

STATE OF ILLINOIS
ILLINOIS STATE POLICE
STATE ASSET FORFEITURE FUND
LIMITED SCOPE COMPLIANCE EXAMINATION
For the Two Years Ended June 30, 2020
Performed as Special Assistant Auditors
for the Auditor General, State of Illinois



STATE OF ILLINOIS
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STATE ASSET FORFEITURE FUND
LIMITED SCOPE COMPLIANCE EXAMINATION
For the Two Years Ended June 30, 2020

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AGENCY OFFICIALS

Director (10/30/19 - Present)	Mr. Brendan F. Kelly
Acting Director (01/21/19 – 10/29/19)	Mr. Brendan F. Kelly
Director (07/01/18 - 01/20/19)	Mr. Leo Schmitz
First Deputy Director (02/01/19 - Present)	Mr. Matt Davis
First Deputy Director (07/01/18 - 01/31/19)	Mr. Chad Peterson
Chief Financial Officer	Mr. Michael T. Yokley
Chief Legal Counsel (10/16/19 - Present)	Ms. Yvette Loizon
Chief Legal Counsel (07/01/18 - 10/15/19)	Mr. Matthew Rentschler
Chief Internal Auditor (11/01/20 – Present)	Ms. Denise K. Caldwell
Chief Internal Auditor (08/01/20 – 10/31/20)	Vacant
Chief Internal Auditor (07/01/18 – 07/31/20)	Mr. Brent Nolan

AGENCY OFFICE

The Illinois State Police’s primary administrative office is located at:
801 South Seventh Street
Springfield, IL 62703



ILLINOIS STATE POLICE
Office of the Director

JB Pritzker
Governor

Brendan F. Kelly
Director

MANAGEMENT ASSERTION LETTER

March 22, 2021

West & Company, LLC
Certified Public Accountants
919 East Harris Avenue
Greenville, Illinois 62246

Ladies and Gentlemen:

We are responsible for the identification of, and compliance with, all aspects of laws, regulations, contracts, or grant agreements that could have a material effect on the operations of the State of Illinois, Illinois State Police (Department). We are responsible for and we have established and maintained an effective system of internal controls over compliance requirements for transactions within the State Asset Forfeiture Fund. We have performed an evaluation of the Department's compliance with the following specified requirements during the two-year period ended June 30, 2020. Based on this evaluation, we assert that during the years ended June 30, 2019, and June 30, 2020, the Department has materially complied with the specified requirements listed below.

- A. The Department has obligated, expended, received, and used public funds of the State Asset Forfeiture Fund in accordance with the purpose for which such funds have been appropriated or otherwise authorized by law, including the Seizure and Forfeiture Reporting Act.
- B. Other than what has been previously disclosed and reported in the Schedule of Findings, the Department has obligated, expended, received, and used public funds of the State Asset Forfeiture Fund in accordance with any limitations, restrictions, conditions, or mandatory directions imposed by law, including the Seizure and Forfeiture Reporting Act, upon such obligation, expenditure, receipt, or use.
- C. Other than what has been previously disclosed and reported in the Schedule of Findings, the Department has complied, in all material respects, with applicable laws and regulations, including the State uniform accounting system and the Seizure and Forfeiture Reporting Act, in its financial and fiscal operations.

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- D. Other than what has been previously disclosed and reported in the Schedule of Findings, revenues and receipts collected by the Department for the State Asset Forfeiture Fund are in accordance with applicable laws and regulations, including the Seizure and Forfeiture Reporting Act, and the accounting and recordkeeping of such revenues and receipts is fair, accurate, and in accordance with law, including the Seizure and Forfeiture Reporting Act.

- E. Other than what has been previously disclosed and reported in the Schedule of Findings, administrative costs charged to the State Asset Forfeiture Fund are reasonable, and in accordance with applicable laws and regulations, including the Seizure and Forfeiture Reporting Act.

Yours truly,

Illinois State Police

Brendan F. Kelly, Director

Michael T. Yokley, Chief Fiscal Officer

Yvette Loizon, Chief Legal Counsel

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COMPLIANCE REPORT

SUMMARY

The limited scope compliance testing performed during this examination was conducted in accordance with *Government Auditing Standards*, the Seizure and Forfeiture Reporting Act, and the Illinois State Auditing Act.

ACCOUNTANT’S REPORT

The Independent Accountant’s Report on State Compliance and on Internal Control Over Compliance for the State Asset Forfeiture Fund does not contain scope limitations or disclaimers, but does contain an adverse opinion on compliance and identifies material weaknesses over internal control over compliance.

SUMMARY OF FINDINGS

<u>Number of</u>	<u>Current Report</u>	<u>Prior Report</u>
Findings	4	0*
Repeated findings	0	0*
Prior recommendations implemented or not repeated	0	0*

*This is the first Compliance Examination of the State Asset Forfeiture Fund.

SCHEDULE OF FINDINGS

<u>Item No.</u>	<u>Page</u>	<u>Last/First Report</u>	<u>Description</u>	<u>Finding Type</u>
FINDINGS (STATE COMPLIANCE)				
2020-001	9	New	Inadequate Controls Over Receipts and Reconciliations	Material Weakness and Material Noncompliance
2020-002	12	New	Failure to Comply with the Seizure and Forfeiture Reporting Act	Material Weakness and Material Noncompliance
2020-003	13	New	Noncompliance with the Seizure and Forfeiture Reporting Act	Material Weakness and Material Noncompliance
2020-004	14	New	Failure to Demonstrate the Completeness and Accuracy of the Report Components	Material Weakness and Material Noncompliance

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EXIT CONFERENCE

The findings and recommendations appearing in this report were discussed with the Department personnel at an exit conference on March 11, 2021.

Attending were:

Illinois State Police

Mr. Matt Davis, First Deputy Director
Mr. Michael Yokley, Chief Financial Officer

Office of the Auditor General

Ms. Kathy Lovejoy, Principal of IS Audits

West & Company, LLC – Special Assistant Auditors

Ms. Janice Romack, Partner
Mr. Michael Lawler, Manager
Mr. Brandon Craycroft, Supervisor

The responses to the recommendations were provided by Mr. Michael Yokley, Chief Financial Officer, in a correspondence dated March 18, 2021.



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**INDEPENDENT ACCOUNTANT'S REPORT
ON STATE COMPLIANCE AND ON INTERNAL CONTROL OVER COMPLIANCE**

Honorable Frank J. Mautino
Auditor General
State of Illinois

Compliance

As Special Assistant Auditors for the Auditor General, we have examined compliance by the State of Illinois, Illinois State Police (Department) with the specified requirements listed below, as more fully described in the *Audit Guide for Financial Audits and Compliance Attestation Engagements of Illinois State Agencies (Audit Guide)* as adopted by the Auditor General, for transactions within the State Asset Forfeiture Fund (Fund) during the two years ended June 30, 2020. Management of the Department is responsible for compliance with the specified requirements. Our responsibility is to express an opinion on the Department's compliance with the specified requirements based on our examination.

The specified requirements are:

- A. The Department has obligated, expended, received, and used public funds of the Fund in accordance with the purpose for which such funds have been appropriated or otherwise authorized by law, including the Seizure and Forfeiture Reporting Act (SAFRA).
- B. The Department has obligated, expended, received, and used public funds of the State in accordance with any limitations, restrictions, conditions, or mandatory directions imposed by law, including SAFRA, upon such obligation, expenditure, receipt, or use.
- C. The Department has complied, in all material respects, with applicable laws and regulations, including SAFRA and the State uniform accounting system, in its financial and fiscal operations.
- D. Revenues and receipts collected by the Department for the Fund are in accordance with applicable laws and regulations, including SAFRA, and the accounting and recordkeeping of such revenues and receipts is fair, accurate, and in accordance with law, including the Seizure and Forfeitures Reporting Act.
- E. Administrative costs charged to the State Asset Forfeiture Fund are reasonable, and in accordance with applicable laws and regulations, including the Seizure and Forfeitures Reporting Act.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States, SAFRA, the Illinois State Auditing Act (Act), and the *Audit Guide*. Those standards, SAFRA, the Act, and the *Audit Guide* require that we plan and perform the examination to obtain reasonable assurance about whether the

Department complied with the specified requirements in all material respects. An examination involves performing procedures to obtain evidence about whether the Department complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgement, including an assessment of the risks of material noncompliance with the specified requirements, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our modified opinion.

Our limited scope examination does not provide a legal determination on the Department's compliance with the specified requirements.

Our limited scope examination disclosed material noncompliance with the specified requirements during the two years ended June 30, 2020. As described in items 2020-001 through 2020-004 in the accompanying Schedule of Findings, the Department did not comply with the specified requirements. Items 2020-001 through 2020-004 are each considered to represent material deviations with the specified requirements. First, as described in the accompanying Schedule of Findings as items 2020-001 through 2020-003, the Department had not obligated, expended, received, and used public funds of the Fund in accordance with any limitations, restrictions, conditions, or mandatory directions imposed by law, including SAFRA, upon such obligation, expenditure, receipt, or use. Second, as described in the accompanying Schedule of Findings as item 2020-001 through 2020-003, the Department had not complied, in all material respects, with applicable laws and regulations, including SAFRA and the State uniform accounting system, in its financial and fiscal operations. Third, as described in the accompanying Schedule of Findings as item 2020-001 and 2020-004, the Department had not ensured revenues and receipts collected by the Department for the Fund were in accordance with applicable laws and regulations, including SAFRA, and the accounting and recordkeeping of such revenues and receipts was fair, accurate, and in accordance with law. Finally, as described in the accompanying Schedule of Findings as item 2020-002, the Department did not reasonably charge administrative costs to the State Asset Forfeiture Fund in accordance with applicable laws and regulations, including the Seizure and Forfeiture Reporting Act.

In our opinion, because of the significance and pervasiveness of the material deviations from the specified requirements described in the preceding paragraph, the Department did not comply with the specified requirements during the two years ended June 30, 2020, in all material respects.

The Department's responses to the compliance findings identified in our examination are described in the accompanying Schedule of Findings. The Department's responses were not subjected to the procedures applied in the examination and, accordingly, we express no opinion on the responses.

The purpose of this report is solely to describe the scope of our testing and the results of that testing in accordance with the requirements of the *Audit Guide*. Accordingly, this report is not suitable for any other purpose.

Internal Control Over Compliance

Management of the Department is responsible for establishing and maintaining effective internal control over compliance with the specified requirements (internal control). In planning and performing our examination, we considered the Department's internal control to determine the examination procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the Department's compliance with the specified requirements and to test and report on the Department's internal control in accordance with the *Audit Guide*, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with the specified requirements on a timely basis. *A material weakness in internal control* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that material noncompliance with the specified requirements will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that have not been identified. We did identify certain deficiencies in internal control, described in the accompanying Schedule of Findings as items: 2020-001 through 2020-004 that we consider to be material weaknesses.

There were no immaterial findings that have been excluded from this report.

The Department's responses to the internal control findings identified in our examination are described in the accompanying Schedule of Findings. The Department's responses were not subjected to the procedures applied in the examination and, accordingly, we express no opinion on the responses.

The purpose of this report is solely to describe the scope of our testing of internal control and the results of that testing based on the requirements of the *Audit Guide*. Accordingly, this report is not suitable for any other purpose.

Greenville, Illinois
March 22, 2021

STATE OF ILLINOIS
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SCHEDULE OF FINDINGS – STATE COMPLIANCE
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2020-001 **FINDING** (Inadequate Controls Over Receipts and Reconciliations)

The Illinois State Police (Department) did not maintain adequate internal controls over receipts and reconciliations.

Controls over cash receipts

During testing, we requested the Department provide the population of cash receipts received by the Department during Fiscal Years 2019 and 2020 for the State Asset Forfeiture Fund (Fund 514) in order to test compliance applicable to those receipts. In response to our request, the Department provided a listing of cash receipts. We noted the Department’s population of cash receipts did not agree to the documentation in the Department’s Revenue Status Report (SB04) reconciliations for Fiscal Year 2019 or Fiscal Year 2020.

Due to these conditions, we were unable to conclude the Department’s population records were sufficiently precise and detailed under the Attestation Standards promulgated by the American Institute of Certified Public Accountants (AT-C § 205.35) to test the Department’s compliance relative to cash receipts.

Even given the population limitations noted above which hindered the ability of the accountants to conclude whether selected samples were representative of the population as a whole, we tested seven of 8 (88%) receipts, totaling \$43,430, which did not include documentation to support the date the check was received. Therefore, timeliness of the deposit could not be determined.

In addition, we noted the Department did not maintain proper segregation of custody and recordkeeping duties over receipt collection and processing. One employee was responsible for:

- Preparing a log of receipts received;
- Recording receipts in the receipts ledger; and
- Depositing funds into the State Treasury.

Controls over cash reconciliations

During testing of Fiscal Year 2020 and 2019 reconciliations between the Comptroller’s records and the Department’s records for Fund 514, we noted:

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2020-001 **FINDING** (Inadequate Controls Over Receipts and Reconciliations) – Continued

- Monthly Revenue Status Report (SB04) reconciliations for one of 24 (4%) months were not performed within 60 days following the end of the month. The SB04 reconciliation was completed 25 days late. Additionally, year-to-date SB04 reconciliations for Fiscal Years ended June 30, 2020 and 2019 contained unexplained reconciliation discrepancies totaling a net amount of \$624, and \$673,106, respectively.
- SB04 reconciliations for Fiscal Year 2020 were not reconciled by receipt account; whereby each Fund was reconciled in total.
- SB04 reconciliations for Fiscal Years 2020 and 2019 were not reviewed by an independent person.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires agencies to establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance that funds, property, and other assets and resources are safeguarded against waste, loss, unauthorized use, and misappropriation and revenues are properly recorded and accounted for to permit the preparation of reliable financial and statistical reports and to maintain accountability over the State's resources. The State Records Act (5 ILCS 160/9(1)) requires agencies to provide for effective controls over the creation, maintenance, and use of records in the conduct of current business. Additionally, the Statewide Accounting Management System (SAMS) (Procedure 25.40.20) requires the Department to perform a monthly reconciliation of each receipt account balance of the SB04 within 60 days of each month and notify the Comptroller of any irreconcilable differences. Further, good business practices require the Department maintain adequate segregation of duties in order to help ensure the safeguarding of assets, prevent improper expenditures, and ensure the accuracy and reliability of accounting data.

Department management indicated the lack of segregation of duties over processing of receipts was due to staffing shortages. Department management also indicated the untimely reconciliation was due by competing priorities and they were unaware of the requirement to complete SB04 reconciliations by each receipt account. Furthermore, Department management indicated the lack of documentation was due to oversight.

Failure to maintain proper segregation of duties may result in theft or misappropriation of assets which may not be prevented or detected. Lack of controls over the preparation and review of receipts may lead to inaccurate Department records and the submission of inaccurate financial information to the Office of the Comptroller. In addition, failure to timely reconcile monthly cash

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2020-001 **FINDING** (Inadequate Controls Over Receipts and Reconciliations) - Continued

receipts could lead to unresolved differences between the Department and the Office of the Comptroller's records, inaccurate financial reporting, and undetected loss or theft. (Finding Code No. 2020-001)

RECOMMENDATION

We recommend the Department establish proper segregation of duties over the receipts process, perform supervisory review over all reporting and transaction processing, strengthen procedures to properly reconcile receipts, and maintain accurate documentation to support receipt activities and related reviews performed.

DEPARTMENT RESPONSE

The Department concurs proper segregation of duties over receipts should be implemented. The Department has implemented procedures with one employee retrieving and logging receipts while another makes the deposits. Additionally, reconciliations are current and have a secondary signature. FY21 reconciliations are current with no variances between Department records and the Comptroller records for Fund 514. The \$624 variance for FY20 was a prior year refund which is recorded by the Comptroller and not as receipts by the Department. FY19 variances relate to a system failure in the legacy system which is being investigated.

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2020-002 **FINDING** (Failure to Comply with the Seizure and Forfeiture Reporting Act)

The Illinois State Police (Department) did not comply with the Seizure and Forfeiture Reporting Act (Act).

The Act (5 ILCS 810/10(d)), effective August 3, 2018, requires the Department to adopt rules to administer the asset forfeiture program, including the categories of authorized expenditures consistent with the statutory guidelines for each of the included forfeiture statutes, the use of forfeited funds, other expenditure requirements and the reporting of seizure and forfeiture information. However, the Department had not adopted rules regarding the categorization of authorized expenditures to ensure they were consistent with the statutory guidelines for each forfeiture statute.

The Act (5 ILCS 810/15) requires the Auditor General to conduct an audit of the State Asset Forfeiture Fund for compliance with the requirements of the Act. However, due to the lack of rules we were unable to test the disbursements to determine if they were made in accordance with the Act. Furthermore, we could not determine if the administrative costs charged to the fund were reasonable.

Department management indicated due to the complexities of all the forfeiture statutes and the impact on the public, significant time was needed to draft appropriate rules.

Failure to adopt the required rules prevents the Auditor General from performing its statutory responsibility and could result in inappropriate use of forfeiture funds. (Finding Code No. 2020-002)

RECOMMENDATION

We recommend the Department comply with the Act and adopt rules regarding the disbursements of forfeitures.

DEPARTMENT RESPONSE

The Department concurs and is in the final processes of drafting the rules. The Department plans to present the newly drafted rules to the Joint Committee on Administrative Rules (JCAR) this year (2021).

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2020-003 **FINDING** (Noncompliance with the Seizure and Forfeiture Reporting Act)

The Illinois State Police (Department) was not in compliance with the Seizure and Forfeiture Reporting Act (Act).

During testing we noted the Department’s information technology software and hardware was not upgraded in accordance with the Act. The Department funded the upgrade with existing forfeiture proceeds and not with a temporary levy against ongoing forfeiture proceeds.

The Act (5 ILCS 810/10(g)) states the Department of State Police shall, on or before January 1, 2019, establish and implement the reporting and public database requirements under this Act. In order to implement the reporting and public database requirements under this Act, the Department’s Asset Forfeiture Section requires a one-time upgrade of its information technology software and hardware. This one-time upgrade shall be funded by a temporary allocation of 5% of all forfeited currency and 5% of the auction proceeds from each forfeited asset.

Department management indicated the 5% ongoing levy was not considered necessary due to having existing asset forfeiture funds available.

Failure to upgrade the Department’s information technology system in the manner specified by the Act is noncompliance with the Act and resulted in the State incurring a larger share of the cost. (Finding Code No. 2020-003)

RECOMMENDATION

We recommend the Department comply with the Act by funding the information technology software and hardware with the appropriate funds.

DEPARTMENT RESPONSE

The Department concurs. A determination was made that since the Department had forfeiture funds available in the State Asset Forfeiture Fund there was no need to withhold 5% of all forfeited currency and auction proceeds.

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2020-004 **FINDING** (Failure to Demonstrate the Completeness and Accuracy of
the Report Components)

The Illinois State Police (Department) did not have adequate internal controls to demonstrate the schedules and components (report components) within the Department's *Compliance Examination Report* were complete and accurate.

Due to changes in independence requirements effective June 30, 2020, the Office of the Auditor General (OAG) now requires auditees, without auditor assistance, to prepare the report components comprising the Supplementary Information for State Compliance Purposes usually found within the OAG's compliance reports. To help facilitate this change, the OAG published guidance on its website for auditees to follow in preparing these report components. While we do not express an opinion, a conclusion, or provide any assurance on these report components, we read them to identify potential errors based on our knowledge of the auditee and, where possible, compare or reconcile the information to the auditee's records examined during the compliance examination. If we identify any potential errors, we bring the matter to the attention of the auditee's management to, ideally, either correct the error or demonstrate why the disclosure is complete and accurate.

During the course of this examination, we noted the Department's internal controls were inadequate to both (1) prepare the report components and (2) demonstrate the report components Department management prepared were complete and accurate. Specifically, we noted the following:

- The *Schedules of Appropriations, Expenditures, and Lapsed Balances* was prepared by Department management from their own records. However, our review of the *Schedules*, noted differences between the Department and the Office of the Comptroller's records.
- The *Comparative Schedule of Net Appropriations, Expenditures, and Lapsed Balances* was prepared by Department management from their own records. However, our review of the *Schedule*, noted differences between the Department and the Office of the Comptroller's records.
- The *Comparative Schedule of Net Expenditures by Major Activity* was prepared by Department management from their own records. However, our review of the *Schedules*, noted differences between the Department and the Office of the Comptroller's records.
- The *Comparative Schedule of Cash Receipts and Deposits into the State Treasury* was prepared by Department management from their own records. However, our review of the *Schedule*, noted differences between the Department and the Office of the Comptroller's records.

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2020-004 **FINDING** (Failure to Demonstrate the Completeness and Accuracy of
the Report Components) – Continued

- The *Analysis of Operations (Functions and Planning)*, which comments on the Department’s purpose, primary function and major programs could not be prepared due to the lack of Administrative Rules being developed as required by the Seizure and Forfeiture Reporting Act.
- The *Analysis of Significant Variations in Expenditures*, which comments on the underlying cause for why significant variations occurred within various line item expenditures during each fiscal year, as measured by dollar amount or percentage change, omitted several significant variances between fiscal years 2020 and 2019.
- The *Analysis of Significant Variations in Receipts*, which comments on the underlying cause for why significant variations occurred within various line receipt sources during each fiscal year, as measured by dollar amount or percentage change, omitted several significant variances between fiscal years 2020 and 2019.
- The *Analysis of Significant Lapse Period Spending*, which comments on the significant Lapse Period expenditures, as measured by dollar amount or percentage change, omitted several significant variances for Fiscal Year 2020 and omitted several significant variances for Fiscal Year 2019.

As a result of these deficiencies, these report components were excluded from the Department’s *Compliance Examination Report*.

Good internal controls over compliance facilitate the preparation of complete and accurate report components and allow for the resolution, where necessary, of any potential errors presented to management by independent accountants examining the Department.

Department management indicated they have experienced difficulties in completing the Report Components for two primary reasons. This is the first time they have been required to complete the schedules and lack expertise in doing so. Additionally the Department is still learning how to pull required information from their new financial system.

Compliance examinations stress the fundamentals of governmental accountability, including providing transparency about the Department’s fiscal and administrative controls and whether the Department’s resource utilization was efficient, effective, and in compliance with applicable law. Failure to prepare accurate and complete

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2020-004 **FINDING** (Failure to Demonstrate the Completeness and Accuracy of
the Report Components) - Continued

report components hinders the ability of users of the Department’s *Compliance Examination Report* to obtain additional analysis of the Department’s operations.
(Finding Code No. 2020-004)

RECOMMENDATION

We recommend the Department implement controls to ensure report components are accurately and completely prepared in future compliance examinations.

DEPARTMENT RESPONSE

The Department concurs that report components should be accurately prepared for future compliance examinations.