



Board of State and Community Corrections

Its Administration of Coronavirus Emergency
Supplemental Funds Has Been Marred by Delays,
Unfair Awards, and Insufficient Monitoring

October 2021

REPORT 2021-616





CALIFORNIA STATE AUDITOR

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October 21, 2021

2021-616

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As authorized by state law, my office conducted a state high-risk audit of the Board of State and Community Corrections' (Community Corrections) management of federal funds related to the COVID-19 pandemic (pandemic). Community Corrections administers the Coronavirus Emergency Supplemental Funding (CESF) program and received \$59 million in federal funding to prevent, prepare for, and respond to the pandemic. The following report details our conclusions that Community Corrections unnecessarily delayed, unfairly awarded, and inadequately monitored CESF funds. As a result, the State risks having to return unspent or misused funds to the federal government.

Despite telling the U.S. Department of Justice that it would use a grant to award CESF funds to state, county, city, and tribal agencies, Community Corrections deviated from this approach. Specifically, Community Corrections provided \$22 million in CESF funds to the California Department of Corrections and Rehabilitation (CDCR) outside of the grant process and without assessing CDCR's specific COVID-19-related needs or the associated costs. In addition, Community Corrections did not make funds available to cities and tribes, and it failed to consider the impact of COVID-19 when it allocated funds to the counties. Moreover, Community Corrections delayed CESF funding to counties for nearly one year, depriving them of emergency assistance during the height of the pandemic throughout 2020. Had Community Corrections considered the impact of COVID-19 and the urgency of these funds, it could have provided greater assistance to the counties most affected by COVID-19 and as much as eight months earlier.

We also found that Community Corrections' grant requirements were overly burdensome. Specifically, Community Corrections required counties to form local advisory committees and pass 20 percent of the funds through to community-based organizations—requirements that were time- and resource-consuming when counties faced an unprecedented pandemic. In fact, nearly half of the eligible counties did not apply for CESF funds, and representatives from some counties we interviewed attributed the burdensome requirements as their reasons for not applying. Further, Community Corrections unfairly awarded funds to some counties that did not meet all of the requirements, without informing all counties that it would provide leniency with certain requirements. Finally, Community Corrections has neither effectively monitored recipients' use of CESF funds, nor appropriately submitted the required fiscal, progress, and transparency reports to the federal government.

Contributing to the shortcomings we identified is that Community Corrections lacks robust grant policies and procedures, which we recommended that it improve. To mitigate the risk of the State having to return unspent or misused funds to the federal government, we also recommended that Community Corrections immediately develop and implement a plan to monitor and report CDCR's and the counties' use of CESF funds.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA
California State Auditor

Selected Abbreviations Used in This Report

CARES Act	Coronavirus Aid, Relief, and Economic Security Act
CBO	community-based organization
CDCR	California Department of Corrections and Rehabilitation
CESF	Coronavirus Emergency Supplemental Funding
Community Corrections	Board of State and Community Corrections
U.S. DOJ	U.S. Department of Justice

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Summary

Results in Brief

As part of the more than \$2 trillion package through the Coronavirus Aid, Relief, and Economic Security Act, the federal government made available \$850 million to the U.S. Department of Justice (U.S. DOJ) to prevent, prepare for, and respond to the COVID-19 pandemic (pandemic). The U.S. DOJ designated these funds, known as Coronavirus Emergency Supplemental Funding (CESF), for states, territories, local governments, and federally recognized tribes. Although distributed by the U.S. DOJ, the funds were not restricted to law enforcement or corrections purposes. California’s Board of State and Community Corrections (Community Corrections) applied for, received, and accepted responsibility for overseeing and reporting on the State’s use of its \$59 million in CESF funds. Our review found numerous concerns with Community Corrections’ administration of these funds, including that it did not always justify its award of the funds, its allocation methodology did not fully consider the impact of the pandemic, and it lacks a plan to effectively monitor recipients’ use of the funds.

Community Corrections’ application to the U.S. DOJ stated that it would use a formula-based grant process to allocate funds to state entities, counties, cities, and federally recognized tribes affected by COVID-19. However, it did not use a formula when it allocated a total of \$22 million—nearly 40 percent of the total CESF funds—to the California Department of Corrections and Rehabilitation (CDCR). Community Corrections also did not require CDCR to justify its specific needs or the associated costs to respond to COVID-19. As a result, Community Corrections significantly reduced the amount of funding that was available to assist local governments, specifically counties, which the pandemic also impacted.

In addition, the formula Community Corrections used to distribute the remaining CESF funds did not identify the counties most affected by COVID-19. Instead, it used a population-based formula for allocating these funds. Had Community Corrections’ allocation methodology considered the impacts of the pandemic, such as the percentage of the population of each county that became infected, the counties most affected by COVID-19 would have been eligible to receive larger amounts of funding to assist with their pandemic-related needs.

Additionally, Community Corrections unnecessarily delayed providing CESF funds to counties, depriving them of these emergency funds during the height of the pandemic when they

Audit Highlights . . .

Our audit of Community Corrections’ administration of COVID-19 related federal funds highlighted the following:

- » *It significantly reduced the amount of CESF funds that were available to assist local governments—specifically counties—impacted by the pandemic.*
 - *It did not use a formula, as promised, when it allocated \$22 million, of the \$59 million it received, to CDCR.*
 - *It did not require CDCR to justify its specific needs or the associated costs to respond to COVID-19.*
- » *It used a population-based formula for allocating remaining CESF funds rather than identifying the counties most impacted by COVID-19.*
- » *It unnecessarily delayed providing CESF funds to counties and deprived them of these funds during the height of the pandemic—it could have awarded funds as much as eight months earlier.*
- » *Its grant requirements were overly burdensome and more stringent than federal requirements, which deterred some counties from applying for funds—nearly 50 percent of the eligible counties did not apply.*
- » *It neither notified all counties’ key officials of the funding opportunity nor has it effectively monitored CDCR’s and the counties’ spending and use of these funds.*

needed these funds the most. Although Community Corrections was aware in May 2020 that it would receive \$59 million in CESH funds, it did not begin developing its grant solicitation until September 2020. Because of this delay, it did not award funds to counties until April and May 2021—almost a full year later. In comparison, the U.S. DOJ awarded CESH grants to states in less than two months. By the time Community Corrections allocated funds to counties in May 2021, COVID-19 appeared to have stabilized, and some counties either no longer needed these funds or had identified other funding sources. Had Community Corrections taken steps to expedite its disbursement of these funds, we believe it could have awarded funds to counties as much as eight months earlier.

Compounding the delay in funding, Community Corrections made its grant requirements overly burdensome, deterring some counties from applying for funds. Specifically, Community Corrections required counties to establish local advisory committees to plan and oversee CESH funds at the local level. Additionally, it required counties to provide 20 percent of these funds to community-based organizations, which are public or private nonprofit organizations that provide social and health services within the community. These requirements were much more stringent than the federal requirements and are problematic because they can be very time-consuming and resource-intensive. Three of the five counties we spoke with specifically identified these requirements as primary reasons for not applying. Given that 26 of the 57 eligible counties did not apply for CESH funds, it is likely that other counties faced similar time and resource constraints.¹

We also found that Community Corrections failed to notify all counties' key officials, such as the county administrator, sheriff, or probation chief, of the funding opportunity. Additionally, Community Corrections approved awards to counties that did not meet all of the grant requirements, such as not adequately forming local advisory committees. When we asked whether Community Corrections made all potential applicants aware of its departure from this requirement, it would not directly respond to our question, nor could it demonstrate that it notified all counties about the deviation. Further, we found instances in which Community Corrections determined that a county's application did not meet certain requirements, yet Community Corrections approved the grant award anyway, without documenting whether the county eventually met the requirements.

¹ Lassen County was not eligible to receive an allocation under Community Corrections' allocation formula because it received a significant amount of CESH funds directly from the U.S. DOJ.

Finally, Community Corrections has not effectively monitored CDCR's and the counties' spending and use of the CESF funds. CDCR's and the counties' agreements with Community Corrections require them to provide periodic reports to Community Corrections detailing their spending of CESF funds and their accomplishments toward meeting grant objectives. These reports are informative because they can help Community Corrections gauge whether recipients are spending funds on authorized purposes and will meet the federal spending deadline of January 31, 2022. However, we found that Community Corrections failed to obtain four progress reports from CDCR when they were due, and it has done little to ensure that CDCR is using CESF funds for authorized purposes. Further, as of late August 2021, Community Corrections did not have an adequate plan for monitoring the counties' CESF activities, even though the counties submitted their first progress reports to it in mid-July 2021. Community Corrections' ineffective monitoring of CDCR and the counties creates a risk that it may have to return unspent or misused funds to the federal government.

Selected Recommendations

To ensure that it efficiently and effectively administers state and federal grants, including any future emergency funds it might receive, Community Corrections should revise its grant policies and procedures by December 2021 to address the following:

- The justification for the allocation formula it chooses, including an assessment of the recipients' need for the funds.
- How its allocation of emergency funds, such as federal COVID-19 funding, will reflect the effect of the emergency on potential applicants.
- The promptness of its grant process, including specific timelines for how quickly it must obtain board approval, develop its grant solicitation, evaluate applications, make awards, and disburse the funds.
- The circumstances under which it will deviate from its solicitation requirements and the steps it will take to ensure that it informs applicants—and potential applicants—of the deviations it will accept.
- A thorough and documented evaluation of grant applications, including the justification for awards and an explanation of how it will resolve instances in which an application does not comply with the solicitation's requirements.

To ensure that CDCR and counties spend CESF funds appropriately and in a timely manner, Community Corrections should immediately develop and implement a plan to monitor the use of CESF funds, and it should obtain all required reports on time.

Agency Comments

Although Community Corrections asserted that it takes our audit report findings and recommendations seriously, it did not agree with our conclusions and it criticized some of our methodologies. Further, Community Corrections generally disagreed with our recommendation to revise its grant policies and procedures and it did not address our other recommendations in its response.

Introduction

Background

On March 27, 2020, the federal government enacted the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which made more than \$2 trillion available to assist in responding to the COVID-19 pandemic (pandemic). The CARES Act allocated \$850 million of these funds to the U.S. Department of Justice (U.S. DOJ), but because the federal government did not limit the use of these funds to law enforcement or corrections purposes, the U.S. DOJ permitted a broad use of the funds relative to the public health emergency. The federal government provided this funding to the U.S. DOJ to address the urgent need to mitigate the effects of the pandemic.

On March 30, 2020—just three days after the U.S. Congress passed the CARES Act—the U.S. DOJ issued a formula-based grant solicitation to states, territories, local governments, and federally recognized tribes to apply for these funds under the Coronavirus Emergency Supplemental Funding (CESF) program. A formula grant is a noncompetitive grant for which statutes often predetermine how the grantor will allocate funds among eligible recipients based on factors such as population, census data, or crime rates. The U.S. DOJ awarded CESF funds to states and local governments using a formula allocation based primarily on each government's share of violent crime and population, which it had used for another justice-assistance grant program. It indicated that grant recipients could use CESF funds for projects or purchases including, but not limited to, overtime, personal protective equipment and supplies, hiring, training, and addressing the medical needs of inmates in state prisons and local jails. The U.S. DOJ established a two-year grant period from January 2020 through January 2022, during which time grant recipients must spend all of the CESF funds. If necessary, grant recipients have the option to request a one-time extension of up to 12 months. After the grant period and any extension, they must return the unspent funds to the U.S. DOJ.

State Application for Federal CESF Funds

Because the U.S. DOJ made the grant available to state, local, and tribal governments, all such entities in California could apply for CESF funds directly from the U.S. DOJ, and some cities and counties did. Specifically, the U.S. DOJ awarded \$35 million in CESF grants directly to some counties and cities in California. In addition, on behalf of the State, the Board of State and Community Corrections (Community Corrections) applied for and the U.S. DOJ

awarded it nearly \$59 million in CESF funds in May 2020. Our audit focuses on Community Corrections' distribution of the \$59 million it received; we did not review the \$35 million that the U.S. DOJ awarded directly to counties and cities, as the State was not involved in administering these funds.

Because local governments could obtain CESF funds directly from the U.S. DOJ, there was no requirement that Community Corrections provide the \$59 million it received to local governments. However, in its approved grant application to the U.S. DOJ, Community Corrections stated that it would distribute these funds throughout the State using a predetermined formula to allocate grants to state, county, and city agencies, and federally recognized tribes affected by COVID-19. Further, in its application, Community Corrections stated that it would require each recipient to submit an application describing how the recipient would use the CESF funds.

As the federally designated state applicant and recipient of the CESF funds, Community Corrections is responsible for administering and reporting on the use of CESF funds to the U.S. DOJ. Community Corrections must report quarterly the amount it and its subrecipients have spent or obligated for each award, and it must report semiannually its accomplishments toward the grant objectives of preventing, preparing for, and responding to the pandemic. To obtain the information necessary to comply with these federal reporting requirements, Community Corrections requires state and local CESF recipients to submit quarterly expenditure reports and semiannual progress reports on their accomplishments toward the grant objectives.

Audit Results

Community Corrections Provided CDCR With \$22 Million in CESF Funds Without Justification

Although it informed the U.S. DOJ in its application for CESF funding that it would disburse the funds using a formula grant, Community Corrections provided some of the CESF funds to the California Department of Corrections and Rehabilitation (CDCR) without requiring CDCR to justify the need for this funding. Specifically, Community Corrections informed the U.S. DOJ that it would use a formula grant to allocate these funds to state, county, and city agencies, and federally recognized tribes affected by COVID-19. It also explained that it would require grant recipients to submit applications that describe how they would use the funds. However, Community Corrections deviated from that proposed approach when it initially provided CDCR with \$15 million in CESF funds without using a formula to determine the amount CDCR was eligible to receive or requiring it to formally apply for the funds.

Further, Community Corrections offered the CESF funds to CDCR without formally assessing CDCR's need or evaluating its plans for the funds. Community Corrections called an emergency meeting of its board on July 16, 2020, to approve the initial \$15 million award to CDCR. During the meeting, Community Corrections' staff explained to the board that CDCR needed to release 8,000 inmates from prison by the end of August 2020 due to COVID-19. To assist released inmates in need of transitional housing, staff explained that the Governor had requested that Community Corrections provide federal emergency funding to CDCR. However, Community Corrections did not require CDCR to provide any documentation to support its need for \$15 million, such as a needs assessment that included the number of inmates it planned to house with CESF funds and the estimated costs of transitional housing for these inmates. Although it was responding to the Governor's request to provide these funds to CDCR, we would have expected Community Corrections, at a minimum, to verify the number of inmates CDCR planned to house and the associated costs. By providing this substantial amount of CESF funding to CDCR without requiring justification of these costs, Community Corrections significantly reduced the amount of funding that was available to assist local governments, specifically counties, which the pandemic also affected.

In April 2021, Community Corrections awarded CDCR an additional \$7 million in CESF funds—for a total of \$22 million—once again without requiring it to justify its need for the funds. Specifically, after Community Corrections approved the initial funds to CDCR and retained an allowable amount of nearly \$2 million for its administrative costs, it determined the amounts it would allocate

Community Corrections' decision to award an additional \$7 million to CDCR was not fully informed because it had not assessed whether CDCR was effectively using its initial award of \$15 million.

from the remaining \$42 million to eligible California counties using a formula that considered each county's population. However, 26 counties did not apply for the funds, an issue we describe later in the report, which left approximately \$7 million in unclaimed CESF funds. Community Corrections asserted that it offered the \$7 million to CDCR because it believed CDCR was using the original allocation to effectively house inmates. Specifically, in February 2021, Community Corrections approved a request from CDCR to expand its scope for the original \$15 million beyond housing, to include reentry services, such as employment services, counseling, and family reunification services, for inmates that the State was releasing from prison. Then in March 2021, Community Corrections asked CDCR if it was interested in receiving the additional \$7 million, and CDCR accepted the offer. Ultimately, the amended contract between Community Corrections and CDCR expanded the scope of the additional funds again, with CDCR offering housing and reentry services to assist inmates that county probation departments supervise. Although CDCR's plan to extend services to inmates supervised by county probation departments appeared to provide a statewide benefit, Community Corrections' decision was not fully informed because it had not assessed whether CDCR was effectively using its initial award of \$15 million.

In particular, from July 2020 through May 2021, CDCR did not provide Community Corrections with three required quarterly fiscal progress reports that should have demonstrated how it was using its funding. CDCR also did not provide one semiannual progress report, which was due in January 2021 and should have included a description of its progress in reaching the program's objectives. As the recipient of a federal award, Community Corrections has the responsibility to ensure that recipients of CESF funds spend them to prevent, prepare for, and respond to COVID-19 before the end of the project period of January 31, 2022. It was not until June 2021, when we asked Community Corrections to demonstrate how it was monitoring CDCR's use of the CESF funds, that it asked CDCR to provide the missing reports. Upon our review of the fiscal reports, we learned that as of March 2021, CDCR had spent only about half of the initial \$15 million it received. If Community Corrections had received and evaluated the fiscal progress reports as scheduled, it would have known in March 2021, when it offered the remaining \$7 million, that CDCR had not fully spent its initial award. The fiscal reports would have also informed Community Corrections as to whether CDCR would be able to spend the additional \$7 million it was offering or whether CDCR was at risk of not spending the funds by the federal deadline. Community Corrections failed to require CDCR to justify the need for the additional funds or gain assurance that CDCR was effectively or fully spending its initial allocation. As a result of this failure, Community Corrections risks one or more actions related to the funds, including the possibility that it may have to return unspent or misused funds to the federal government.

Community Corrections Excluded Some Local Governments in Its Allocation of Funds and Did Not Fully Consider Counties Most Affected by COVID-19

Although Community Corrections' application to the U.S. DOJ said that it would make grants to state, county, and city agencies, and federally recognized tribes affected by COVID-19, it limited eligible applicants to only counties. As a result, cities and tribes were ineligible to apply for Community Corrections' CESF funds. According to Community Corrections, it limited applicants to counties because managing 57 eligible applicants rather than potentially hundreds of applicants would be more efficient. To avoid excluding cities and tribes, Community Corrections required applicant counties to form local advisory committees. These committees were to include representatives from cities, tribes, and community-based organizations (CBOs), which are public or private nonprofit organizations that provide various social and health services, such as food, housing assistance, or employment services.

When we initially asked Community Corrections how it ensured that cities and tribes benefited from CESF funds, it stated that counties that applied for funds demonstrated that they collaborated with cities within their boundaries. When we asked Community Corrections whether it had required the counties to include representatives from cities, tribes, and CBOs in their local advisory committees, its executive director stated that, although Community Corrections originally intended to make this inclusion a requirement, it later decided to approve awards to counties that did not meet this requirement. The executive director explained that Community Corrections provided such leniency because it was not mandatory for the local advisory committees to include these representatives if the programs and services proposed did not affect them. As a result, Community Corrections did not guarantee that cities and tribes had the opportunity to benefit from the state-administered CESF funds.

Community Corrections did not guarantee that cities and tribes had the opportunity to benefit from the state-administered CESF funds.

As we describe previously, Community Corrections stated in its grant application that it would allocate funding to communities affected by COVID-19, which we believe was a reasonable approach. However, instead of considering the COVID-19 infection rate in each county, Community Corrections chose to use a population-based formula to allocate \$42 million in CESF funds to eligible counties.² Under typical circumstances, a population-based approach might have been reasonable, but since the federal government and the CARES Act appropriated CESF funding to prevent, prepare for, and respond to the pandemic, we expected that Community Corrections would have considered COVID-19's relative effect on each county. Although

² The infection rate is the percentage of the total county population that tested positive for COVID-19.

the pandemic affected all counties to some degree, Community Corrections could have more effectively considered each county's level of need to address the impact of COVID-19. According to Community Corrections, it believed that a population-based formula was the most sensible and equitable approach because the pandemic was dynamic and counties' needs frequently fluctuated over time. Although we agree that counties experienced ebbs and flows in the number of COVID-19 cases, they did not all experience the same impact, as demonstrated by the cumulative infection rates as of September 2020.

Rather than basing its allocation strictly on population, Community Corrections could have used an allocation methodology that provided more funds to those counties that were most affected by COVID-19. For example, for each county, it could have considered the number of COVID-19 cases, pandemic-related unemployment, accessibility to health care, or the number of vulnerable residents, such as the elderly or those experiencing homelessness. To see what effect such an alternate allocation formula would have had, we explored a formula designed to reflect the impact of COVID-19. As Table 1 shows, in the alternate formula, we considered that Community Corrections provided the initial payment of \$15 million to CDCR and retained nearly \$2 million for its administrative costs before allocating funds to the counties. Then, rather than allocating the remaining \$42 million based entirely on county population, we allocated half of the funds to counties based on their population and the other half of the funds based on the cumulative COVID-19 infection rates as of September 2020. Table 1 shows the differences in grant awards for several counties with similar populations but different COVID-19 infection rates.

Community Corrections could have more effectively allocated funds by providing a larger amount of funds to counties with the greatest need.

Using this alternate allocation formula, Community Corrections could have more effectively allocated funds by providing a larger amount of funds to counties with the greatest need. For example, as of the beginning of September 2020, which was just before Community Corrections disclosed the amounts that counties were eligible to receive, Imperial County and El Dorado County had similar-sized populations. However, Imperial County's population had a nearly 6 percent COVID-19 infection rate, whereas El Dorado County's population had an infection rate of less than 1 percent. Because Community Corrections based its formula on population and did not consider the impacts of COVID-19, it allocated nearly \$70,000 less to Imperial County than it did to El Dorado County, as Table 1 shows. Had Community Corrections used an alternate allocation formula that considered both population and the COVID-19 infection rate, Imperial County would have received at least \$200,000 more than El Dorado County. The results were similar for other pairs of counties we present in Table 1. We believe the alternate allocation formula more closely aligns with the federal government's appropriation of CESF funding to provide assistance to state and local entities impacted by the pandemic.

Table 1
Community Corrections Could Have More Effectively Considered the Impact of COVID-19 When Allocating Funds

ENTITY	POPULATION AS OF SEPTEMBER 2020	RATE OF COVID-19 INFECTION*	COMMUNITY CORRECTIONS' ALLOCATION FORMULA†	ALTERNATE ALLOCATION FORMULA‡	DIFFERENCE
Imperial	192,000	5.98%	\$250,000	\$472,000	\$222,000
El Dorado	193,000	0.53	317,000	239,000	(78,000)
Kings	156,000	4.25	198,000	304,000	106,000
Shasta	178,000	0.36	62,000	18,000	(44,000)
Kern	927,000	3.23	715,000	1,064,000	349,000
San Francisco	892,000	1.12	286,000	280,000	(6,000)
Tulare	484,000	3.05	579,000	736,000	157,000
Santa Barbara	456,000	1.91	571,000	574,000	3,000
Merced	287,000	2.88	254,000	335,000	81,000
Santa Cruz	274,000	0.72	288,000	197,000	(91,000)

Source: Community Corrections' allocations table and an analysis of an allocation option.

Note: We paired counties with similar population sizes. In each pair, we have included one county with a relatively high COVID-19 infection rate and one county with a relatively lower COVID-19 infection rate.

- * We determined the infection rate by dividing the cumulative number of COVID-19 cases in a county as of September 2020 by its total population.
- † If a county, including the cities and tribes within its jurisdiction, received an allocation of CESF funds directly from the U.S. DOJ, Community Corrections reduced its allocation by the amount the county received directly.
- ‡ In this alternate allocation formula, we considered the total amount of CESF funds that Community Corrections is responsible for administering. We based the county allocations on population and infection rates and, similar to Community Corrections' formula, we subtracted the \$15 million allocation to CDCR and the nearly \$2 million that Community Corrections retained for administrative costs from the total, before allocating funds to the counties.

In Appendix A, we present the total population and COVID-19 infection rate for each California county, and indicate whether the county applied for CESF funds. Additionally, we compare the amount that each county was eligible to receive using Community Corrections' allocation formula to the amount it would have been eligible to receive using our alternate allocation formula.

Community Corrections Unnecessarily Delayed Providing Funds to Counties

In contrast to the U.S. DOJ's swift release of its CESF grant solicitation and awarding of funds following the federal government's enactment of the CARES Act, Community Corrections did not release its grant solicitation until six months after the U.S. DOJ awarded it the funds, and it did not award CESF funds to counties for nearly one year. This unnecessary delay deprived counties of access to CESF funds at the height of the pandemic in 2020.

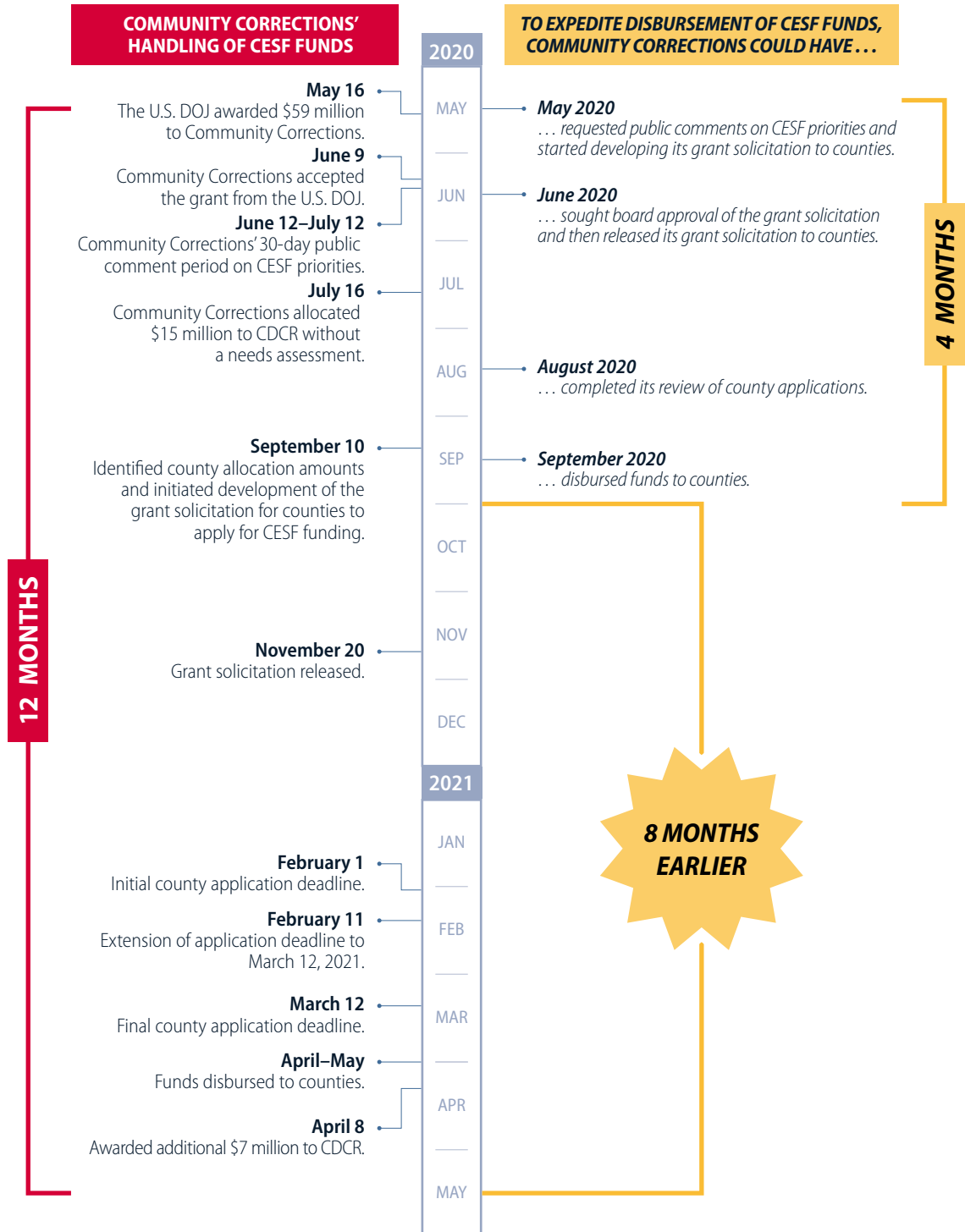
Because the U.S. DOJ's granting of CESF funds was noncompetitive—meaning that applicants that submitted complete and compliant applications would likely receive the funds—Community Corrections could have expedited its process of gathering stakeholder feedback regarding allocation of the funds, developing its grant solicitation, and awarding funds. The U.S. DOJ notified Community Corrections of its award in May 2020, making Community Corrections aware that it would receive \$59 million in CESF funds. Community Corrections asserted that it wanted to consider stakeholders' feedback on how to allocate the funds to inform its development of the grant solicitation, and it initiated a 30-day public comment period to gather this feedback from June 2020 to July 2020. However, given that Community Corrections would likely receive the CESF funds, it could have expedited the grant process by soliciting public comments proactively in April 2020 or May 2020 and considering the public comments as stakeholders submitted them, rather than waiting until it received all comments to review them.

Additionally, since Community Corrections advised the U.S. DOJ that it would use a grant program to allocate these funds throughout the State, it could have promptly developed its grant solicitation, rather than waiting until September 2020 to do so. According to the Community Corrections board chair, staff must have board approval to begin developing grant solicitations. The executive director believes Community Corrections acted in a timely manner because it initiated its public comment period in June 2020. She also stated that the U.S. DOJ advised states to take their time to plan and implement the CESF grant program. However, Community Corrections could not provide evidence to support this assertion and, given the urgency with which the U.S. DOJ disbursed funds to states, it is likely that it expected states to act with the same sense of urgency. Nevertheless, the executive director explained that since the CESF funds for counties were already on an expedited timeline for release, staff did not seek approval to develop the grant solicitation during the June 2020 meeting or during the emergency meeting it held in July 2020, and instead waited until September 2020. We believe that Community Corrections could have requested board approval to develop its grant solicitation months earlier, in May 2020, as Figure 1 shows.

Instead of waiting until September 2020, we believe that Community Corrections could have requested board approval to develop its grant solicitation months earlier, in May 2020.

To expedite its development of the grant solicitation, Community Corrections explained that it modified its existing standard grant solicitation template by including the CESF requirements. Although this could have been an efficient approach, Community Corrections ultimately took two months—from September 2020 until November 2020—to finalize its grant solicitation. We believe that if Community Corrections had begun to modify an existing grant solicitation template in May 2020, when the U.S. DOJ notified it of its award, it could have reasonably released its grant solicitation to counties as early as June 2020, as Figure 1 shows.

Figure 1
 Community Corrections Could Have Made CESF Grants Available as Much as Eight Months Earlier Than It Did



Source: Review of Community Corrections' CESF grant process.

In addition, Community Corrections could have allowed counties two months to apply for funds and evaluated grant applications as it received them, similar to the manner in which the U.S. DOJ awarded funds to the State. Instead, Community Corrections allowed counties nearly four months to apply for funds, which included a nearly 40-day extension to its application deadline to allow eligible counties additional time to apply for funding because it stated that fewer than half of the counties had applied by the initial deadline. Although Community Corrections' extension of the application deadline was intended to obtain more county applicants, it chose to delay its approval of applications until after the extended deadline in March 2021, which delayed the distribution of funds even further. Alternatively, Community Corrections could have evaluated and approved each application upon receipt, since it had predetermined the award amounts. Had it done so, Community Corrections could have disbursed funds to counties as early as September 2020. Instead, it did not award grants to counties until April and May 2021.

By the time Community Corrections allocated funds to counties in May 2021, the rate of COVID-19 infections had largely stabilized.

By the time Community Corrections allocated funds to counties in May 2021, the rate of COVID-19 infections had largely stabilized, and representatives from some counties we interviewed stated that they no longer needed these emergency funds. For example, two of the five representatives we interviewed from counties that did not apply for this grant—Kern and Sonoma—told us that by November 2020, when Community Corrections distributed its grant solicitation for CESF funding to counties, they had already secured other funding sources to meet their needs caused by the pandemic. However, both counties stated that if CESF funds had been available earlier, they would have considered applying.

Community Corrections' Grant Requirements Were Overly Burdensome

In all, 26 of the 57 counties that were eligible to apply for CESF funds through Community Corrections chose not to do so. Some counties were deterred from applying for the funds because they could not meet the application deadline or the January 2022 spending deadline. In addition, Community Corrections required counties to form local advisory committees to plan and oversee CESF funds at the local level, and some counties felt they did not have the time or resources to meet this requirement. Most of the counties that did not apply were smaller in terms of their population. Consequently, only 31 counties benefited from the CESF funds that Community Corrections administered. These requirements represented a more stringent approach than that taken by the U.S. DOJ, which required that recipients use CESF funds to prepare for, prevent, or respond to COVID-19 only.

Several counties whose staff we interviewed explained that Community Corrections' requirement to form local advisory committees to oversee CESF activities was a reason they did not apply for funds. Community Corrections required each applicant county to establish a local advisory committee, which, at a minimum, should include representatives from CBOs, tribes, and cities within the county. The local advisory committee is responsible for developing, implementing, and overseeing each county's CESF funds and activities. According to Community Corrections, since it restricted applicants to counties, it believed that requiring the formation of these committees would allow cities, tribes, and stakeholders within each county to provide input on the use of CESF funds. Although inclusion of these entities may provide value, representatives from three of the five counties we interviewed that did not apply for funding stated that they chose not to apply because of the grant solicitation's requirements, including the amount of time and resources it would take to form the committees.

Moreover, Community Corrections provided contradictory guidance to counties as to whether the specific composition of the local advisory committees was a requirement or merely a recommendation. Specifically, Community Corrections' grant solicitation said that counties *should* include these representative members on their local advisory committees. However, in a question-and-answer session with potential applicants, Community Corrections stated that counties *must* include *at a minimum* these representative members. This contradictory guidance led some counties to believe it was a requirement and therefore they did not apply for funds.

As an additional hurdle, Community Corrections required counties to provide at least 20 percent of their CESF awards to CBOs affected by COVID-19 that were providing services within the county. According to Community Corrections, it made the pass-through to CBOs a requirement because it is a similar requirement for other grants it administers and because it is a priority of the board to be inclusive of CBOs. However, other grants that Community Corrections administers have longer grant periods, such as three or five years, compared to the CESF grant period for the counties, which was only 10 months. Therefore, this requirement was problematic for those counties whose contracting policies require them to award contracts to CBOs through a competitive process. For example, a representative from Stanislaus County explained that the county requires contracts to go through a competitive process, which takes at least three months. Given the amount of time it would take Stanislaus County to contract with a CBO, particularly after the delays in Community Corrections' grant process, it is likely that it would have had difficulty spending the funds before the federal deadline.

Community Corrections required counties to provide at least 20 percent of their CESF awards to CBOs affected by COVID-19 that were providing services within the county.

Alameda and San Diego counties, which both applied for and received CESF funds, expressed similar concerns about potential difficulties in spending the funds in a relatively short amount of time. Additionally, Kern County, which did not apply, explained that it did not have time to establish a local advisory committee and comply with the requirement that it provide 20 percent of its funding to a CBO by the application deadline. In addition, as we discussed previously, Kern was able to secure other funding to meet its needs.

Community Corrections acknowledged that it was aware that some counties would be unable to fulfill the 20 percent pass-through requirement because they may not have working relationships with CBOs in their region. Given this acknowledgment, we would have expected Community Corrections to recognize that the pass-through requirement would disadvantage some counties and prevent them from accessing CESF funds. Rather than making this a requirement, Community Corrections could have encouraged counties to provide funds to CBOs based on their unique circumstances and COVID-19-related needs. Doing so would have decreased the administrative burden on counties and may have encouraged additional counties to apply for funding.

Community Corrections' Grant Solicitation and Application Evaluation Processes Lacked Clarity and Transparency

Although Community Corrections is responsible for ensuring a fair and transparent grant process, it failed to do so in the case of the CESF grant. Specifically, Community Corrections failed to notify key officials in some counties about the grant opportunity, and it did not inform all applicants that it would allow flexibility in meeting the grant solicitation's requirements. Subsequently, it awarded funds to some counties that did not meet the requirements. As a result, Community Corrections provided these counties an unfair advantage over counties that did not apply because they believed they could not meet the requirements. Further, in some cases, Community Corrections neither demonstrated its evaluation of applications nor justified its decision to award funds. These problems point to the need for Community Corrections to develop more robust grant evaluation procedures to ensure that its administration of state and federal funds is prudent and transparent.

Community Corrections provided some counties an unfair advantage over counties that did not apply because they believed they could not meet the requirements.

A critical first step in any grant process is notifying potential applicants about the availability of funding; however, Community Corrections did not adequately notify all counties of the CESF funding opportunity. The U.S. DOJ requires grant recipients to have a method for announcing funding opportunities to potential

subrecipients. In the case of the CESF grant, Community Corrections met this requirement by posting the grant opportunity on its website. However, it could have more effectively notified counties of the availability of CESF funds.

According to Community Corrections, its standard method of notifying potential applicants of funding opportunities, including the CESF funds, is to email counties, providers, and others. Therefore, we expected Community Corrections to have taken steps to ensure that its email distribution list included accurate and complete information for key county officials who might choose to apply for the funds. However, we found that the email distribution list did not include key officials for five counties we reviewed that did not apply for the funds, such as the county administrator, probation chief, and sheriff. In fact, one county—Kern—stated that it conducted an internet search for funding opportunities and only then did it find the solicitation for the CESF grant. None of Kern County’s key officials were in Community Corrections’ email distribution list, and the county did not apply for the funds. Kern staff stated that the county did not receive a notification directly from Community Corrections regarding the CESF funding opportunity.

We found that Community Corrections’ email distribution list did not include key officials for five counties we reviewed that did not apply for the funds.

When we asked Community Corrections about its process for updating and maintaining its email distribution list, we learned that it does not proactively ensure that the list is updated and complete. Specifically, it places the responsibility on the counties to notify it when contact information has changed or is inaccurate. To obtain this information, it includes a link on its website where interested parties, including county officials, can sign up to receive email notifications. We acknowledge that it is reasonable to expect county officials to keep their contact information updated. However, because it is Community Corrections’ responsibility to notify potential applicants of funding opportunities, we expected it to take additional steps to ensure that this list is accurate, such as asking county officials to review and update their contact information periodically. To the extent that the list does not include accurate and complete contact information, Community Corrections may not inform counties about critical information or available funding opportunities, such as the CESF grant.

We also found instances in which Community Corrections identified applications that did not meet certain requirements, but nonetheless approved them. Community Corrections’ staff used a checklist when reviewing applications to track whether the application met the solicitation’s requirements. The checklist allowed staff to note whether a county met, partially met, or did not meet the requirements, including whether or not it provided required documentation. In our review of the 31 applications, we identified 18

for which the checklists indicated that the counties did not meet certain requirements. In 16 instances, staff indicated that the counties did not adequately form local advisory committees. The checklists also showed some less significant issues, such as that Alameda County's application exceeded the page limit by one page. In addition, Community Corrections' staff noted on the checklist that Shasta County officials did not sign the application appropriately. In other cases, the significance of the issues that staff identified is unclear, such as when staff recommended a legal review of an application but did not document the reason for recommending the review. Regardless, Community Corrections awarded grants to each of the 18 counties without documenting whether they eventually met the grant requirements, such as whether the counties adequately formed local advisory committees. According to Community Corrections, to address shortcomings staff identified in applications, they may have had conversations with internal legal counsel or the applicant counties, but it acknowledged that staff did not update the checklists or document the resolution of these conversations. As a result, Community Corrections cannot transparently demonstrate why it awarded funds to some counties.

Before Community Corrections deviated from its stated grant process and made awards to counties that did not meet the grant requirements, it did not follow best practices by informing all potential applicants about deviations it was willing to accept.

Because it deviated from certain requirements, we expected Community Corrections to have properly informed all applicants and potential applicants of this decision by updating its "frequently asked questions" that it posts online, or by notifying each county directly. Before Community Corrections deviated from its stated grant process and made awards to counties that did not meet the grant requirements, it did not follow best practices by informing all potential applicants about deviations it was willing to accept. Community Corrections did not clearly answer our question about whether it took any steps to inform applicants about its departure from the grant requirements, and it could not demonstrate that it notified all potential applicants about the deviations. As a result of Community Corrections' failure to make such notifications, some counties may have chosen not to apply because they believed they were unable to meet the grant requirements. For example, Sonoma County stated that it did not apply for CESF funds because of concerns that it could not meet the grant requirements within the time constraints. Therefore, it was crucial for Community Corrections to inform all counties about the deviations from the application requirements it was willing to accept.

The full extent of Community Corrections' evaluation of applications was to complete a checklist, and its review was not thorough enough to identify potentially unallowable activities, such as using CESF funds to supplant other funding. *Supplanting* occurs when a grant recipient deliberately reduces its planned use of state or local funds for an existing program or activity because of the receipt of federal funds. Federal guidance specifically prohibits

grant recipients from using CESF funds to supplant other public funds. When we reviewed a selection of applications, we found some instances in which counties' proposed expenditures of grant funds could constitute supplanting if they had previously budgeted other funds to support the projects specified in the grant applications. For example, Fresno County indicated that it planned to use CESF funds to move its dispatch center to a larger location and furnish the center to allow staff to socially distance. However, in our review of Fresno County's annual budgets for fiscal years 2019–20 and 2020–21, we identified that it had budgeted significant expenses in each year for moving its dispatch center. Without following up with the county, or obtaining detailed budget documentation and comparing it to Fresno County's CESF plan and expenditures, Community Corrections is unable to determine whether its plan and expenditures constitute supplanting.

When we asked Community Corrections how it ensured that a county did not engage in supplanting, it could neither explain how it evaluated applications to identify potential instances of supplanting, nor could it provide examples of when it inquired further about projects that may have involved supplanting, such as those we identified. Rather, Community Corrections placed the full responsibility on the counties, stating that it informed counties in its grant application instructions that it prohibits supplanting and that it is the counties' responsibility to ensure that such disallowed use does not occur. By failing to conduct a thorough evaluation of all grant applications, Community Corrections placed the State at risk of one or more actions related to the funds, including the possibility that the State may have to return unspent or misused funds to the federal government.

The problems we found with Community Corrections' grant evaluation process likely occurred because it lacks robust grant procedures. The U.S. DOJ requires Community Corrections, as a nonfederal entity that provides grants to subrecipients, to have established policies and procedures for how it awards grants and manages its subrecipients. These policies and procedures must be in writing and must clearly describe its responsibilities and activities throughout the award lifecycle. Therefore, we expected Community Corrections' procedures to be detailed enough to ensure consistency in evaluating and awarding grants. For example, its policies and procedures should describe clear instances when Community Corrections can deviate from its grant process or requirements in making awards. These procedures should require staff to notify all potential applicants when Community Corrections decides to deviate from its grant requirements so that it does not provide any applicants with unfair advantages. The procedures should also describe in detail the evaluation process that staff will follow to ensure that all awards are justified. Consequently,

The problems we found with Community Corrections' grant evaluation process likely occurred because it lacks robust grant procedures.

we believe that, to ensure transparency, fairness, and compliance with both state and federal requirements, Community Corrections should improve its grant process to address the deficiencies we identified and make its grant process publicly available.

Community Corrections Is Not Effectively Monitoring CESF Grant Recipients

Community Corrections has not effectively monitored whether CDCR and counties are spending CESF funds in a timely manner and for authorized purposes. According to federal regulations,

Community Corrections must review reports that it requires of subrecipients to monitor their activities and to ensure that their use of CESF funds complies with federal requirements and that they achieve performance goals. As part of its monitoring efforts, Community Corrections chose to require CDCR and the counties to provide quarterly fiscal reports and semiannual progress reports, the purposes for which we define in the text box. Both the fiscal and progress reports are critical steps toward Community Corrections' effective monitoring of these grant recipients.

Reports That Community Corrections Requires of Its Grant Subrecipients

Fiscal reports: Expenditures during the related fiscal quarter and supporting documentation.

Progress reports: Descriptions of progress made on program objectives.

Source: Community Corrections' grant agreements.

However, Community Corrections did not provide CDCR with guidance regarding its reporting expectations. Specifically, according to the grant agreement between Community Corrections and CDCR, Community Corrections was to prescribe the format for CDCR to submit its fiscal and progress reports. CDCR's first fiscal report was due to Community Corrections in November 2020, and its first progress report was due in January 2021. Therefore, we expected that Community Corrections would have provided CDCR with a format for its reporting before these reports were due. However, it did not provide CDCR with the needed reporting templates until February 2021. Community Corrections could not provide us with a reasonable explanation as to why it did not provide CDCR with this guidance before the reports were due.

Community Corrections failed to obtain three quarterly fiscal reports and one semiannual progress report from CDCR, preventing it from monitoring whether CDCR is using CESF funds for authorized purposes. In fact, Community Corrections did not obtain any of these reports from CDCR until we brought this shortcoming to its attention in June 2021. Community Corrections could neither demonstrate that it had previously requested the reports from CDCR nor explain why it waited until June 2021 to obtain the reports. As a result, Community Corrections failed to

comply with the U.S. DOJ's requirement to review subrecipients' fiscal and progress reports to determine whether they are using the funds for authorized purposes. This lack of oversight places the State at risk of one or more actions related to the funds, including the possibility that it may have to return unspent or misused funds to the federal government.

Additionally, Community Corrections was not able to demonstrate that it reviewed CDCR's and the counties' fiscal and progress reports to understand how they are using CESF funds or what concerns they may have encountered. These reports can help Community Corrections gauge whether recipients are spending funds for allowable purposes and whether they will likely spend the funds before the end of the grant period. Thus, we expected Community Corrections to review these reports to identify and proactively address any potential concerns. In fact, some counties expressed in the progress reports that they had concerns about spending CESF funds by the federal deadline, which Community Corrections could address by requesting and receiving a federal extension to the grant period. Although Community Corrections claimed that it reviewed the reports for completeness, it could not demonstrate that it conducted any reviews or that it took any actions as the result of its reviews. Moreover, to address the counties' concerns about meeting the spending deadline, it was not until late August 2021, when we inquired as to whether Community Corrections planned to request a one-time grant extension of up to 12 months—an option the U.S. DOJ provided its recipients—that it did so. Furthermore, in its extension request to the U.S. DOJ, Community Corrections stated that its remaining balance of CESF funds was, at that time, about \$43 million, or nearly 75 percent of its total CESF award. This unspent amount is a significant concern should the U.S. DOJ choose to deny the extension request, leaving CDCR and the counties only a few months to spend the funds by the federal deadline in January 2022. As of the end of September 2021, Community Corrections stated that the U.S. DOJ had not yet approved its extension request. By not conducting a thorough review of fiscal and progress reports, Community Corrections lacks assurance that CDCR and the counties are spending CESF funds in a timely way and in a way that prevents, prepares for, and responds to COVID-19, and it lacks sufficient information to enable its corrective actions to address any potential concerns it may identify.

Further, because Community Corrections required the counties to submit their first fiscal reports by mid-August 2021 and their first progress reports by mid-July 2021, we expected it to have established an adequate plan for monitoring counties' use of CESF funds. However, as of late August 2021, Community Corrections could not explain or provide us with a plan for how it will

Lack of oversight places the State at risk of one or more actions related to the funds, including the possibility that it may have to return unspent or misused funds to the federal government.

Community Corrections lacks assurance that CDCR and the counties are spending CESF funds to benefit Californians and that they are doing so in compliance with federal requirements.

determine whether counties are using the funds appropriately. When we shared our concern regarding its lack of a monitoring plan, Community Corrections indicated that its staff would conduct desk reviews of counties' progress and fiscal reports and possibly conduct site visits. However, Community Corrections previously acknowledged that it was uncertain whether it would be able to conduct site visits because of the pandemic. Additionally, it stated that it has yet to schedule or conduct any desk reviews of fiscal or progress reports or any site visits. Until Community Corrections formalizes and implements an adequate monitoring plan, it lacks assurance that CDCR and the counties are spending CESF funds to benefit Californians and that they are doing so in compliance with federal requirements.

Community Corrections Has Not Complied With Federal Reporting Requirements

Community Corrections did not submit all required reports to the U.S. DOJ regarding its use of CESF funds. Federal regulations and its grant agreement with the U.S. DOJ require Community Corrections to submit quarterly fiscal reports and semiannual progress reports to the U.S. DOJ. As of August 2021, Community Corrections had submitted four of the five required quarterly fiscal reports to the U.S. DOJ and only one of the three required progress reports. Additionally, to comply with the Federal Funding Accountability and Transparency Act, Community Corrections must also submit reports to the U.S. DOJ disclosing its subawards to CDCR and the counties no later than 30 days after the awards. However, Community Corrections did not report these subawards to counties within the 30 days and, in some cases, did not report this information until nearly 70 days after the reports were due. Further, it did not report its \$15 million subaward to CDCR until more than six months after the report was due. Community Corrections stated that due to staffing changes and an oversight, it submitted these reports late or did not submit them at all. As a result, Community Corrections was not transparent in its grant awards and again increased the risk of one or more actions, including that the State may have to return unspent or misused funds to the federal government.

Recommendations

To ensure that it efficiently and effectively administers state and federal grants, including any future emergency funds it might receive, Community Corrections should improve its standard grant policies and procedures by December 2021 to address the following:

- The justification for the allocation formula it chooses, including an assessment of the recipients' need for the funds.
- How its allocation of emergency funds, such as federal COVID-19 funding, will reflect the effect of the emergency on potential applicants.
- The promptness of its grant process, including specific timelines for how quickly it must obtain board approval, develop its grant solicitation, evaluate applications, make awards, and disburse the funds.
- The circumstances under which it will deviate from its solicitation requirements and the steps it will take to ensure that it informs all applicants—and potential applicants—of the deviations, such as by including this information in its grant solicitation or in subsequent communications made available to all potential applicants.
- A thorough and documented evaluation of grant applications, including the justification for awards and an explanation of how it will resolve instances in which an application does not comply with the solicitation's requirements, so that its decision to approve each application is justified.

To maximize the number of applicants that apply for grant funding, Community Corrections should ensure that its grant requirements are not overly burdensome and that they are achievable within the grant period.

To effectively notify potential applicants of funding opportunities, by December 2021, Community Corrections should take steps to ensure that its email distribution list includes accurate and complete information for key local government officials.

To comply with federal and state requirements, and to ensure transparency, consistency, and fairness in its grant process, Community Corrections should post its grant procedures publicly on its website once it has improved its standard grant procedures.

To ensure that CDCR and counties spend CESF funds appropriately and in a timely manner, Community Corrections should immediately develop and implement a plan to begin monitoring the use of CESF funds. This plan should include steps to ensure that it obtains and reviews required reports on time, takes action based on what it finds, and employs a strategy to identify potential instances of counties using CESF funds to supplant other funding.

To comply with federal reporting requirements, Community Corrections should submit all required fiscal and progress reports to the U.S. DOJ by the reporting deadlines.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code sections 8543 et seq. 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.

Respectfully submitted,



ELAINE M. HOWLE, CPA
California State Auditor

October 21, 2021

Appendix A

Community Corrections Could Have More Effectively Considered the Impact of COVID-19 When Allocating Funds

In Table A, we present Community Corrections’ population-based formula and the alternate allocation formula, as we discuss in the Audit Results. Had Community Corrections used a formula that considered the COVID-19 infection rates, the counties most affected by the pandemic would have been eligible to receive greater assistance.

Table A
Comparison of Community Corrections’ Allocation Formula to an Alternate Allocation Formula

ENTITY	POPULATION AS OF SEPTEMBER 2020	RATE OF COVID-19 INFECTION*	COMMUNITY CORRECTIONS’ ALLOCATION FORMULA†	ALTERNATE ALLOCATION FORMULA‡	DIFFERENCE
CDCR	166,000	6.64%	\$15,000,000	\$15,000,000	—
<i>Counties that did not apply for CESF funds</i>					
Kern	927,000	3.23%	\$715,000	\$1,064,000	\$349,000
Merced	287,000	2.88	254,000	335,000	81,000
Stanislaus	562,000	2.76	383,000	517,000	134,000
San Joaquin	783,000	2.41	173,000	529,000	356,000
Lassen§	30,000	2.39	—	20,000	20,000
Colusa	23,000	2.12	43,000	45,000	2,000
Monterey	449,000	1.89	558,000	564,000	6,000
San Benito	64,000	1.85	121,000	122,000	1,000
Glenn	29,000	1.68	57,000	54,000	(3,000)
Sutter	106,000	1.38	81,000	73,000	(8,000)
Sonoma	497,000	1.26	564,000	473,000	(91,000)
Mono	14,000	1.17	26,000	24,000	(2,000)
Napa	140,000	1.09	145,000	112,000	(33,000)
Inyo	18,000	0.99	36,000	31,000	(5,000)
Santa Clara	1,968,000	0.96	2,700,000	2,160,000	(540,000)
Mendocino	88,000	0.74	100,000	71,000	(29,000)
Santa Cruz	274,000	0.72	288,000	197,000	(91,000)
Amador	39,000	0.71	73,000	61,000	(12,000)
Tehama	66,000	0.68	35,000	13,000	(22,000)
Calaveras	44,000	0.62	51,000	33,000	(18,000)
Lake	65,000	0.58	78,000	55,000	(23,000)
El Dorado	193,000	0.53	317,000	239,000	(78,000)
Del Norte	28,000	0.42	53,000	41,000	(12,000)
Alpine	1,000	0.27	2,200	1,600	(600)
Modoc	9,000	0.21	18,000	14,000	(4,000)
Sierra	3,000	0.19	6,200	4,500	(1,700)
Trinity	13,000	0.11	26,000	19,000	(7,000)

continued on next page...

ENTITY	POPULATION AS OF SEPTEMBER 2020	RATE OF COVID-19 INFECTION*	COMMUNITY CORRECTIONS' ALLOCATION FORMULA†	ALTERNATE ALLOCATION FORMULA‡	DIFFERENCE
Counties that applied for CESF funds					
Imperial	192,000	5.98%	\$250,000	\$472,000	\$222,000
Kings	156,000	4.25	198,000	304,000	106,000
Tulare	484,000	3.05	579,000	736,000	157,000
Fresno	1,032,000	2.72	892,000	1,129,000	237,000
Madera	160,000	2.50	113,000	141,000	28,000
Marin	261,000	2.42	395,000	429,000	34,000
Los Angeles	10,258,000	2.41	7,999,000	9,456,000	1,457,000
San Bernardino	2,217,000	2.25	2,158,000	2,410,000	252,000
Riverside	2,468,000	2.20	3,322,000	3,535,000	213,000
Santa Barbara	456,000	1.91	571,000	574,000	3,000
Orange	3,229,000	1.57	4,879,000	4,593,000	(286,000)
Ventura	853,000	1.34	1,214,000	1,086,000	(128,000)
Contra Costa	1,160,000	1.29	1,548,000	1,343,000	(205,000)
Solano	444,000	1.29	393,000	317,000	(76,000)
Sacramento	1,568,000	1.23	1,287,000	991,000	(296,000)
San Diego	3,370,000	1.21	4,085,000	3,432,000	(653,000)
Yuba	79,000	1.17	103,000	86,000	(17,000)
Yolo	224,000	1.16	264,000	217,000	(47,000)
Alameda	1,686,000	1.15	1,122,000	767,000	(355,000)
San Mateo	778,000	1.14	1,193,000	1,024,000	(169,000)
Butte	218,000	1.13	292,000	255,000	(37,000)
San Luis Obispo	279,000	1.12	433,000	370,000	(63,000)
San Francisco	892,000	1.12	286,000	280,000	(6,000)
Placer	400,000	0.80	664,000	528,000	(136,000)
Nevada	99,000	0.47	190,000	150,000	(40,000)
Mariposa	18,000	0.41	35,000	27,000	(8,000)
Tuolumne	52,000	0.40	67,000	39,000	(28,000)
Shasta	178,000	0.36	62,000	18,000	(44,000)
Humboldt	134,000	0.32	147,000	87,000	(60,000)
Siskiyou	44,000	0.32	86,000	65,000	(21,000)
Plumas	19,000	0.23	35,000	28,000	(7,000)
Totals			\$57,000,000	\$57,000,000	

Source: Community Corrections' allocations table and an analysis of an allocation option.

Notes: Community Corrections initially allocated \$15 million to CDCR and allocated \$42 million among 57 counties. Because 26 of those counties did not apply for funding, Community Corrections decided to allocate the remaining \$7 million to CDCR, bringing CDCR's allocation to \$22 million.

Because of rounding, the allocations may not add up to the totals.

* We determined the infection rate by dividing the cumulative number of COVID-19 cases in a county as of September 2020 by its total population.

† If a county, including the cities and tribes within its jurisdiction, received an allocation of CESF funds directly from the U.S. DOJ, Community Corrections reduced its allocation by the amount the county received directly.

‡ In this alternate allocation formula, we considered the total amount of CESF funds that Community Corrections is responsible for administering. We based the county allocations on population and infection rates and, similar to Community Corrections' formula, we subtracted the \$15 million allocation to CDCR and the nearly \$2 million that Community Corrections retained for administrative costs from the total, before allocating funds to the counties.

§ Lassen County was not eligible to receive an allocation under Community Corrections' allocation formula because it received a significant amount of CESF funds directly from the U.S. DOJ.

Appendix B

Scope and Methodology

State law authorizes the California State Auditor (State Auditor) to establish a program to audit and issue reports with recommendations to improve any state agency or statewide issue that our office identifies as being at high risk for the potential of waste, fraud, abuse, and mismanagement or as having major challenges associated with its economy, efficiency, or effectiveness. In January 2020, we issued our latest assessment of high-risk issues that the State and selected agencies face. In August 2020, we added the State’s management of federal COVID-19 funding to that assessment as a high-risk statewide issue because of the significant amount of money the State has received, the rapid nature of the allocation, and the urgent need for the funding. Community Corrections is responsible for managing a portion of the federal COVID-19 funding. The following table lists the objectives we developed for our review and the methods we used to address them.

Audit Objectives and the Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.</p>	<p>Reviewed laws, rules, and regulations related to the administration of CESF grant funds.</p>
<p>2 Determine whether Community Corrections’ grant award process for CESF funding aligns with state and federal requirements, and whether its approval of CESF grant awards was transparent and equitable.</p>	<ul style="list-style-type: none"> • Reviewed Community Corrections’ grant process to ensure that it complied with state and federal requirements by comparing its CESF grant solicitation to its grant policies and procedures, as well as to the application for CESF funding it submitted to the U.S. DOJ. • Determined whether Community Corrections’ method for allocating funds to CDCR and counties was equitable. In doing so, we compared the funds that counties were eligible to receive through Community Corrections’ allocation methodology to the funds each could have received with an alternate methodology that considered the extent to which they were affected by COVID-19. • Determined whether Community Corrections sufficiently informed all potential applicants of the availability of CESF funds by evaluating its email distribution list and its communication with CDCR and the counties. • Reviewed the grant solicitation requirements, Community Corrections’ website, and a selection of five applications to identify communications that may have provided the applicants with unfair advantages and to determine whether Community Corrections’ process for evaluating grant applications and awarding CESF funds was transparent and equitable.
<p>3 Identify any delays in Community Corrections’ process of awarding CESF grant funds, the reason for the delays, and the impact any delays may have on potential applicants or awardees.</p>	<ul style="list-style-type: none"> • Interviewed relevant Community Corrections’ staff and the board chair to determine the reason for any delays in the application process. • Interviewed staff from 10 counties to determine reasons for applying or not applying for funds and how the funds have or could have assisted them in addressing the impact of the pandemic.

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AUDIT OBJECTIVE	METHOD
<p>4 Determine whether Community Corrections' monitoring process is sufficient to ensure that the grant awardees spend CESF funds for their intended purpose and that awardees do not use CESF funds to supplant other funding sources.</p>	<ul style="list-style-type: none"> • Assessed Community Corrections' monitoring policies, procedures, templates, and plan for evaluating CDCR's and counties' uses of CESF funds to ensure that they are spending them for appropriate and allowable purposes. • Reviewed CDCR's progress reports submitted to Community Corrections to assess whether the information in these reports was consistent and sufficient to ensure that CESF funds are reported and spent appropriately.
<p>5 Review and assess any other issues that are significant to the audit.</p>	<p>None noted.</p>

Source: Audit work papers.

Assessment of Data Reliability

The U.S. Government Accountability Office, whose standards we are statutorily required to follow, requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support findings, conclusions, and recommendations. In performing this audit, we did not rely on computer-processed information from information management systems at Community Corrections.

October 2021



LINDA M. PENNER
Chair

KATHLEEN T. HOWARD
Executive Director

STATE OF CALIFORNIA

BOARD OF STATE AND COMMUNITY CORRECTIONS

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GAVIN NEWSOM
Governor

October 1, 2021

The Honorable Elaine M. Howle, CPA*
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, California 95814

SENT VIA ELECTRONIC EMAIL
SUBJECT: BSCC AUDIT RESPONSE TO REPORT 2021-616, CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDS (CESF) PROGRAM

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Dear Ms. Howle,

The Board of State and Community Corrections (BSCC) acknowledges receipt of the State Auditor's report on the BSCC's administration of the Coronavirus Emergency Supplemental Fund (CESF) Program. The BSCC takes the audit report findings and recommendations seriously and understands the importance of accountability when administering public funds. This audit response letter provides additional information about the BSCC's perspective on the administration of the CESF program at the height of the coronavirus (COVID-19) pandemic.

The CESF Program was part of the \$2.2 trillion economic stimulus bill¹ passed by the U.S. Congress in March 2020. CESF was awarded to States to determine priorities for funding to assist "in preventing, preparing for, and responding to the coronavirus."² This broad direction gave the BSCC the latitude it needed to respond with reasonable discretion and flexibility in the administration of its \$58.5 million grant. In administering the CESF funding, the BSCC elected to set aside some funding for the California Department of Corrections and Rehabilitation (CDCR) and allocate the remainder via formula grant to 57 counties.

At the outset the audit states that the BSCC "used a formula that did not align with what it told the U.S. DOJ that it would do..." In the BSCC's application to the federal government, we stated that our response would be through "the release of a Formula Grant to state, county, city agencies, and federally recognized tribes that are impacted by COVID-19." It is true the BSCC did not end up awarding funds to CDCR on a formula basis and instead awarded funds to counties on a formula basis. However, we strongly disagree with the implication that the award to CDCR somehow misled the federal government in a manner where the federal government would otherwise have denied the BSCC's application or would seek repayment. Our longstanding experience with administering federal grants, and guidance received as part of the CESF award, is

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¹ The Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act

² Coronavirus Emergency Supplemental Funding (CESF): U.S. DOJ Bureau of Justice Assistance Program Overview: <https://bja.ojp.gov/program/cesf/overview>

- ② that the Bureau of Justice Assistance would provide broad flexibility for states to be responsive during a global pandemic and allow states to make modifications to plans based on changing, emergency needs. Given the expedited application process, BSCC recognizes that its application may have been technically imprecise, but it nonetheless adequately described the intent and use for funds to satisfy federal requirements.
- ② The audit report further states that the BSCC provided CDCR with \$22 million without justification. We do not agree with this statement. In early July 2020, the BSCC became aware that the Administration was working on a high priority and time sensitive plan for the early release of up to 8,000 people from state prison to reduce COVID-19 infections within the state prison system. CDCR was moving swiftly to prepare for the emergency housing needs (and later, other reentry needs) for people whose releases were happening sooner than they would have otherwise. These early releases were directly related to COVID-19 and the need to reduce prison populations. The BSCC informed CDCR that these needs were fully consistent with the eligible uses of the federal CESF.

- Based on this urgent need identified by the Administration, the BSCC moved quickly and scheduled an emergency Board meeting for July 16, 2020. On page 11, the audit report states that the Board “offered the CESF funds to CDCR without formally assessing CDCR’s need or evaluating its plans for the funds.” The BSCC disagrees that the Board should have delayed taking action to provide funding during a global pandemic to address an urgent need related to public safety and specifically prioritized by the Administration to make time for a formal “needs assessment.” Addressing the housing and other re-entry needs of 8,000 people being released from prison was an urgent and compelling need.
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- ③ The audit objects to the fact that cities were not eligible to apply separately for CESF. Arguably, the Board could have allowed many hundreds of California cities and tribes to apply separately for this relatively small pot of funding; however, the Board made a decision not to dilute the funds by funding hundreds of applicants and to streamline the grantmaking by limiting the eligible applicants to counties. Some of these considerations were efficiency and transparency – by using a population-based formula for all counties, we developed a fair and widely accepted metric for distributing funds. Without knowing the potential interest of hundreds of cities and tribes, there was no efficient and clear way to set grant funding amounts as part of the application itself.

- In addition, the Board expressed a preference for funding reentry programs given the reduction of state and local correctional populations; cities generally are not responsible for reentry programs in the way county agencies participate. The population-based formula by county addressed this problem. To address the needs of cities, tribes, and community-based organizations (CBOs), we included a local planning process to bring those entities to the table. Eligible applicants for the CESF grant were counties, and counties were required to designate a Lead Public Agency (LPA) to coordinate all grant activities. As stated in the Request for Applications “[t]he role of the LPA is to coordinate with local government agencies and non-governmental organizations to ensure successful implementation of the grant program.”³ The BSCC has administered other federal grants, such as the Byrne JAG program, using a similar model.
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³ Coronavirus Emergency Supplemental Funding (CESF): BSCC Request for Applications: http://www.bscc.ca.gov/s_cesf

The audit takes issue with this local planning process and requirement that participants passthrough 20% of funds to CBOs. The Auditor cites a small number of county officials that claimed that they elected not to participate in the CESF program due to these requirements. The Auditor is dismissive of the local planning process and the value of CBO participation. However, the BSCC has a long history of prioritizing collaboration and stakeholder involvement in our grantmaking. So while it is possible that we could have simply allocated the funding out to local governments, we chose instead to use an expedited model (RFA as opposed to a competitive grant process), but included important features that are reflective of our collaborative model.”⁴ The BSCC stands by its decision to prioritize funding for reentry for state prison and local jail populations given the significant reductions in correctional populations due to the pandemic and requiring collaboration with CBOs.

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In summary, the BSCC balanced multiple important priorities in determining how to allocate the funds to local entities: ensuring local collaboration to the greatest extent possible, making the available funding levels clear to all, and placing an emphasis on providing funds to community-based service providers.

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The Auditor also takes issue with the BSCC’s technical review of grant applications, suggesting that counties that applied were unfairly awarded funds because they did not fully comply with the BSCC’s grant solicitation. For example, CSA staff specifically asked BSCC staff why Alameda County was awarded funds when it exceeded the maximum allowable page limit by a single page. It is true the BSCC used its discretion to award Alameda County funds even though the county exceeded the established page limit. (The BSCC also admits that other counties were awarded funds that made minor, technical errors in filling out the CESF applications.)

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The Auditor fails to understand the purpose of the solicitation process in a non-competitive, formula grant. The BSCC solicitation was not intended to screen out eligible applicants; there was no scoring of evaluation of applications. Provided that counties proposed allowable expenditures and agreed to follow the terms and conditions of the solicitation and federal requirements, the BSCC sought to award the counties funding. Unlike competitive grants, in no portion of the RFA did the BSCC suggest applications would be disqualified for failing to meet all technical requirements. Indeed, the Auditor fails to identify any counties that should not have been awarded funds under the terms and conditions of the solicitation or federal requirements.

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As for the Auditor’s statement that the Board “Did not Fully Consider Counties Most Affected by COVID-19,” the Board believes that all counties have compelling needs consistent with the CESF purposes and that consideration of COVID rates would be problematic, as the infection rates have shifted and changed dramatically over the course of the pandemic, and will continue to do so. After accounting for the cities and counties that received a direct allocation of \$35 million from the Bureau of Justice Assistance (BJA), the BSCC used a straightforward allocation formula based on population. This approach was intended to ensure that the limited CESF resources were fairly distributed across the state.

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⁴ Ibid, p. 5

- ③ The Auditor surmises the BSCC's population-based allocation formula did not fully consider the impact of COVID-19 and proposed an alternate allocation formula. The BSCC considered the Auditor's alternate approach but found it does not consider the relationship between infection rates and testing practices, community differences, direct allocation funding, and the unpredictability of the COVID-19 pandemic. For example, consider Imperial and El Dorado counties which have comparable populations yet Imperial County's COVID-19 testing rate is consistently higher than that of the State and 1.5 times the testing rate of El Dorado County. El Dorado County's testing rate is consistently lower than that of the State.⁵ Community differences that may impact infection rates include health, economic, social, population demographics and other fiscal influences.
- ③ In addition, as described earlier, many counties received a separate direct allocation of CESF funding from BJA. In this example, Imperial received a direct allocation of \$115,000 and El Dorado County received \$57,000. The alternate allocation formula provided by the Auditor, when combined with the direct allocation funding, provides Imperial County with almost twice as much total CESF funding relative to El Dorado County which has a comparable population size. Given the unpredictability of the COVID pandemic, it is unlikely that county trends in case rates remained consistent after September 2020. The Board's reliance on populations estimates alone provides an objective distribution of funding that is not influenced by the subjective selection of other data points which are influenced by county testing practices and other characteristics.
- ④ The audit compares the timeline by which the U.S. DOJ awarded CESF funds to the timeline the BSCC took to allocate funds to local governments, but the roles and responsibilities of the federal and state government are quite different, so the comparison is not apt. It is the responsibility of the federal government to set broad guidelines and allocate funding. It is the responsibility of the BSCC, as the State Administering Agency, to work with its governing board, the Governor, other state, local and tribal entities, community-based organizations, and interested stakeholders in determining needs and priorities for its grants. The Board was able to balance important competing priorities in administering the CESF funding by developing an inclusive process for counties that was designed to extend the reach of these funds to cities, tribes, and community-based organizations.
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- ④ The Auditor speculates that the delay of CESF funds may have negatively impacted counties' responses to COVID-19. The Auditor's concerns are misplaced. First, counties were already well into COVID-19 response by the time the federal government approved CARES Act funding. In addition, the State received approximately \$9.5 billion from the Coronavirus Relief Fund. At \$58.5 million, the CESF funding amounts to approximately 0.62% of federal funding available for California to address COVID-19.
- ⑥ The Auditor concludes that key officials were unaware of the CESF RFA and anonymously cites the staff in one county in support of this conclusion. The BSCC works continuously and closely with counties and county organizations, including the California State Association of Counties (CSAC), the California State Sheriffs

⁵ Based on data available through covid19.ca.gov county dashboards accessed on September 29, 2021.

Association (CSSA) and the Chief Probation Officers of California (CPOC). Not only did all of these organizations receive emails and follow up reminders about the availability of the CESF grant, we also ensured that county leaders in CPOC and CSSA were aware of the funding opportunity through presentations at live meetings. The BSCC Chair meets regularly with the county associations, and she provided multiple reminders about the CESF funding in virtual meetings. The BSCC is not inclined to adopt a practice of sending unsolicited emails to all local government officials in the state.

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The audit expressed concern with the monitoring of CESF recipients. The BSCC takes its monitoring role seriously and the BSCC will monitor all CESF recipients through a combination of virtual and in-person meetings until the program's conclusion. Flexibility in how and when visits are held is necessary to ensure the appropriate health and safety protocols are observed. Monitoring includes, but is not limited to, the review of administrative, programmatic, and financial records through invoice reviews, detailed desk reviews and virtual or in-person site visits.

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In summary, the Auditor does not conclude in any of its findings CESF funds were misused or misappropriated. Instead, the Auditor asserts that the BSCC could have put funding out faster (we disagree), offers a different allocation formula where reasonable minds can differ, implies that the BSCC misrepresented its plan to the federal government, chastises the BSCC for being nominally delinquent in filing its mandatory reports, and expresses a concern that the federal government may not grant its request for a one-year extension, all of which leads the Auditor to speculate that the state's CESF funding might be in jeopardy. We strongly disagree. Based on the BSCC's long experience administering federal grants, none of the concerns raised puts the CESF funding at any significant risk. Moreover, the BSCC has a strong working relationship with the Office of Justice Programs and has long operated in good standing. Over the past five years the BSCC has requested approximately 30 no-cost extensions from the federal government; each has been granted. While there are no assurances it will be granted this time, it is reasonable for the BSCC to rely on past practices. Moreover, the federal government has not raised any concerns with how the CESF funding is being administered because the funds are being spent within the parameters of the federal grant program.

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As to the recommendations regarding improving the BSCC's grantmaking process, the BSCC will follow up as required to provide updates. However, given the unique characteristics of the CESF program, including the one-time and emergency nature, it is unclear whether such changes would be warranted or applicable to BSCC's other grant programs.

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Sincerely,



KATHLEEN T. HOWARD
Executive Director

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE BOARD OF STATE AND COMMUNITY CORRECTIONS

To provide clarity and perspective, we are commenting on Community Corrections' response to our audit. The numbers below correspond to the numbers we have placed in the margin of Community Corrections' response.

Community Corrections disagreed with each of our report's conclusions and recommendations. However, Community Corrections failed to provide support for its assertions, contradicted itself, mischaracterized some of our conclusions and recommendations, and presented flawed arguments.

We conducted this audit according to generally accepted government auditing standards and the State Auditor's thorough quality control process. In following audit standards, we are required to obtain sufficient and appropriate audit evidence to support our conclusions and recommendations. As is our standard practice, we engaged in extensive research and analysis for this audit to ensure that we could present a thorough and accurate representation of the facts. Therefore, our report does not speculate, imply, or insinuate, as it is based on audit evidence. Furthermore, we note that Community Corrections' response does not indicate any factual errors with our draft report, but rather a different interpretation of the same facts. During the course of our fieldwork, we met with Community Corrections on numerous occasions to discuss our audit results.

Rather than comment on all of the areas of its response that we believe are deficient or misleading, we have summarized our comments according to the respective sections of our audit report.

Finally, during the publication process for the audit report, page numbers shifted. Therefore, the page numbers cited by Community Corrections in its response may not correspond to the page numbers in the final published audit report.

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Community Corrections Provided CDCR With \$22 Million in CESF Funds Without Justification

Contrary to Community Corrections' assertion, its award to CDCR was inconsistent with its grant application that the U.S. DOJ approved. As we state on page 7, Community Corrections informed the U.S. DOJ that it would use a formula grant to allocate CESF funds to state, county, city agencies, and federally recognized tribes affected by COVID-19. It also explained that it would require grant recipients to submit applications that describe how they would use the funds. However, as it acknowledges in its response, Community Corrections' deviated from that proposed approach when it provided CDCR with \$22 million in CESF funds without using a formula to determine the amount it was eligible to receive or requiring CDCR to formally apply for the funds. Although Community Corrections asserts in its response that the U.S. DOJ allowed states to make modifications to their plans based on changing emergency needs, federal law requires federal fund recipients, such as Community Corrections, to report to the U.S. DOJ any deviations from the originally proposed project scope or objectives—an action that Community Corrections could not demonstrate that it took.

Further, we do not conclude, as Community Corrections indicates in its response, that it should have delayed providing funds to CDCR so that it could conduct a formal needs assessment. Rather, as we describe on page 7, Community Corrections did not require CDCR to provide any documentation to support its need for the initial \$15 million award or for the subsequent \$7 million award. We would have expected Community Corrections to require CDCR to provide documentation to support its need for the funds or, at a minimum, to verify the number of inmates CDCR planned to house and an estimate of the associated costs. Because CDCR provided this amount as the funding it needed, it is reasonable to expect that CDCR would have had this information readily available. By failing to require CDCR to provide this information, Community Corrections had no assurance that the funding it provided to CDCR was reasonable, appropriate, or necessary.

Finally, Community Corrections misunderstands the basis of our conclusion for why it may have to return unspent or misused funds to the federal government. It incorrectly implies in its response that we drew this conclusion because it awarded funds to CDCR without using a formula. On the contrary, as we state on pages 7 and 8, Community Corrections failed to require CDCR to justify the need for the additional \$7 million in CESF funds or gain assurance that CDCR had effectively or fully spent its initial \$15 million allocation. As a result of this failure, and as we conclude on page 8, it risks the possibility that it may have to return unspent or misused funds to the federal government.

Community Corrections Excluded Some Local Governments in Its Allocation of Funds and Did Not Fully Consider Counties Most Affected by COVID-19

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Community Corrections misrepresents its efforts to address the needs of cities, tribes, and CBOs by claiming to have a local planning process that included these entities. As we describe on page 9, Community Corrections limited applicants to counties to be more efficient. However, our concern with this approach was that it is inconsistent with the approach that Community Corrections told the U.S. DOJ it would use in its application. Instead of allowing cities and tribes to apply for CESF funds, Community Corrections required applicant counties to form local advisory committees, which were to include representatives from cities, tribes, and CBOs. That approach seemed reasonable until we learned that Community Corrections approved awards to counties that did not meet this requirement. As we discuss on page 9, and later in the report on page 18, Community Corrections did not ensure that counties included cities, tribes, and CBOs in the local planning process. As a result, Community Corrections did not guarantee that cities and tribes had the opportunity to benefit from the state-administered CESF funds.

We disagree with Community Corrections' statement that the consideration of COVID-19 rates in its allocation formula would be problematic because the infection rates have changed over the course of the pandemic. As we state on page 10, although we agree that counties experienced ebbs and flows in the number of COVID-19 cases, each county did not experience the same impact, as demonstrated by the cumulative infection rates through September 2020. As we also describe on page 10, with our alternate formula we allocated half of the funds to counties based on their population and the other half of the funds based on this cumulative COVID-19 infection rate. This alternate allocation formula is just one possible methodology. Community Corrections could have used other methodologies that considered the number of COVID-19 cases, pandemic-related unemployment, or accessibility to health care. Although Community Corrections states that the selection of these data points is subjective, our alternate formula demonstrates that it is possible to use this data to provide more funds to those counties that were most affected by COVID-19.

Finally, Community Corrections' response implies that the other CESF funding that counties received directly from the U.S. DOJ provided balance to its CESF allocations. This direct funding from the U.S. DOJ is irrelevant as it is Community Corrections' responsibility to distribute its portion of CESF funds in a manner consistent with its approved grant application. Thus, we stand by our conclusion that by using an alternate allocation formula that considered the impact of COVID-19, Community Corrections could have more effectively allocated CESF funds to counties with the greatest needs.

④ Community Corrections Unnecessarily Delayed Providing Funds to Counties

We disagree with Community Corrections' assertion that the differing roles of the federal and state governments justified its delay in providing CESF funds to counties. Community Corrections can assert that its different role was the cause of the delay but the reality is that it did not act with urgency to distribute these funds to counties. As we state on page 11, in contrast to the U.S. DOJ's swift release of its CESF grant solicitation and award of funds following the federal government's enactment of the CARES Act, Community Corrections did not release its grant solicitation until six months after the U.S. DOJ awarded it the funds, and ultimately it did not award CESF funds to counties for nearly one year. Community Corrections used a formula to predetermine the amounts to allocate to each county, meaning that each county simply had to apply for the funding to receive the amount that Community Corrections had already determined each county would receive. This approach appears straightforward and simple, and we believe that it was possible for Community Corrections to distribute these funds within four months—rather than the 12 months it actually took—had it acted with the urgency warranted by the pandemic. Even under normal circumstances, taking 12 months to distribute grant funds would be considered slow, but in the midst of a worldwide health emergency, Community Corrections' delay was unreasonable.

Additionally, Community Corrections states that we speculate that the delay of CESF funds may have negatively impacted counties' responses to COVID-19. However, nowhere in our report do we discuss or conclude on the effectiveness of the counties' responses to the pandemic. Instead, our review focused on whether Community Corrections efficiently and timely distributed CESF funds to counties, including whether its delay deprived counties of CESF funds at the height of the pandemic in 2020, thereby requiring them to seek other funding sources to meet their pandemic needs.

Finally, Community Corrections minimizes its responsibilities and the importance of CESF funds by insinuating that the CESF funding was less critical than other COVID-19 related funds. Although the amount of CESF funding in comparison to other funding sources may have been smaller, it does not alleviate Community Corrections from the responsibility to disburse funds to counties in an urgent manner.

⑤ Community Corrections' Grant Requirements Were Overly Burdensome

Community Corrections' response to this section of our report misconstrues our conclusions regarding its burdensome requirements and the local planning process. Specifically, Community Corrections incorrectly claims that we are dismissive of the local planning process and the value of CBO participation. However, nowhere in our report

do we indicate that local planning and CBO participation do not add value to the counties' use of CESF funds. Rather, as described in the section beginning on page 14, we concluded that its grant requirements surrounding local advisory committees and having counties pass through 20 percent of the funds to CBOs were overly burdensome to the counties. We interviewed representatives from five of the 26 counties that did not apply for CESF funds and, as we describe on page 15, three stated that they did not apply because of the grant solicitation's requirements, including the amount of time and resources it would take to form the committees. Thus, it is likely that some of the other counties, wherein we did not conduct interviews, also chose not to apply for similar reasons.

Further, Community Corrections' statement that it required counties to collaborate with CBOs by including them on local advisory committees is disingenuous. As we describe on pages 9 and 18, the executive director stated that Community Corrections originally intended to require the counties to include representatives from cities, tribes, and CBOs in their local advisory committees, but it later decided to approve awards to 16 counties that did not adequately meet this requirement. By imposing a requirement that was burdensome for counties but then later not enforcing that requirement, Community Corrections created an unnecessary obstacle that deterred some counties from applying.

Community Corrections' Grant Solicitation and Application Evaluation Processes Lacked Clarity and Transparency

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Community Corrections' response to this section demonstrates that it fails to recognize that the shortcomings of its grants process likely limited the number of counties that applied for a CESF grant.

First, Community Corrections states that it worked closely with counties and county organizations to make them aware of the CESF grant. However, as we describe on page 17, we found that the county email distribution list—which Community Corrections stated was its standard method of notifying potential applicants of funding opportunities—was outdated. Specifically, we found this list did not include key officials for the five counties we reviewed. It is therefore likely that Community Corrections excluded key officials for some of the other counties that did not apply for funds. In addition, Community Corrections wrongly stated in its response that our report anonymously cites one county in support of this conclusion. Rather, on page 17, we clearly identify the county as Kern County. Further, contrary to Community Corrections' insinuation that we are encouraging it to send unsolicited emails to all local government officials in the State, our recommendation reasonably focuses on it updating its existing email distribution list that it told

us was its standard method to notify potential applicants of funding opportunities. Finally, during our audit, Community Corrections could only demonstrate that it sent an email to a single representative of one county organization despite our requests for all communications on this issue. It was only when Community Corrections provided its written response to our report on October 1, 2021, that it asserted that it provided CESF information to county leaders through presentations at live or virtual meetings.

Community Corrections then tries to minimize its decision to award funds to counties that did not fully comply with its grant requirements. Specifically, on pages 17 and 18 of our report, we note that in our review of the 31 applications, we identified 18 for which Community Corrections found that the counties did not meet certain requirements. Notably, in 16 instances, Community Corrections' staff indicated that the counties did not adequately form local advisory committees. In several places in Community Corrections' response, it emphasizes the importance that it placed on counties forming these committees. Therefore, Community Corrections' assertion that it only awarded funds to counties that made minor, technical errors runs contrary to its stated beliefs about the importance of these requirements.

Further, Community Corrections claims that we fail to understand the purpose of a noncompetitive grant process. However, it is because we are well versed in both competitive and noncompetitive grant processes that we were able to identify Community Corrections' shortcomings. Specifically, best practices indicate that Community Corrections should have notified all potential applicants about deviations from the grant requirements it was willing to accept regardless of whether a grant process is competitive or noncompetitive. Doing so is a matter of fairness to all potential applicants. As we state on page 18, Community Corrections did not clearly answer our question about whether it took any steps to inform applicants about its departure from grant requirements, and it could not demonstrate that it notified all potential applicants about the deviations. Moreover, Community Corrections states that its solicitation for this formula grant was not intended to screen out eligible applicants. However, as we note on page 14, there were 26 counties that chose to not apply for a CESF grant, some of which told us that they believed they were unable to meet grant requirements. Had Community Corrections notified counties it was willing to deviate from its requirements, more counties may have applied for CESF funding.

Finally, we are disappointed that Community Corrections does not recognize the need for improvements to its grant process. As we describe on page 19, the problems we found with Community Corrections' grant process for the CESF grant likely occurred because it lacks robust grant procedures. Therefore, the recommendations we

made for Community Corrections to improve its grant procedures are applicable to any other emergency grant funds that it may receive as well as to the other 18 federal and state grants that it administers. These improvements would add clarity and transparency to future grant solicitations. We look forward to receiving its 90-day response so that we can assess its progress and plans for implementing our recommendations.

Community Corrections Is Not Effectively Monitoring CESF Grant Recipients

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Contrary to Community Corrections' response, we did not find evidence that it is taking its monitoring role seriously. As we explain on pages 21 and 22, as of late August 2021, Community Corrections could not explain or provide us with a plan for how it will determine whether counties are using CESF funds appropriately. Instead, it described some general activities that it may conduct, but it had yet to formalize these practices in a monitoring plan or conduct any monitoring of counties. Thus, we stand by our recommendation that Community Corrections immediately develop and implement a plan to begin monitoring the use of CESF funds, and we look forward to reviewing its progress to implement this recommendation as part of our regular follow-up process.

Further, Community Corrections' disagreement with our conclusion that it may have to return unspent or misused funds to the federal government ignores the risk that it is facing. As we describe starting on page 20, Community Corrections failed to ensure it obtained and reviewed required reports from CDCR and counties regarding their spending of CESF funds. Because it had not done so, it was not aware of some counties' concerns that they may not be able to meet the upcoming federal spending deadline. To address these concerns, as we state on page 21, it was not until late August 2021 when we inquired as to whether Community Corrections planned to request a one-time grant extension of up to 12 months to spend the CESF funds, as the U.S. DOJ allows, that it did so. However, in its extension request, Community Corrections indicated that its remaining balance of CESF funds was, at that time, about \$43 million, or nearly 75 percent of its \$59 million CESF award. This high remaining balance of unspent funds is a significant concern should the U.S. DOJ deny its extension request, as counties, as well as CDCR, would have only a few months to spend or obligate the funds by the federal deadline in January 2022. Because of these circumstances, we concluded that Community Corrections might have to return unspent or misused funds to the federal government. Although Community Corrections' response states that it assumes U.S. DOJ will approve its extension request based on its past experience, Community Corrections appropriately recognizes, and we agree, that there is no assurance that it will receive this approval.

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Community Corrections Has Not Complied With Federal Reporting Requirements

Community Corrections misrepresents the severity of its delinquent reports. As we state on page 22, Community Corrections did not submit all required reports to the U.S. DOJ regarding use of CESF funds. Further, Community Corrections failed to follow the federal requirement to report its subawards to the counties and CDCR within 30 days after the awards. Notably, it did not report some subawards to counties until nearly 70 days after the reports were due and it did not report its subaward to CDCR until more than six months after the report was due. These are not instances of Community Corrections being “nominally delinquent” in its reporting responsibilities, but rather an indication of flaws in its process and a disregard for important federal reporting requirements.