



Office of the Secretary of State

Internal Controls and Compliance Audit

July 1, 2014, through February 28, 2017

November 15, 2017
REPORT 17-13

Financial Audit Division

OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA

Office of the Legislative Auditor Financial Audit Division

The Financial Audit Division at the Office of the Legislative Auditor (OLA) performs three types of audits of entities within the state's executive and judicial branches:

- **Financial Statement** audits determine whether an entity has prepared its Comprehensive Annual Financial Report in accordance with governmental accounting principles. The division provides audit opinions on the financial reports for the State of Minnesota, the state's three large public pension plans, and the Minnesota Sports Facilities Authority.
- **Federal Grant Compliance** audits determine whether the state has complied with federal requirements for many of its largest federal programs. Often called the *Single Audit*, the federal government requires these audits as a condition of receiving federal grants.
- **Internal Controls and Legal Compliance** audits determine whether an entity has internal controls to effectively manage the risks of its financial operations and whether it has complied with legal compliance requirements chosen for testing.

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In addition, OLA may conduct a **Special Review** in response to allegations and other concerns brought to the attention of the Legislative Auditor. The Legislative Auditor conducts a preliminary assessment in response to each request for a special review to determine what additional action, if any, OLA should take.



OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

November 15, 2017

Senator Mary Kiffmeyer, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

The Honorable Steve Simon
Secretary of State

This report presents the results of our internal controls and compliance audit of the Office of the Secretary of State for the period from July 1, 2014, through February 28, 2017. The objective of this audit was to determine if the office had adequate internal controls for its financial operations and complied with finance-related legal requirements.

We discussed the results of the audit with the office's staff at an exit conference on November 1, 2017. This audit was conducted by Tracy Gebhard, CPA, (Audit Director); Gabbie Johnson, CPA, (Auditor-in-Charge); Mike Fenton, CISA, (IT Audit Coordinator), and Tammy Strong (Staff Auditor).

A handwritten signature in black ink that reads "James R. Nobles".

James R. Nobles
Legislative Auditor



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Report Summary

The Office of the Secretary of State is a constitutional office in the executive branch of state government. Article V of the *Minnesota Constitution* established the Secretary of State as one of the five executive officers of the state, elected to serve four-year terms. Minnesota voters first elected Steve Simon as Secretary of State in November 2014. The Secretary of State's duties include administering elections; preserving documents filed with the state; providing certain business services to the public; maintaining the recording of financing statements under the Uniform Commercial Code; and administering a statewide address confidentiality program known as Safe at Home.

We examined the office's internal controls over its operations and its compliance with relevant legal requirements during the period from July 2014 through February 2017.

Conclusion

The Office of the Secretary of State had generally adequate internal controls over its financial operations and the Safe at Home Program, and it generally complied with the significant legal requirements we tested. However, the office had some internal control weaknesses and instances of noncompliance related to assets, professional/technical services contracts, and Safe at Home Program data. The office resolved one of the findings from the prior audit report, but did not resolve the other.¹ We repeat that finding related to physical inventories of assets.

Findings

- The Office of the Secretary of State did not properly report a lost asset and did not perform timely physical inventory of its fixed assets in compliance with state policies. (Finding 1, page 9)
- The Office of the Secretary of State did not submit required evaluation reports for professional/technical services contracts to the Department of Administration. (Finding 2, page 10)
- The Office of the Secretary of State inadvertently disclosed private data on two Safe at Home Program participants. (Finding 3, page 10)
- The Office of the Secretary of State did not require state employees and other individuals to certify in writing their agreement to protect not public data related to the Safe at Home Program. (Finding 4, page 11)

¹ Office of the Legislative Auditor, Financial Audit Division, Report 13-29, *Office of the Secretary of State*, issued November 15, 2013.



Office of the Secretary of State

Agency Overview

The Office of the Secretary of State is a constitutional office in the executive branch of state government. Article V of the *Minnesota Constitution* established the Secretary of State as one of the five executive officers of the state, elected to serve four-year terms. Minnesota voters first elected Steve Simon as Secretary of State in November 2014.

The office operates under *Minnesota Statutes 2017*, Chapter 5. The main functions of the office include administering elections; preserving documents filed with the state; providing certain business services to the public; and maintaining the recording of financing statements under the Uniform Commercial Code. The office operates a statewide computer network allowing counties to access databases containing business registrations, certain business loan financing statements, and voter registration information. The office also administers a statewide address confidentiality program known as Safe at Home.

Safe at Home Program

The Legislature enacted the program in 2006 to help domestic violence victims or others who fear for their safety maintain a confidential address.² When a person enrolls in the program, the office assigns them a PO Box address to use as their legal address. All public and private entities in Minnesota must accept the participant's assigned address. The program secures the participant's real address, provides a mail forwarding service, and is the participant's agent to receive service of process (legal papers).

State statute classifies participant data as private data on individuals.³ To further protect participants, the office classified the physical location of the program office, any physical and information system controls, and the specific procedures for forwarding mail as security data.⁴ The office also limits the number of employees or other individuals who have knowledge of or access to the private data and security data.

² *Minnesota Statutes 2017*, Chapter 5B.

³ *Minnesota Statutes 2017*, 5B.07, subd. 1 (a), classifies participant data as private data on individuals under *Minnesota Statutes 2017* 13.02, subd. 12, which defines private data on individuals as not public.

⁴ In a memo dated September 9, 2016, the office classified the program information as security data under *Minnesota Statutes 2017*, 13.37, subd. 1 (a), which is then classified as nonpublic data as defined by *Minnesota Statutes 2017* 13.02, subd. 9.

Financial Operations

The office receives a General Fund appropriation to finance the majority of its operating activities, including the Safe at Home Program. In addition, the office collects business-filing fees, Uniform Commercial Code filing fees, notary fees, and other miscellaneous fees. Most of those fees are deposited into the General Fund as nondedicated receipts;⁵ however, state statutes allow the office to deposit a portion of those fees into a special revenue fund and use that money to offset the costs of providing services.⁶ Finally, the office receives grants from the federal government for enhancements to Minnesota's election systems and procedures.

Table 1 summarizes the office's appropriations, receipts, and expenditures for fiscal years 2015 and 2016.

| <u>Appropriations</u> | <u>2015</u> | <u>2016</u> |
|---------------------------------------|---------------------|---------------------|
| General Fund | \$ 6,583,000 | \$ 6,631,000 |
| <u>Receipts</u> | | |
| Fees – Nondedicated General Fund | \$17,910,348 | \$16,668,038 |
| Fees – Dedicated Special Revenue Fund | 3,071,200 | 3,549,295 |
| Other Receipts | <u>272,854</u> | <u>4,187</u> |
| Total Receipts | <u>\$21,254,402</u> | <u>\$20,221,520</u> |
| <u>Expenditures</u> | | |
| Payroll | \$ 6,661,063 | \$ 7,132,962 |
| Rent | 407,130 | 429,226 |
| Equipment | 281,273 | 660,784 |
| Supplies | 368,356 | 321,613 |
| Computer and System Services | 515,648 | 660,093 |
| Communication Services | 409,862 | 399,013 |
| Travel | 35,780 | 31,542 |
| Other Expenditures ^b | <u>870,303</u> | <u>1,028,985</u> |
| Total Expenditures | <u>\$ 9,549,415</u> | <u>\$10,664,218</u> |

^a The scope of our audit also included the portion of fiscal year 2017 from July 1, 2016, through February 28, 2017.

^b Other expenditures include approximately \$1.1 million in professional/technical services contracts.

Source: State of Minnesota's accounting system.

⁵ Nondedicated receipts go directly into the General Fund and are not available to the office to use for its operations.

⁶ *Minnesota Statutes* 2017, 336.1-110, 336.9-525, and 5.24.

Objective, Scope, and Methodology

The objective of our audit of the Office of the Secretary of State for the period of July 1, 2014, through February 28, 2017, was to answer the following questions:

- Did the Office of the Secretary of State have adequate internal controls to ensure that it safeguarded its financial resources and the Safe at Home Program data, accurately paid employees and vendors in accordance with management's authorizations, complied with legal provisions, and created reliable financial data?
- Did the Office of the Secretary of State comply with significant legal requirements?
- Did the Office of the Secretary of State resolve prior audit findings?⁷

To meet the audit objective, we interviewed office management and staff to gain an understanding of the office's internal controls over financial operations and the Safe at Home Program. We analyzed accounting data and employee access rights to the state's accounting system. We considered the risk of errors in the accounting records and noncompliance with relevant legal requirements. Our audit work included the following testing procedures:

- For receipts, we reviewed reconciliations between collected fees, recorded filings, and bank deposits. We also tested samples of receipts to determine whether the office collected fees at the appropriate rates, timely deposited receipts, and properly recorded the receipts as dedicated or nondedicated.
- For payroll expenditures, we determined whether the office properly used bi-weekly payroll system reports to monitor payroll activity. We tested samples of bi-weekly pay periods to determine whether the office properly approved employee timesheets. We also tested samples of nonroutine payroll expenditures, including overtime, separation payments, and payments for retroactive pay rate adjustments, to determine whether the office accurately compensated employees eligible for those payments.
- For expense reimbursements to employees, we tested samples to determine whether the office accurately reimbursed employees for legitimate business expenses.
- For other expenditures, we tested samples of contracts (if applicable) or invoices to determine whether the office properly obtained goods or services and accurately paid for goods or services actually received.

⁷ Office of the Legislative Auditor, Financial Audit Division, Report 13-29, *Office of the Secretary of State*, issued November 15, 2013.

- For asset management, we located samples of recorded assets to verify they existed. We also determined whether the office properly conducted physical inventories of its assets.
- For the Safe at Home Program, we visited the program office and observed the physical security controls designed to safeguard access to the office. We also observed the procedures to enroll individuals and to forward mail. Finally, we reviewed controls designed to limit access to program computers and program data.

We conducted the audit in accordance with generally accepted government auditing standards.⁸ 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 objective.

We used various criteria to evaluate internal controls and compliance. We used, as our criteria to evaluate agency controls, the guidance contained in the most recent edition of the internal control standards published by the U.S. Government Accountability Office.⁹ When assessing internal controls over information technology systems, we assessed the Safe at Home program's internal controls against the information technology standards of the National Institute of Standards and Technology Special Publication 800-53 (Revision 4) *Security and Privacy Controls for Federal Information Systems and Organizations*, published by the U.S. Department of Commerce in April 2013.¹⁰ We used state laws, regulations, and contracts, as well as policies and procedures established by the office and the departments of Management and Budget and Administration as evaluation criteria over compliance.

Conclusion

The Office of the Secretary of State had generally adequate internal controls over its financial operations and the Safe at Home Program, and it generally complied with the significant legal requirements we tested. However, the office had some internal control weaknesses and instances of noncompliance related to assets, professional/technical services contracts, and Safe at Home Program data. The

⁸ U.S. Government Accountability Office, *Government Auditing Standards*, December 2011.

⁹ The Comptroller General of the United States, *Government Accountability Office, Standards for Internal Control in the Federal Government* (Washington D.C., September 2014). In September 2014, the State of Minnesota adopted these standards as the internal control framework for the executive branch.

¹⁰ The National Institute of Standards and Technology Special Publication 800-53 provides information technology for the federal government. These standards are widely accepted security standards and guidelines and are not only used by the federal government, but are frequently adopted on a voluntary basis by many organizations in the private sector.

office resolved one of the findings from the prior audit report, but did not resolve the other.¹¹ We repeat that finding related to physical inventories of assets.

The following *Findings and Recommendations* section provides further explanation about the exceptions noted above.

¹¹ Office of the Legislative Auditor, Financial Audit Division, Report 13-29, *Office of the Secretary of State*, issued November 15, 2013.



Findings and Recommendations

The Office of the Secretary of State did not properly report a lost asset and did not perform timely physical inventory of its fixed assets in compliance with state policies.

Finding 1

The office has approximately 700 assets, worth about \$3 million. We found the following instances of noncompliance:

- **Lost asset not properly reported.** The office did not properly report the loss of a laptop computer worth almost \$2,000. State policy requires agencies to report suspected thefts of state assets to local law enforcement authorities within five business days.¹² The policy also requires agencies to report lost assets to the Department of Administration and the Office of the Legislative Auditor within 30 days.¹³ The loss occurred around August 2016, but office management did not learn about it until the laptop was not located during a physical inventory conducted in May 2017. The office subsequently reported the loss to us and the department in June 2017.
- **Timing of physical inventory not conducted in accordance with state policy. This is a repeat finding.**¹⁴ The office did not conduct a physical inventory of its assets at least once every two years, as required by state policy.¹⁵ The office completed a physical inventory in January 2014, but did not complete the next one until June 2017. The office started conducting a physical inventory in 2015, but did not complete it because a construction project displaced staff and equipment. The purpose of conducting physical inventories of assets is to protect the state's investment in those assets.

Recommendations

- *The Office of the Secretary of State should report lost assets in compliance with state policy.*
- *The Office of the Secretary of State should conduct physical inventories of its assets in compliance with state policy.*

¹² Department of Administration's *State of Minnesota Property Management Policy and User Guide*, Section 5 IV.

¹³ *Minnesota Statutes* 2017, 609.456, subd. 2.

¹⁴ Office of the Legislative Auditor, Financial Audit Division, Report 13-29, *Office of the Secretary of State*, (Finding 2), issued November 15, 2013.

¹⁵ Department of Administration's *State of Minnesota Property Management Policy and User Guide*, Section 4 III. B. and Section 5 III. B.

Finding 2

The Office of the Secretary of State did not submit required evaluation reports for professional/technical services contracts to the Department of Administration.

The office did not submit reports to the Department of Administration on either of the professional/technical services contracts we reviewed that exceeded \$25,000.¹⁶ State statute requires agencies to submit the reports within 30 days of contract completion and states that the report must "...include a written performance evaluation of the work done under the contract."¹⁷ Office staff acknowledged that they did not submit the reports for any contracts. The purpose of the reports is to provide state agencies with useful information when evaluating future proposals submitted by contractors. The lack of information about contractor performance increases the risk of state agencies selecting poor performing contractors to provide services to the state.

Recommendation

- *The Office of the Secretary of State should submit reports to the Department of Administration on professional/technical services contracts over \$25,000, in compliance with state statute.*

Finding 3

The Office of the Secretary of State inadvertently disclosed private data on two Safe at Home Program participants.

During our audit, the office notified us that it inadvertently disclosed participant data on two recent occasions, as follows:

- In May 2017, the office inadvertently forwarded a participant's mail to an address that belonged to a former program participant. The mail included the participant's name and may have contained other private data. After the office identified the error, it contacted the former participant and instructed the person to return the mail. The office also notified the participant whose data was disclosed in error.
- In July 2017, the office inadvertently mailed program documents containing a participant's data (including the person's name, alias, and physical address) to another program participant. After the office identified the error, it contacted the participant who received the

¹⁶ *Minnesota Statutes* 2017, 16C.08, subd. 1, defines professional/technical services as those "...that are intellectual in character, including consultation, analysis, evaluation, prediction, planning, programming, or recommendation, and result in the production of a report or the completion of a task."

¹⁷ *Minnesota Statutes* 2017, 16C.08, subd. 4 (c).

documents and instructed the person to destroy the documents. The office also notified the participant whose data was disclosed of the error.

State law classifies program participant data as private data on individuals, making it unlawful to disclose.¹⁸ State law also requires that the office establish appropriate security safeguards for all records containing private data on individuals.¹⁹ The office's controls were not sufficient to prevent these disclosures. While there is no evidence that these disclosures compromised the program participant's security, improper disclosure significantly increases the risk of exposure to the person(s) they fear.

Recommendation

- *The Office of the Secretary of State should strengthen its controls to safeguard participant data from unauthorized disclosure.*

The Office of the Secretary of State did not require state employees and other individuals to certify in writing their agreement to protect not public data related to the Safe at Home Program.

Finding 4

The office did not require its employees who had access to program data to certify in writing their agreement to protect the program data.²⁰ The office also did not require certain Minnesota IT Services employees, Department of Administration employees, and contractors who had knowledge of the program location to certify in writing their agreement to protect that information.

Our audit uncovered the following:

- For the seven non-Secretary of State employees that had access to program data, office staff told us they verbally discussed the requirements to protect program data. The office did not require these individuals to certify their agreement to protect program data in writing.
- Prior to March 2015, the office did not require any of its employees to certify in writing that they understood their obligation to protect program data. In March 2015, the office disseminated a memo reminding employees of the obligation to protect program data. The office sent the memo to the program director and five program staff at the program office location, who had access to all participant data, and several other

¹⁸ *Minnesota Statutes* 2017, 5B.07, subd. 1 (a).

¹⁹ *Minnesota Statutes* 2017, 13.05, subd. 5 (a) (2).

²⁰ *Minnesota Statutes* 2016, 5B.07, subd. 1, classifies participant data as private data on individuals. In a memo dated September 9, 2016, the office classifies the physical location of the program as security data under *Minnesota Statutes* 2016, 13.37, subd. 1 (a).

employees that had some involvement with the program. The office only required the five program staff to sign the memo, but without a formal statement of acknowledgement that their signature certified their agreement to protect program data.

Requiring employees and contractors to certify in writing their agreement to protect program data ensures that those individuals understand their responsibilities, and it will facilitate the office in holding those individuals accountable for any unauthorized or inadvertent disclosures.

Recommendation

- *The Office of the Secretary of State should require employees and other individuals to certify in writing their agreement to protect program data.*
-



STATE OF MINNESOTA
Office of Minnesota Secretary of State
Steve Simon

November 8, 2017

James R. Nobles
Legislative Auditor
140 Centennial Building
658 Cedar Street
Saint Paul, MN 55155

Dear Auditor Nobles:

This letter is the formal response of the Office of the Secretary of State (OSS) to the regularly scheduled Internal Controls and Compliance Audit that your office recently concluded. We appreciate the hard work, thoroughness, patience, and dedication of your staff throughout the audit process. We also welcome the opportunity that the audit process brings for organizational reflection and improvement.

What follows are our responses to the four specific audit findings.

Finding 1

The Office of the Secretary of State did not properly report a lost asset and did not perform timely physical inventory of its fixed assets in compliance with state policies.

Recommendations:

- **The Office of the Secretary of State should report lost assets in compliance with state policy.**
- **The Office of the Secretary of State should conduct physical inventories of its assets in compliance with state policy.**

The OSS accepts the finding, and agrees with the recommendations.

180 State Office Building | 100 Rev. Dr. Martin Luther King, Jr. Blvd. | Saint Paul, MN 55155-1299
Phone: 651-201-1324 or 1-877-600-8683 | Fax: 651-215-0682 | MN Relay Service: 711
E-mail: secretary.state@state.mn.us | Web site: www.sos.state.mn.us

With respect to the first recommendation, implementation is already underway. All supervisors, managers, and the IT Asset Inventory staff will receive copies of the Department of Administration Property Management Policy and User Guide: Section 5, IV Stolen, Lost, Damaged or Recovered Sensitive Items. In the event an asset is reported lost or stolen, the steps in Section 5 will be followed. IT Asset Inventory staff will report any lost or stolen assets to the Infrastructure Supervisor, Business Services Director, and Fiscal Services Supervisor as soon as they are notified of the loss.

Persons Responsible for Implementation: Jenny Kurz, Fiscal Services Supervisor
Date Projected for Completion: November 15, 2017

With respect to the second recommendation, timely inventories will be a priority. From now on, a physical inventory kickoff meeting will be scheduled by January 20th of each calendar year. This meeting will be attended by the Fiscal Services Supervisor, Accounting Officer (who maintains the SWIFT and FAIS asset records), the IT staff members who will conduct the physical inventory, and the Infrastructure Supervisor. At the kickoff meeting, draft procedures will determine the schedule for the inventory process to occur in a timely manner. At the end of the inventory, final procedures will govern future inventories going forward.

Persons Responsible for Implementation: Jenny Kurz, Fiscal Services Supervisor:
Bob Cross, Infrastructure Supervisor

Date Projected for Completion: 2017 Inventory is complete. Future physical inventories will be completed and certified by March 31st of each year.

Finding 2

The Office of the Secretary of State did not submit required evaluation reports for professional/technical services contracts to the Department of Administration.

Recommendation:

- **The Office of the Secretary of State should submit reports to the Department of Administration on professional/technical services contracts over \$25,000 in compliance with state statute.**

The OSS accepts the finding, and agrees with the recommendations.

A vendor evaluation report has been submitted to the Department of Administration – Office of State Procurement for the sole professional/technical service contract over

\$25,000.00 that was identified in the audit. Moving forward, when such a contract is signed, a reminder will be put on the calendar for the P/T Coordinator and Contract Project Manager to ensure the vendor evaluation report is submitted upon completion of the contract.

Persons Responsible for Implementation: Jenny Kurz, Fiscal Services Supervisor; Contract Project Managers as named.

Date Projected for Completion: Sole prior evaluation has been submitted; new policy has already been implemented.

Finding 3

The Office of the Secretary of State inadvertently disclosed private data on two Safe at Home program participants.

Recommendation:

- **The Office of the Secretary of State should strengthen its controls to safeguard participant data from unauthorized disclosure.**

The OSS accepts the finding, and agrees with the recommendation.

The Safe at Home program forwards first class mail, clearly identifiable pharmaceuticals, and packages sent by a state or county government agency.

Currently, Safe at Home processes at least 250,000 pieces of mail a year, and the program continues to grow. The two isolated mistakes that the audit identified occurred due to mailroom procedures, which have since been evaluated and modified to improve accuracy. This is a list of the changes that have been made and implemented.

- 1) It is now policy that address label packets can no longer be placed in mail bins to be filed when mail is processed. When address label sheets are created for any reason they are checked by a second staff person for accuracy and then filed immediately.
- 2) It is now policy that participant "flats" (i.e. large envelopes) and other large envelopes must be separated into a different mail bin so as not to obscure smaller mail items.
- 3) It is now policy that confirmation letters cannot be included in the envelope that contains a participant's mail. They must be mailed separately. This has increased postage costs but will ensure accuracy.

- 4) The policy that an employee cannot process mail for more than 1.5 hours straight without breaking away from the mail processing task has been changed to 45 minutes.
- 5) Each employee processing mail in the mailroom now has a timer at their processing station to ensure they do not process mail for more than 45 minutes without a reprieve from mail processing duties.
- 6) The program performed a 90-day test during which time every envelope containing participant mail that was being forwarded to the participant was checked by another staff person who verified and ensured the mail was being forwarded to the correct person and that the address label on the forwarding envelope was correct.

The 90-day quality control test has ended and the following mailroom procedures have now been implemented:

- Every day, the recipient and address label of every flat is verified and checked for accuracy.
- On a daily basis, random quality control is performed on all outgoing mail that contains participant mail being forwarded to them. Depending on the day of the week and mail volume, each employee processing mail has 10-25 envelopes randomly pulled and checked by another employee.

Persons Responsible for Implementation: Dianna Umidon, Director.

Date Projected for Completion: Already complete.

Finding 4

The Office of the Secretary of State did not require employees and other individuals to certify in writing their agreement to protect not public data related to the Safe at Home program.

Recommendation:

- **The Office of the Secretary of State should require employees and other individuals to certify in writing their agreement to protect program data.**

The OSS accepts the finding, and agrees with the recommendation.

Before this audit, any employee with knowledge of the Safe at Home office location received written notice of the obligation under Minnesota Statute to protect the location information of the Safe at Home office. The OSS now requires all employees (not just employees associated with the Safe at Home program) to sign a document that reminds them of their requirement to protect not public data. As of October of this year all employees throughout the OSS have signed a written statement acknowledging their legal obligations regarding not public data.

Other select individuals not employed by the Office of the Secretary of State only know office location information. They do not have access to participant program data. Following this audit, the OSS has implemented a policy requiring a written affirmation from all individuals with knowledge of the Safe at Home office location -- affirming their understanding of the legal obligation to protect the location data of the Safe at Home program office.

Persons Responsible for Implementation: Dianna Umidon, Director; Jake Spano, Deputy and Chief of Staff

Date Projected for Completion: Already complete.

Thanks to you and your office for the opportunity to report on the action we have already taken to implement modifications and new policies.

As always, please feel free to let us know if you have additional questions or comments.

Sincerely,

A handwritten signature in black ink that reads "Steve Simon". The signature is written in a cursive, slightly slanted style.

Steve Simon
Secretary of State



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