VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Statement of Net Position

For fiscal year end December 31, 2015

(With Independent Auditors' Report Thereon)

Presented by
The Department of Finance

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

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Independent Auditors' Report

The Board of Directors
Virginia Birth-Related Neurological
Injury Compensation Program:

Report on the Financial Statement

We have audited the accompanying statement of net position of the Virginia Birth-Related Neurological Injury Compensation Program (the Program) as of December 31, 2015, and the related notes (the financial statement).

Management's Responsibility for the Financial Statement

Management is responsible for the preparation and fair presentation of this financial statement in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statement that is free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statement referred to above presents fairly, in all material respects, the financial position of the Program as of December 31, 2015 in accordance with U.S. generally accepted accounting principles.

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KPMG

Other Matters

Required Supplementary Information

U.S. generally accepted accounting principles require that the Claims Development Information on page 11 be presented to supplement the financial statement. Such information, although not a part of the financial statement, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the financial statement in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the financial statement, and other knowledge we obtained during our audit of the financial statement. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Management has omitted the Management's Discussion and Analysis that U.S. generally accepted accounting principles requires to be presented to supplement the financial statement. Such missing information, although not a part of the financial statement, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the financial statement in an appropriate operational, economic, or historical context. Our opinion on the financial statement is not affected by this missing information.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated February 3, 2021 on our consideration of the Program's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Program's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Program's internal control over financial reporting and compliance.

KPMG LLP

Richmond, Virginia

February 3, 2021

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Statement of Net Position

December 31, 2015

Assets	
Current assets:	
Cash and cash equivalents	38,697,438
Accrued interest and dividends	530,728
Total current assets	39,228,166
Noncurrent assets:	
Investments	378,218,175
Capital assets, net	2,938
Total noncurrent assets	378,221,113
Total assets	417,449,279
Liabilities and Deferred Inflows	
Current liabilities:	
Accounts payable	1,185,451
Accrued liabilities	697,166
Due to custodian	5,097,410
Current portion of unpaid claims reserve	16,000,000
Total current liabilities	22,980,027
Noncurrent liabilities:	
Unpaid claims reserve:	
Admitted claims, less current portion	352,000,000
Incurred but not reported claims	121,300,000
Total unpaid claims reserve	473,300,000
Accrued liabilities	20,707,965
Total noncurrent liabilities	494,007,965
Total liabilities	516,987,992
Deferred inflows of resources – deferred assessment and fee receipts	24,531,485
Total liabilities and deferred inflows	541,519,477
Net Position (Deficit)	
Net investment in capital assets	2,938
Unrestricted deficit	(124,073,136)
Total net position (deficit)	(124,070,198)

See accompanying notes to financial statement.

(1) Summary of Significant Accounting Policies

(a) Nature of Organization

The Virginia Birth-Related Neurological Injury Compensation Program (the Program) was established under the Virginia Birth-Related Neurological Injury Compensation Act (1987, c.540) (the Act). The Program is a related organization of the Commonwealth of Virginia of which elected officials are accountable as they appoint a voting majority of the Board of Directors (the Board). The Act creates a compensation program that assures lifetime care of infants with severe neurological injuries. The Program is funded through annual assessments of participating physicians and participating hospitals. Liability insurers and nonparticipating physicians contribute to the Program, if necessary, based upon actual experience of the Program. The Program receives no federal or state government funding.

(b) Basis of Accounting

The Program operates as an enterprise fund subject to Governmental Accounting Standards Board (GASB) Codification Section Po20 – *Public Entity Risk Pools*.

The financial statement of the enterprise fund is presented on the accrual basis of accounting, using the economic resources measurement focus. Under this method of accounting, revenues are recognized when earned and expenses are recorded when liabilities are incurred without regard to receipt or disbursement of cash.

(c) Use of Estimates

The preparation of the financial statement in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported financial statement amounts and disclosures. Accordingly, actual results could differ from these estimates.

(d) Cash Equivalents

Cash equivalents are defined as short-term, highly liquid investments that are both (a) readily convertible to known amounts of cash and (b) so near maturity that they present insignificant risk of changes in value because of changes in interest rates. Generally, the Program considers investments with original maturities of three months or less to be cash equivalents.

(e) Investments

The Program's investments are stated at fair value based on quoted market prices, if available. The Program's investments consist of various index mutual funds and actively managed investments in separate accounts including large, mid, and small cap equities and fixed income securities. Mutual fund investments are valued at their quoted net asset value on the last trading day of the year. Equity securities are valued at the last reported sale price or, if no sale, the latest available bid price on the last business day of the year. Fixed income investments are valued using market evaluations (evaluated prices) from reputable and approved industry vendors and evaluations are based on available market data. All other investments, excluding real estate held in trust, are valued based on amounts provided by the investment advisor or fund administrator and reviewed by management.

(Continued)

Under guidelines established by the Board, the Program could, up until 1999, approve the purchase or construction of a home for the family of a claimant subject to certain restrictions. The home is held in a trust and remains the property of the Program, subject to use by the claimant's family during the term of the trust and subject to conditions imposed by the trust agreement. The trust expires upon the death or institutionalization of the claimant, and stipulates that during occupancy the family is responsible for the payment of utilities, general maintenance of the home, and certain other similar obligations. Real estate held in trust is carried at fair value based on third party appraisals, tax assessments, or other reasonable methodologies.

(f) Capital Assets

Capital assets with a cost of $1,000 or more are recorded at cost. The costs of major improvements are capitalized while the cost of maintenance and repairs, which do not improve or extend the life of an asset, are expensed. Depreciation is provided over the assets' estimated useful lives, which is three to seven years for equipment and automobiles, using the straight-line method.

(g) Deferred Inflows of Resources

Deferred inflows of resources represent amounts for which revenue recognition criteria have not been met due to a time requirement. It is the Program's policy to recognize mandated assessments, participating doctor and hospital fees, and insurance fees on a pro-rata basis over the period in which the assessment or coverage is related, which is one year.

(h) Estimated Liability for Unpaid Claims

The liability for unpaid claims represents management's estimate, developed in conjunction with the assistance of the Commonwealth of Virginia's actuary, of the Program's discounted estimated cost of payments for both claimants admitted to the Program and an estimated number of not-yet-admitted claimants with birth dates prior to the date of the statement of net position that will be admitted to the Program subsequent to the date of the statement of net position. Changes in estimates of such costs are recognized in results of operations in the period in which the changes in estimate are made.

The development of liabilities for future benefit requires management to make estimates and assumptions regarding mortality, morbidity, lapse, expense, and investment experience. Such estimates are primarily based on historical experience and future expectations of these assumptions. The Program's actual incurred losses may vary significantly from the estimated amount included in the Program's financial statements. Management monitors actual experience and, if circumstances warrant, revises its assumptions and the related future policy benefit estimates.

(2) Deposits and Investments

The Program's deposit and investment portfolio consists of the following at December 31, 2015:

Cash and cash equivalents	$	38,697,438
Investments:		
Mutual funds:		
Large cap equity		66,298,069
Small and mid cap equity		9,776,043
Developed international		41,126,908
Emerging markets		10,399,108
Domestic fixed income		63,374,950
Global fixed income		18,759,395
Multi asset		55,750,102
Separate accounts:		
Large cap equity		43,412,645
Small and mid cap equity		5,868,489
Domestic fixed income		56,677,401
Real estate held in trust		6,775,065
Total investments		378,218,175
Total cash and cash equivalents and investments		416,915,613

(a) Deposits

All cash of the Program is maintained in accounts collateralized in accordance with the Virginia Security for Public Deposits Act, Section 2.2-4400 et. Seq. of the Code of Virginia or covered by federal depository insurance.

(b) Investments

In accordance with the Virginia Birth-Related Injury Compensation Act, Section 38.2-5016 of the Code of Virginia, the Board is given the authority to invest the Program's funds in a careful and prudent manner at the advice of the investment advisor.

Credit risk: – The Program's investment policy states that all fixed income securities held in the portfolio shall have a Standard & Poor's and/or equivalent credit quality rating of no less than Investment Grade. No more than 20% of the fair value of the fixed income portfolio shall be rated less than single "A" quality. The Program's fixed income portfolio at December 31, 2015 is as follows:

(Continued)

		Rating	Fair value 2015	Percent of portfolio (4)	Average maturity (in years)
Mutual funds:					
Vanguard Bond Index	(1)	AA	$ 19,654,836	5.3%	8.0
Western Asset Core Plus	(1)	BB	20,346,697	5.5%	12.5
Loomis Sayles Global Bond Fund	(1)	BBB	18,759,395	5.1%	8.6
JP Morgan Strategic Income	(1)	B	18,882,091	5.1%	3.5
Treasury iShares 7-10 year ETF	(1)	AAA	4,491,326	1.2%	1.9
Separate accounts:					
Richmond Capital Management	(2)	AA	50,605,056	13.6%	6.7
Wasmer Schroeder & Company	(3)	AA	6,072,345	1.6%	4.9
Total			$ 138,811,746		

(1) Average credit quality per Capital Advisory Group, Morning Star and fund company websites.
(2) Average credit quality per Bond Edge Fixed Income Analytic models.
(3) Average credit quality per Barclays Capital.
(4) Excludes real estate held in trust.

Interest rate risk: – The Program does not have a formal investment policy that limits investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates. The Program mitigates risk through relatively conservative asset allocations and investments.

Foreign currency risk: – The Program manages its risk associated with foreign currency fluctuations with the asset allocations outlined in its Investment Policy that limit its investments in international developed and emerging index funds up to 21% of its overall portfolio. The Program's investments subjected to foreign currency risk at December 31, 2015 include U.S. publicly traded mutual funds which have an international strategy totaling $70,285,411.

Custodial credit risk: – Custodial credit risk is the risk that, in the event of the failure of the counterparty, the Program will not be able to recover the value of its investment or collateral securities that are in the possession of an outside party. The Program's deposits are maintained in accounts collateralized in accordance with the Virginia Security for Public Deposits Act, Section 2.2-4400 et. Seq. of the Code of Virginia or covered by federal depository insurance. In addition, it is the Program's practice, although not a formal policy, that the investment accounts are held in the Program's name.

(Continued)

(3) Capital Assets

Capital assets at December 31, 2015 and the related changes for the year ended were as follows:

		January 1, 2015	Increases	Decreases	December 31, 2015
Computer equipment	$	59,274	—	(35,314)	23,960
Office equipment		43,174	—	(30,415)	12,759
Automobiles		17,237	—	(17,237)	—
		119,685	—	(82,966)	36,719
Less accumulated depreciation		(111,293)	(5,454)	82,966	(33,781)
Capital assets, net	$	8,392	(5,454)	—	2,938

(4) Estimated Liability for Unpaid Claims

The estimated liability for unpaid claims is the discounted estimated cost of payments for both claimants admitted to the Program and an estimated number of not-yet-admitted claimants with birth dates prior to the date of the statement of net position that will be admitted to the Program subsequent to the date of the statement of net position. This discounted cost represents the amount that would need to be invested, as of the date of the statement of net position, to pay the claimant expenses as they become due. The liability is determined based on an actuarial study, which is mandated to be performed no less frequently than biennially. Eligible costs under the Program are costs not otherwise paid by private insurance or other government programs. Costs include nursing, housing, hospital and physician visits, physical therapy, vans, medical equipment, prescription drugs, various other incidental items, loss of earnings, and claim filing expenses.

In general terms, the estimated liability for unpaid claims is determined as follows:

(1) The total number of claimants is estimated (actual number of admitted claimants plus estimate of the number of not-yet-admitted claimants born prior to year-end).

(2) Future payments, by category of expense paid for each claimant, are forecasted. These estimates are based on the actual payments made by the Program on behalf of the claimants who had been in the program for three or more years as of December 31, 2015 (taking into consideration each claimant's insurance coverage), as well as assumptions regarding future cost of inflation and future increases in the utilization of the benefits and services of the Program.

(3) Projected future payments to each claimant are adjusted to reflect an assumed life expectancy for each claimant and the time value of money.

The estimated liability for unpaid claims is forecasted based on actual information through the prior fiscal year.

(Continued)

Significant actuarial assumptions for 2015 include:

	2015
Rate of claims inflation (varies based on category of expense)	1.62% - 5.09%
Investment earnings/discount rate	5.25%
Mortality:	
Life expectancy at:	
Birth	28.4 years
Age 3	29.1 years
Estimated number of not-yet-admitted claimants born prior to year end. Estimate is based on review of how long it takes for claimants to be admitted to the Program.	51

The total number of claimants (admitted claimants and not-yet-admitted claimants) is estimated to be 251 as of December 31, 2015.

The following represents changes in the unpaid claims reserves for the Program for the year ended December 31, 2015:

Unpaid claims and claim adjustment expenses at beginning of year	$	438,900,000
Incurred claims:		
Estimated future payments for new claimants admitted in current year		23,784,000
Estimated future payments for new claimants admitted in prior years		44,016,000
Total incurred claims		67,800,000
Claims payments:		
Total claims payments		(17,400,000)
Unpaid claims and claim adjustment expenses at end of year	$	489,300,000

The total undiscounted liability for unpaid claims and claim adjustment expenses amounted to approximately $1,843.4 million at December 31, 2015 and represents unaudited estimates.

(Continued)

(5) Operating Lease Commitments

The Program leases its office space under an operating lease expiring in September 2018. Rent expense totaled $59,049 for the year ended December 31, 2015.

Future minimum obligations under this lease are as follows:

2016	$	57,255
2017		58,959
2018		45,359

(6) Liquidity

The most recent actuarial study performed for the year ended December 31, 2015, determined that the Program was not actuarially sound. However, the actuarial study did point out that the Program is not in any immediate danger of defaulting on the payment of benefits and that the Program has sufficient assets to continue to pay for claimants' benefits.

(7) Contingencies and Subsequent Events

Various pending and threatened lawsuits claim eligibility for program benefits. Management believes the Program's claims reserves based upon actuarial assumptions are adequate to provide for the ultimate resolution of these claims.

In December 2015 the Program received notice of a conflict between federal and state law resulting in a lawsuit by private parties and enjoined by the U.S. Department of Justice. At issue was a discrepancy in determining whether the Program or Medicaid was the payer of last resort for medical claims. In 2018 a negotiated settlement between the Program, the Commonwealth of Virginia and the U.S. Department of Justice included a Program payment to the federal government of approximately $21 million for prior claims paid by Medicaid and an agreement that Medicaid would be the payer of last resort for all future claim payments. The settlement was accrued as of December 31, 2015 and reported in noncurrent accrued liabilities on the statement of net position. Additionally, the estimate of future claim costs assumptions used in estimating the unpaid claim reserve as of December 31, 2015, were increased to account for the change in payer of last resort. Finalizing this 2015 financial statement had to be delayed until the above noted legal settlement was completed in September of 2018 and an updated actuarial analysis was performed.

Additionally, in 2019 the COVID-19 outbreak was declared a pandemic by the World Health Organization. The situation is evolving with various cities and countries around the world responding in different ways to address the outbreak. There are direct and indirect economic effects developing for various industries and individual companies throughout the world, the financial effect cannot be estimated. Management will continue to monitor the impact COVID-19 has on the Program and reflect the consequences as appropriate in its accounting and financial reporting.

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Claims Development Information (unaudited)

December 31, 2015

(In thousands)

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
(1) Premiums, investment income (loss) and miscellaneous:										
Earned	$ 40,292	39,964	(20,801)	60,741	48,392	25,925	55,518	60,907	40,692	21,234
(2) Unallocated expenses	189	197	188	196	213	268	263	213	242	248
(3) Estimated losses and expenses, end of birth year:										
Incurred	23,000	24,500	23,300	22,300	23,500	23,800	24,800	25,800	22,500	23,784
(4) Net paid (cumulative) as of:										
End of birth year	—	—	—	68	—	—	—	—	—	—
One year later	157	124	331	303	—	—	—	—	—	—
Two years later	341	369	372	614	267	44	143	274	—	—
Three years later	420	438	895	822	498	395	281	—	—	—
Four years later	574	625	1,133	1,338	723	852	—	—	—	—
Five years later	829	1,019	1,372	1,691	1,163	—	—	—	—	—
Six years later	1,120	1,270	1,569	2,310	—	—	—	—	—	—
Seven years later	1,339	1,816	1,795	—	—	—	—	—	—	—
Eight years later	1,718	2,577	—	—	—	—	—	—	—	—
Nine years later	2,891	—	—	—	—	—	—	—	—	—
(5) Reestimated ceded losses and expenses	—	—	—	—	—	—	—	—	—	—
(6) Reestimated net incurred losses and expenses:										
End of birth year	23,000	24,500	23,300	22,300	23,500	23,800	24,800	25,800	22,500	23,784
One year later	22,332	23,372	21,630	22,575	18,136	24,609	24,548	23,768	22,299	—
Two years later	21,273	21,615	21,917	17,485	18,934	24,367	22,594	23,537	—	—
Three years later	19,624	21,918	16,599	18,243	18,696	22,492	22,373	—	—	—
Four years later	19,908	16,325	17,391	18,016	16,844	22,279	—	—	—	—
Five years later	14,658	17,158	17,154	16,260	16,634	—	—	—	—	—
Six years later	15,440	16,909	15,319	16,060	—	—	—	—	—	—
Seven years later	15,206	14,979	15,110	—	—	—	—	—	—	—
Eight years later	13,394	14,760	—	—	—	—	—	—	—	—
Nine years later	13,188	—	—	—	—	—	—	—	—	—
(7) Decrease in estimated net incurred losses and expenses from end of birth year	(9,812)	(9,740)	(8,190)	(6,240)	(6,866)	(1,521)	(2,427)	(2,263)	(201)	—

See accompanying independent auditors' report and note to required supplementary information.

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Note to Required Supplementary Information

December 31, 2015

(1) Claims Development Information

The table on the preceding page illustrates how the Program's premiums, investment income (loss) and miscellaneous income compare to related costs of loss and other expenses assumed by the Program as of the end of each of the previous ten years. The rows of the table are defined as follows: (1) This line shows the total of each year's gross earned premiums and reported investment income (loss) and miscellaneous income. (2) This line shows each year's other operating costs of the Program including overhead and loss adjustment expenses not allocable to individual claims. (3) This line shows the Program's gross incurred losses and allocated loss adjustment expense and net incurred losses and loss adjustment expense (both paid and accrued) as originally reported at the end of the year in which the event that triggered coverage occurred (called birth year). (4) This Section of ten rows shows the cumulative net amounts paid as of the end of successive years for each birth year. (5) This line shows the latest re-estimated amount of losses assumed by re-insurers for each birth year. (6) This section of ten rows shows how each birth year's net incurred losses increased or decreased as of the end of successive years. (This annual re-estimation results from new information received on known losses, reevaluation of existing information on known losses, and emergence of new losses not previously known). (7) This line compares the latest re-estimated net incurred losses amount to the amount originally established (line 3) and shows whether this latest estimate of losses is greater or less than originally thought. As data for individual birth years matures, the correlation between original estimates and re-estimated amounts is commonly used to evaluate the accuracy of net incurred losses currently recognized in less mature birth years. The columns of the table show data for successive birth years.

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Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

The Board of Directors
Virginia Birth-Related Neurological
Injury Compensation Program:

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the statement of net position of Virginia Birth-Related Neurological Injury Compensation Program (the Program) as of December 31, 2015, and the related notes and have issued our report thereon dated February 3, 2021.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statement, we considered the Program's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Program's internal control. Accordingly, we do not express an opinion on the effectiveness of the Program's internal control.

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

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Program's financial statement is free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

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Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Program's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Program's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

KPMG LLP

Richmond, Virginia

February 3, 2021