanied by the recommendation that *“OPI should improve monitoring of schools for COVID-19 related funding.”*⁵

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³ Auditor of the State of California, *California Department of Education: It Needs to Provide Better Oversight to Ensure That Local Educational Agencies Promptly and Effectively Use Federal COVID-19 Funds, October 2021*, <https://www.auditor.ca.gov/pdfs/reports/2021-614.pdf>.

⁴ Mississippi Office of the State Auditor, *Single Audit for Year Ending June 30, 2021, November 2022*, <https://www.osa.ms.gov/documents/single-audit/21sar.pdf>.

⁵ Montana Legislative Audit Division, *Financial-Compliance Audit: Office of Public Instruction For the Two Fiscal Years Ended June 30, 2021, May 2022*, <https://leg.mt.gov/content/Publications/Audit/Report/21-19.pdf>.

- An audit conducted by the Wisconsin Legislative Audit Bureau, released in May 2022, found that the Department of Public Instruction “could not provide supporting documentation for the amounts it reported” for the required annual report it had submitted to the U.S. Department of Education regarding the use of ESSER funds. The bureau questioned the accuracy of the agency’s reporting and recommended that the department “develop formal written procedures to identify the sources of information necessary and steps needed to compile complete and accurate information for the ESSER Fund annual reports.”⁶

PERD finds that the fiscal monitoring system established by the West Virginia Department of Education per the grant requirements of ESSER funding lacks the proper capacity to be effective in ensuring that ESSER funds are used as intended.

Conclusion

PERD finds that the fiscal monitoring system established by the West Virginia Department of Education per the grant requirements of ESSER funding lacks the proper capacity to be effective in ensuring that ESSER funds are used as intended. The USDOE encouraged the State to re-evaluate its current monitoring capacity considering the ARP/ESSER funding, which was considerably more than the funds granted under ESSER I and ESSER II. However, there is no evidence that the WVDE made any adjustments to its monitoring capacity and continued using primarily one to three program monitors for West Virginia’s 55 LEAs. ESSER funds provide an administrative portion that may be used to increase staff to fulfill the objectives of the grant funds. **The effects of the inadequate monitoring capacity are that some violations that are occurring are not being detected, and the risk of fraud, waste, and abuse is elevated.** While the WVDE cited 25 LEAs for noncompliance in purchasing procedures, PERD reviewed the same documentation and identified 7 others that also did not submit proper purchasing documentation yet were initially deemed compliant by program monitors.

Judging from the preliminary results of ESSER II reviews, it appears that LEAs gained a better understanding on the correct method of calculating indirect costs.

Proper internal control considers periodic risk assessments be made to determine if adjustments to control activities need to be made because the risks of non-compliance or ineffectiveness is higher. The prevalence of purchasing violations identified by the fiscal monitoring system during the review of ESSER I funds warranted the WVDE to make adjustments to address the high level of non-compliance. PERD found no evidence that the WVDE made adjustments resulting from risk assessments in the form of increasing the monitoring capacity or communicating an emphasis on proper purchasing procedures and allowable expenditures. However, judging from the preliminary results of ESSER II reviews, it appears that LEAs gained a better understanding on the correct method of calculating indirect costs.

⁶State of Wisconsin Legislative Audit Bureau, *State of Wisconsin FY 2020-21 Single Audit, Report 22-5, May 2022*, https://legis.wisconsin.gov/LAB/media/3376/22-5full_354486.pdf.

Although the capacity of the monitoring system is important, equally important is the structure of the review process by the program monitors. The WVDE does not have the monitoring process in writing which leads to inconsistent findings or omissions. The agency should specify the various types of purchasing violations to look for, and program monitors should be required to determine if vendors are registered with the Secretary of State to do business in West Virginia. PERD's review of ESSER I cyclical monitoring purchases made by LEAs determined that over 90 different recipient vendors were not registered with the SOS, and therefore, did not qualify to do business with the State of West Virginia. Moreover, the lack of registrations, coupled with the excessive purchase totals involved with some of these vendors, indicate that the State did not receive at least \$10,000 in rightful fees had the companies been properly registered, per §148 CSR 1. Procuring products from non-registered vendors, especially those located out of state and out of country, increases the risk of fraud. Standard written policies and procedures for monitoring should be established to facilitate a consistent, accurate, and complete fiscal monitoring system.

The lack of registrations, coupled with the excessive purchase totals involved with some of these vendors, indicate that the State did not receive at least \$10,000 in rightful fees had the companies been properly registered, per §148 CSR 1.

Recommendations

1. *The WVDE should increase its monitoring and internal controls capacity by assigning more personnel to assist with cyclical monitoring.*
2. *Consideration should be given by the WVDE to use the administrative portion of ESSER funds to hire additional temporary staff to assist in the fiscal monitoring.*
3. *The fiscal monitoring process should be established in writing with specifics on what program monitors should examine. Such monitoring instruments should instruct program monitors to examine if vendors are registered with the Secretary of State, list every type of purchasing violations that should be reviewed, specify key aspects of internal control that must be reviewed, such as segregation of duties, the approval chain of command, the proper use of P-cards and credit cards, and other specific elements of internal control as the WVDE determines appropriate.*
4. *The WVDE should renew its communication with LEAs to re-emphasize proper purchasing procedures.*
5. *The WVDE should routinely review purchasing practices of LEAs during non-emergency conditions to reinforce proper purchasing procedures.*

6. *When appropriate, the WVDE should encourage LEAs to utilize alternative procurement options designated by Policy 8200, such as educational services cooperatives and pre-existing state contracts that permit “piggybacking” to facilitate purchasing processes during states of emergency.*
7. *The WVDE should incorporate in Policy 8200, and in the monitoring instrument for ESSER monitoring, the requirement that LEAs use vendors that are appropriately registered with the SOS and State Tax Department to be authorized to do business in West Virginia.*
8. *The WVDE should clearly define which section of Policy 8200 applies to LEAs for ESSER-related purchases, and for purchases made in the future under potentially similar circumstances.*

Appendix A Transmittal Letter

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Director

September 21, 2023

Michele L. Blatt, State Superintendent of Schools
West Virginia Department of Education
1900 Kanawha Boulevard, East Building 6
Charleston, West Virginia 25305-0470

Dear Superintendent Blatt:

This is to transmit a draft copy of the performance review of the Department of Education regarding federal COVID grants and cyclical monitoring. This report is tentatively scheduled to be presented in Wheeling, West Virginia during the November 12-14, 2023, interim meeting of the Joint Committee on Government Organization. We will inform you of the exact date, time, and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting between now and **Friday, October 6, 2023**. Please notify us to schedule a day and time. In addition, we need your written response by noon on **Thursday, October 19, 2023**, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, November 9, 2023, to make arrangements.

We request that your personnel not disclose the report to anyone unaffiliated with your agency. However, the Legislative Auditor advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

C: Melanie Purkey, Department of Education, Office of Federal Programs
Enclosure

Appendix B

Objectives, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this performance review of the West Virginia Department of Education (WVDE) as authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the West Virginia Code, as amended. The purpose of the WVDE, as established in West Virginia Code §18-2 *et seq.*, is to exercise general supervision of the public schools of the state and carry into effect the laws and policies of the state relating to education.

Objectives

The objective for this review is to determine if the WVDE is properly monitoring the use of Elementary and Secondary School Emergency Relief (ESSER) federal grants to ensure the funding is being spent for the intended purpose, in accordance with the State Plan.

Scope

The scope of this review involved the WVDE's adherence to the internal control sub-recipient procedures for receiving sub-recipient county audits during FY 2020 and 2021. The scope also includes cyclical monitoring data for ESSER I and ARP-ESSER funds conducted by the WVDE between May 2022 and April 2023. The review additionally includes information regarding the State Board of Education takeover of Logan County Schools, a Special Circumstance review of Upshur County Schools, and a federal investigation of Upshur County Schools finances – all of which are ongoing as of October 2023. Finally, a risk assessment with respect to agency capacity was analyzed, particularly during the ESSER I cyclical monitoring stage.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

The bulk of the documentary information gathered for the cyclical monitoring review was acquired through a shared drive, administered by the WVDE, that granted exclusive access to PERD. The agency uploaded volumes of monitoring data on the shared drive for PERD's review, including county district purchasing orders, financial documents, cyclical monitoring forms, purchasing policies, and email communication between districts and the WVDE. To determine the accuracy of certain information, testimonial evidence was also gathered via written statements from WVDE staff, as well as virtual and in-person meetings.

The federally required State Plan, which details the agency's intended use of ESSER funds, was also analyzed as part of this review, in addition to county single audits conducted between FY 2020 and 2021. State Board of Education meeting minutes and applicable Special Circumstance On-Site Review Reports were also utilized.

All information regarding unregistered vendors was obtained via the Secretary of State's (SOS) online business registration portal, which includes records of all registered entities. Written testimony was also gathered from the SOS to confirm the status of specific vendors registered with the state in a business capacity.

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 C

Agency Response



1900 Kanawha Boulevard, East, Building 6 • Charleston, WV 25305
wvde.us

October 12, 2023

John Sylvia, Director
Performance Evaluation & Research Division (PERD)
Building 1, Room W 314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

RE: West Virginia Department of Education (WVDE) Audit on Elementary and Secondary Schools Emergency Response (ESSER) Spending

Dear Mr. Sylvia:

I would like to thank you for the professional and courteous interaction we experienced throughout the audit and for the clearly defined objectives and goals you set forth for the process. This letter is in response to PERD's draft copy of the performance review of the WVDE's administration of ESSER funds. Please find below a summary of the recommendations pertaining to the WVDE and the WVDE's response to each.

Recommendations

1. *The WVDE should increase its monitoring and internal controls capacity by assigning more personnel to assist with cyclical monitoring.*
 - a. While the WVDE Office of Federal Programs and Support has 56 full-time employees, 49 of those employees are on restricted payroll for child nutrition (17), special education (19), and student support services (12); only 2 of those 49 employees have expertise in financial auditing. Therefore, it is not feasible to reassign existing staff to assist with ESSER cyclical monitoring.
2. *Consideration should be given by the WVDE to use the administrative portion of ESSER funds to hire additional temporary staff to assist in the fiscal monitoring.*
 - a. ESSER I and ESSER II funds have expired and ARP-ESSER expires on September 30, 2024. This recommendation is coming just ten months prior to the final expiration of the ESSER funds and it is not feasible to employ additional employees with expertise in financial auditing given this limited period of employment.

Michele L. Blatt
State Superintendent of Schools

L. Paul Hardesty
President, West Virginia Board of Education

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3. *The fiscal monitoring process should be established in writing with specifics on what program monitors should examine. Such monitoring instruments should instruct program monitors to examine if vendors are registered with the Secretary of State, list every type of purchasing violations that should be reviewed, specify key aspects of internal control that must be reviewed, such as segregation of duties, the approval chain of command, the proper use of P-cards and credit cards, and other specific elements of internal control as the WVDE determines appropriate.*
 - a. The WVDE has accepted this recommendation and has drafted written procedures that articulate the monitoring responsibilities of recipients of Federal funds outlined in 2CFR Part 200.329 and 332.
 - b. 2CFR Parts 200.501-520 outline the requirements of a single or program-specific audit which is required by all LEAs receiving ESSER funds based on the amount of funds they received. According to 2CFR Part 200.514(c), the responsibility for determining compliance with internal controls rests with the entity conducting the single or program-audit. To improve the audit process, the WVDE Division of School Operations will strengthen the State Compliance Supplement for Auditing County Boards of Education in the State of West Virginia to include specific key aspects of internal control.
 - c. The WVDE will collaborate with the West Virginia State Auditor's Office to communicate the need to strengthen the auditing process based on this recommendation and the resulting changes in the Compliance Supplement.

Numbers 4-8:

4. *The WVDE should renew its communication with LEAs to re-emphasize proper purchasing procedures.*
5. *The WVDE should routinely review purchasing practices of LEAs during non-emergency conditions to reinforce proper purchasing procedures.*
6. *When appropriate, the WVDE should encourage LEAs to utilize alternative procurement options designated by Policy 8200, such as educational services cooperatives and pre-existing state contracts that permit "piggybacking" to facilitate purchasing processes during states of emergency.*
7. *The WVDE should incorporate in Policy 8200, and in the monitoring instrument for ESSER monitoring, the requirement that LEAs use vendors that are appropriately registered with the SOS and State Tax Department to be authorized to do business in West Virginia.*
8. *The WVDE should clearly define which section of Policy 8200 applies to LEAs for ESSER-related purchases, and for purchases made in the future under potentially similar circumstances.*

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October 12, 2023

- a. The WVDE will submit revisions to Policy 8200 to the West Virginia Board of Education for approval with a timeline to achieve an effective date of July 1, 2024. This revision will address the following:
 - i. The requirement that LEAs use vendors appropriately licensed with the State of West Virginia.
 - ii. Clearly defined emergency purchasing procedures.
 - iii. Annual professional development requirements for all board of education staff authorized to conduct procurement tasks within the school system which will include all information recommended in numbers 4-8.

The WVDE appreciates the findings and recommendations in the report and will use them as guidance for our continuous improvement efforts. We will have a representative at the interim meeting to address any questions or concerns that may arise from the presentation of the report. If I can be of further assistance, please contact me.

Sincerely,



Michele L. Blatt
State Superintendent of Schools

MLB/MBP

Appendix I

ESSER I Cyclical Monitoring Samples and Percentages of Total Allocations

ESSER I Cyclical Monitoring Samples and Percentages of Total Allocations					
County District	Number of Vendors & Invoices Sampled		Total Amount on Invoices Sampled	Total ESSER I Allocation for LEA	% of Allocation Reviewed
	Vendors	Invoices			
Barbour	8	11	\$266,036	\$858,084	31%
Berkeley	10	12	\$347,664	\$3,943,220	8%
Boone	8	18	\$547,085	\$1,243,840	44%
Braxton	10	11	\$108,483	\$820,010	13%
Brooke	6	8	\$64,748	\$607,649	11%
Cabell	13	16	\$3,342,771	\$4,986,882	67%
Calhoun	10	12	\$195,549	\$367,333	53%
Doddridge	7	13	\$258,139	\$297,037	87%
Fayette	14	54	\$1,266,284	\$2,305,679	55%
Gilmer	8	9	\$197,781	\$245,822	80%
Grant	9	14	\$331,963	\$392,838	85%
Greenbrier	18	29	\$581,277	\$1,395,998	42%
Hampshire	16	30	\$220,827	\$989,407	22%
Hancock	7	7	\$189,652	\$854,815	22%
Hardy	10	12	\$418,639	\$515,519	81%
Harrison	13	17	\$1,765,574	\$2,724,153	65%
Jackson	11	14	\$298,968	\$1,203,502	25%
Jefferson	12	13	\$27,816	\$1,064,066	3%
Kanawha	20	20	\$1,032,151	\$8,351,034	12%
Lewis	6	6	\$683,121	\$688,424	99%
Lincoln	7	9	\$338,860	\$1,429,829	24%
Logan	13	14	\$470,691	\$2,106,680	22%
Marion	8	10	\$1,389,042	\$2,041,044	68%
Marshall	9	9	\$104,777	\$1,181,460	9%
Mason	8	8	\$239,295	\$1,232,270	19%
McDowell	18	19	\$1,174,374	\$2,267,898	52%
Mercer	9	12	\$497,270	\$3,232,246	15%
Mineral	11	11	\$241,898	\$1,131,755	21%
Mingo	15	20	\$572,981	\$1,868,906	31%
Monongalia	8	8	\$79,284	\$1,808,942	4%

ESSER I Cyclical Monitoring Samples and Percentages of Total Allocations					
County District	Number of Vendors & Invoices Sampled		Total Amount on Invoices Sampled	Total ESSER I Allocation for LEA	% of Allocation Reviewed
	Vendors	Invoices			
Monroe	10	10	\$48,638	\$527,689	9%
Morgan	7	12	\$310,449	\$488,104	64%
Nicholas	11	11	\$785,390	\$1,268,267	62%
Ohio	8	9	\$650,485	\$1,324,556	49%
Pendleton	4	4	\$228,704	\$236,939	97%
Pleasants	5	5	\$118,579	\$190,344	62%
Pocahontas	12	12	\$76,452	\$359,067	21%
Preston	6	6	\$555,205	\$1,078,383	51%
Putnam	11	11	\$423,557	\$1,115,117	38%
Raleigh	12	12	\$1,485,509	\$3,409,195	44%
Randolph	6	6	\$1,290,354	\$1,441,179	90%
Ritchie	10	10	\$240,904	\$469,821	51%
Roane	5	5	\$593,008	\$837,265	71%
Summers	21	21	\$539,825	\$937,137	58%
Taylor	9	15	\$90,704	\$639,907	14%
Tucker	6	6	\$188,658	\$226,882	83%
Tyler	9	10	\$90,934	\$316,721	29%
Upshur	12	12	\$578,204	\$1,082,696	53%
Wayne	18	28	\$118,233	\$2,015,674	6%
Webster	8	10	\$133,723	\$754,431	18%
Wetzel	6	11	\$232,621	\$726,422	32%
Wirt	12	14	\$95,097	\$275,127	35%
Wood	15	15	\$869,574	\$4,137,531	21%
Wyoming	11	11	\$199,964	\$1,229,459	16%
Total amount of invoices sampled			\$27,177,769	\$77,244,256	35%
<i>Sources: WVDE monitoring files; West Virginia Schools Pandemic Relief Funding chart by WVDE.</i>					



WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

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