

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**BARRIO COMPREHENSIVE FAMILY
HEALTH CARE CENTER, INC., DID NOT
ALWAYS FOLLOW FEDERAL
REGULATIONS**

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Office of Inspector General

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

The Health Centers Consolidation Act of 1996 (P.L. No. 104-299) consolidated the Health Center Program under section 330 of the Public Health Service Act (42 U.S.C. § 254b). The Health Center Program provides comprehensive primary health care services to medically underserved populations through planning and operating grants to health centers. Within the U.S. Department of Health and Human Services (HHS), the Health Resources and Services Administration (HRSA) administers the program.

The Health Center Program provides grants to nonprofit private and public entities that serve designated medically underserved populations and areas and vulnerable populations of migrant and seasonal farm workers, homeless individuals, and public housing residents. These grants are commonly referred to as “section 330 grants.”

Under the American Recovery and Reinvestment Act of 2009, P.L. No. 111-5 (Recovery Act), enacted February 17, 2009, HRSA received \$2.5 billion, \$2 billion of which was to expand the Health Center Program by serving more patients, stimulating new jobs, and meeting the expected increase in demand for primary health care services among the Nation’s uninsured and underserved populations. HRSA awarded a number of grants using Recovery Act funding in support of the Health Center Program, including Health Information Technology Implementation (HIT), Capital Improvement Program (CIP), New Access Point (NAP), and Increased Demand for Services (IDS) grants.

Barrio Comprehensive Family Health Care Center, Inc. (Barrio), is a nonprofit organization that operates community health centers in San Antonio, Texas, and the surrounding area. Barrio provides medical, dental, and mental health services and is funded primarily by patient service revenues and Federal grants. During fiscal years 2010 and 2011 (February 1, 2009, through January 31, 2011), Barrio received approximately \$9.8 million (Federal share) in section 330 grant funding to supplement its health center operations. For project periods ranging from March 2009 through May 2012, HRSA awarded Barrio funding for five Recovery Act grants totaling \$7,518,980: \$4,024,697 under two HIT grants, \$1,447,420 under a CIP grant, \$1,300,000 under an NAP grant, and \$746,863 under an IDS grant.

OBJECTIVES

Our objectives were to determine whether (1) the costs that Barrio claimed were allowable and (2) Barrio had adequate controls over its financial management system.

SUMMARY OF FINDINGS

Of the \$16,020,116 that we reviewed, \$3,417,461 was allowable. We could not determine whether salary and fringe benefit costs totaling \$12,543,068 that Barrio claimed were allowable because Barrio did not maintain personnel activity reports for employees who worked on its section 330, HIT, NAP, and IDS grants and because the accounting records for the section 330

and NAP grants did not separate expenditures related to the Federal grants from those related to other funding sources. Barrio recorded additional potentially unallowable costs of \$50,240 for compensation increases and \$9,347 for interest expense.

Barrio did not have adequate controls over its financial management system. Specifically, Barrio did not draw down funds based on the cash needs for each project and did not prepare and complete bank statement reconciliations in a timely manner. Also, Barrio did not have adequate procurement procedures to ensure that it obtained reasonable pricing when procuring goods and services.

RECOMMENDATIONS

We recommend that HRSA require Barrio to:

- refund \$12,543,068 to the Federal Government for salary and salary-related expenses (\$9,832,854 of the section 330 grant, \$1,290,653 of the NAP grant, \$735,382 of the IDS grant, and \$684,179 of the two HIT grants), or work with Barrio to determine whether any of the \$12,543,068 was allowable;
- refund \$50,240 to the Federal Government for salary increases charged to one of the HIT grants, or work with Barrio to determine whether the increases were reasonable;
- refund \$9,347 of the NAP grant to the Federal Government for interest expense related to a capital lease, or work with Barrio to determine whether any of the \$9,347 was allowable;
- develop and implement procedures to maintain personnel activity reports for each employee who works on Federal awards;
- ensure that its financial system provides accurate, current, and complete disclosure of financial results, identifies the source and application of funds for HHS-sponsored activities, and accounts for grant funds separately from all other funds;
- develop and implement procedures requiring analysis of lease and purchase alternatives;
- develop and implement procedures to ensure that requests for cash advances are limited to the amounts needed to carry out approved projects;
- follow its policies to ensure that bank statement reconciliations are prepared and approved monthly; and
- develop and implement procedures to make and document a cost analysis for each procurement action.

BARRIO COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, Barrio disagreed or partially disagreed with our recommendations. Our analysis of Barrio's comments did not change our findings, but in one case we revised a recommendation to have HRSA work with Barrio to determine whether salary increases were reasonable. See the report body for a detailed summary of Barrio's comments and our response.

HEALTH RESOURCES AND SERVICES ADMINISTRATION COMMENTS

In written comments on our draft report, HRSA concurred with our recommendations.

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INTRODUCTION

BACKGROUND

Health Center Program

The Health Centers Consolidation Act of 1996 (P.L. No. 104-299) consolidated the Health Center Program under section 330 of the Public Health Service Act (42 U.S.C. § 254b). The Health Center Program provides comprehensive primary health care services to medically underserved populations through planning and operating grants to health centers. Within the U.S. Department of Health and Human Services (HHS), the Health Resources and Services Administration (HRSA) administers the program. The Health Center Program provides grants to nonprofit private or public entities that serve designated medically underserved populations and areas, as well as vulnerable populations of migrant and seasonal farm workers, the homeless, and residents of public housing. These grants are commonly referred to as “section 330 grants.”

American Recovery and Reinvestment Act of 2009

Under the American Recovery and Reinvestment Act of 2009, P.L. No. 111-5 (Recovery Act), enacted February 17, 2009, HRSA received \$2.5 billion, \$2 billion of which was to expand the Health Center Program by serving more patients, stimulating new jobs, and meeting the expected increase in demand for primary health care services among the Nation’s uninsured and underserved populations. HRSA awarded a number of grants using Recovery Act funding in support of the Health Center Program, including Health Information Technology Implementation (HIT), Capital Improvement Program (CIP), New Access Point (NAP), and Increased Demand for Services (IDS) grants.

Barrio Comprehensive Family Health Care Center, Inc.

Barrio Comprehensive Family Health Care Center, Inc. (Barrio), is a nonprofit organization that operates community health centers in San Antonio, Texas, and the surrounding area.¹ Barrio provides medical, dental, and mental health services and is funded primarily by patient service revenues and Federal grants.

During Barrio’s fiscal years (FYs) 2010 and 2011, HRSA awarded Barrio \$9,832,854 in section 330 grant funds to support its health center operations. In addition, for project periods ranging from March 2009 through May 2012, HRSA awarded Barrio Federal funding for five Recovery Act grants totaling \$7,518,980, which included:

- two HIT grants for \$4,024,697 to purchase and expand an electronic health record system for the Southwest Texas Network, Inc.;²

¹ Barrio’s corporate name is Barrio Comprehensive Family Health Care Center, Inc., though it does business as Communicare Health Centers.

² The Southwest Texas Network, Inc., is a health center controlled network that consists of Barrio and four other Federally qualified health centers that share resources to improve the delivery of services.

- a CIP grant for \$1,447,420 to construct a facility in Kyle, Texas;
- an NAP grant for \$1,300,000 to open a new clinic in San Marcos, Texas, and for new dental operations in Kyle, Texas; and
- an IDS grant for \$746,863 to increase staffing and extend existing services.³

Federal Requirements for Grantees

Title 45, part 74, of the Code of Federal Regulations establishes uniform administrative requirements governing HHS grants and agreements awarded to nonprofit organizations. As a nonprofit organization in receipt of Federal funds, Barrio must comply with Federal cost principles in 2 CFR part 230, *Cost Principles for Non-Profit Organizations* (formerly Office of Management and Budget Circular A-122), incorporated by reference at 45 CFR § 74.27(a). These cost principles require that grant expenditures submitted for Federal reimbursement be reasonable, allocable, and otherwise allowable. The HHS awarding agency may include additional requirements that are considered necessary to attain the award's objectives.

To help ensure that Federal requirements are met, grantees must maintain financial management systems in accordance with 45 CFR § 74.21. These systems must provide for accurate, current, and complete disclosure of the financial results of each HHS-sponsored project or program (45 CFR § 74.21(b)(1)) and must ensure that accounting records are supported by source documentation (45 CFR § 74.21(b)(7)). Grantees also must have written procedures for determining the reasonableness, allocability, and allowability of expenditures in accordance with applicable Federal cost principles and the terms and conditions of the award (45 CFR § 74.21(b)(6)).

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our objectives were to determine whether (1) the costs that Barrio claimed were allowable and (2) Barrio had adequate controls over its financial management system.

Scope

We reviewed costs totaling \$16,020,116 that Barrio charged to its section 330, HIT, CIP, NAP, and IDS grants for the period February 1, 2009, through September 30, 2011. We also reviewed controls in Barrio's financial management system related to the accounting for funds; documenting transactions; preparing financial reports; drawing down Federal funds; processing payroll; recording inventory; reimbursing travel expenses; and purchasing equipment, supplies, and services. We limited our review to controls that pertained to our objectives.

³ Barrio's grant budget periods were as follows: February 1, 2009, through January 31, 2011, for the section 330 funds; September 1, 2009, through August 31, 2011, and June 1, 2010, through May 31, 2012, for the HIT funds; June 29, 2009, through June 28, 2011, for the CIP funds; March 1, 2009, through February 28, 2011, for the NAP funds; and March 27, 2009, through March 26, 2011, for the IDS funds.

We performed our fieldwork at Barrio's administrative office in San Antonio, Texas.

Methodology

To accomplish our objectives, we:

- reviewed relevant Federal laws, regulations, and guidance;
- reviewed Barrio's Recovery Act grant application packages and HRSA's Notices of Grant Award;
- interviewed Barrio personnel to gain an understanding of Barrio's accounting system and internal controls;
- reviewed Barrio's independent auditor's reports and related financial statements for FYs 2009, 2010, and 2011;
- compared quarterly expenditures with drawdowns for each account that Barrio used for Recovery Act grants;⁴
- reviewed accounting records for the section 330 grant to determine whether the accounting system separated expenditures related to the 330 grant from other funding sources;
- reconciled inventory records to accounting records for Recovery Act purchases;
- reviewed expenditures for salaries and related costs, equipment, supplies, space, and travel claimed on Barrio's Recovery Act grants for allowability; and
- discussed the results of our audit with Barrio officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS AND RECOMMENDATIONS

Of the \$16,020,116 that we reviewed, \$3,417,461 was allowable. We could not determine whether salary and fringe benefit costs totaling \$12,543,068 that Barrio claimed were allowable because Barrio did not maintain personnel activity reports for employees who worked on its section 330, HIT, NAP, and IDS grants and because the accounting records for the section 330 and NAP grants did not separate expenditures related to the Federal grants from those related to

⁴ For the NAP grant, Barrio did not separately account for Federal and non-Federal expenditures. In our analysis of drawdowns, we therefore took a conservative approach and included all expenditures in the NAP account.

other funding sources. Barrio recorded additional potentially unallowable costs of \$50,240 for compensation increases and \$9,347 for interest expense.

Barrio did not have adequate controls over its financial management system. Specifically, Barrio did not draw down funds based on the cash needs for each project and did not prepare and complete bank statement reconciliations in a timely manner. Also, Barrio did not have adequate procurement procedures to ensure that it obtained reasonable pricing when procuring goods and services.

POTENTIALLY UNALLOWABLE GRANT COSTS

Insufficient Documentation of Salaries and Salary-Related Costs

Cost principles (2 CFR part 230, Appendix A, § A.2.g) state that costs must be adequately documented to be allowable under an award. Cost principles (2 CFR part 230, Appendix B, §§ 8.b and 8.m) also state that for salaries and wages to be allowable for Federal reimbursement, grantees must maintain personnel activity reports that reflect the distribution of actual activity of each employee whose compensation is charged, in whole or in part, directly to Federal awards. These reports must be signed by the employee or a supervisory official having firsthand knowledge of the employee's activities, be prepared at least monthly, coincide with one or more pay periods, and account for the total activity of the employee. Budget estimates are specifically described as inadequate support for charges to awards (2 CFR part 230, Appendix B, § 8.m(2)(a)).

Barrio did not adequately document \$12,543,068 in salary and fringe benefit costs that it recorded in its accounting records: \$9,832,854 of the section 330 grant, \$1,290,653 of the NAP grant, \$735,382 of the IDS grant, and \$684,179 for the two HIT grants.⁵ Specifically, the personnel activity reports did not reflect the actual activity of employees whose salary and fringe benefit costs were charged to the grants. The timesheets showed neither the grants on which the employees worked nor the activities performed. Barrio allocated salaries for each grant in accordance with the percentage of time budgeted for each employee in the grant applications. Barrio officials stated that they were unaware of the requirement for maintaining personnel activity reports. As a result, we could not determine whether the \$12,543,068 that Barrio claimed was allowable for Federal reimbursement.

Inadequate Financial Management System

HRSA regulations governing the Health Center Program require that all grant payments be accounted for separately from all other funds, including funds derived from other grant awards (42 CFR § 51c.112(a)). To help ensure that Federal requirements are met, grantees must maintain financial management systems in accordance with 45 CFR § 74.21. These systems must provide for accurate, current, and complete disclosure of the financial results of each

⁵ The amounts shown above for the section 330 and NAP grants are the Federal shares of the awards. We reduced the amount for the NAP grant by \$9,347 of interest expense discussed in the "Interest Paid for Furniture Lease Lacked the Required Cost Analysis" section. As discussed in the "Inadequate Financial Management System" section, Barrio's financial management system did not adequately identify the source and application of these funds.

HHS-sponsored project or program (45 CFR § 74.21(b)(1)) and must ensure that accounting records are supported by source documentation (45 CFR § 74.21(b)(7)). Grantee records must adequately identify “the source and application of funds for HHS-sponsored activities,” including “information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest” (45 CFR § 74.21(b)(2)).

Barrio’s financial management system did not provide accurate, current, and complete disclosure of financial results and did not maintain records that identified the source and application of funds for HHS-sponsored activities, as required by 45 CFR § 74.21(b). Specifically, the accounting records for the section 330 and NAP grants did not separate expenditures related to the Federal grants from other funding sources.⁶ For example, the total approved budget for Barrio’s NAP grant award was \$3,922,294; however, the Federal share was \$1,300,000. For our review period, Barrio recorded \$2,810,539 of expenses in its accounting system for the NAP grant but did not identify which expenses were funded by the Federal share and by other funding sources. This occurred because Barrio did not set up its accounting system according to Federal regulations. As a result, we could not verify that the section 330 grant funds (\$9,832,854) and the NAP grant funds (\$1,300,000) were used for allowable expenditures.

Insufficient Documentation To Justify Salary Increases

Cost principles (2 CFR part 230, Appendix B, § 8.d) state that certain conditions require special consideration and possible limitations in determining costs under Federal awards when amounts or types of compensation appear unreasonable. Section 8.d(2) states that these conditions include “[a]ny change in an organization’s compensation policy resulting in a substantial increase in the organization’s level of compensation, particularly when it was concurrent with an increase in the ratio of Federal awards to other activities of the organization”

Section 8.b states that “the costs of compensation [for personal services] are allowable to the extent that: (1) Total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both Federal and non-Federal activities; and (2) Charges to awards whether treated as direct or indirect costs are determined and supported as required” In addition, Barrio’s policies limited annual salary increases to 3 percent, based on merit. Its policies allowed higher increases based on market surveys of salaries.

Barrio increased the salaries of the chief financial officer, chief operating officer, and chief information officer by 34 percent, 16 percent, and 18 percent, respectively, in November 2008, but did not have documentation, such as a market survey, to support the increases. Barrio used the Federal HIT funds to pay \$50,240 for the increases beginning in September 2009. As a result, the salary increase may be unreasonable and should be refunded if Barrio cannot provide sufficient documentation that would have justified the increase.

⁶ Barrio’s accounting system had an account for each grant, including the section 330 and NAP grants. However, Barrio recorded all expenses related to the grant in the account, and because the budget for those grants included other funding sources, we could not reconcile a specific expense to its funding source.

Interest Paid for Furniture Lease Lacked the Required Cost Analysis

The cost principles at 2 CFR part 230, Appendix B, section 43.d, address the allowability of costs incurred for capital leases of equipment: “Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount ... that would be allowed had the non-profit organization purchased the property on the date the lease agreement was executed.” Interest costs related to capital leases are allowable if certain specific criteria are met, while the costs included in capital leases for profit, management fees, and taxes are not allowable.

The cost principles require the use of Financial Accounting Standards Board Statement 13 (FAS 13), Accounting for Leases, to determine whether a lease is a capital lease. According to FAS 13, paragraph 7.b., a capital lease includes a bargain purchase option. According to FAS 13, paragraph 5(d), a bargain purchase option allows the grantee, at its option, to purchase the leased property for a price that is sufficiently lower than the expected fair value of the property at the date the option becomes available.

For capital lease interest costs to be allowable, they must meet certain criteria in 2 CFR part 230, Appendix B, section 23: Interest, for example, may be allowable provided the nonprofit performs a lease/purchase analysis (sections 23.a(2) and 23.a(5)), the interest rate is no higher than a fair market rate from an unrelated (“arm’s length”) third party (section 23.a(3)), investment earnings are used to offset allowable interest cost (section 23.a(4)), and interest is not attributable to fully depreciated assets (section 23.a(6)(b)). Reimbursements for interest are limited to the least costly alternative based on the lease/purchase analysis (section 23.a(5)). The lease/purchase analysis should include a comparison of the projected total cost of leasing the asset and the cost of purchasing it with financing for use during the same period. Finally, grantee procurement procedure requirements at 45 CFR § 74.44(a)(2) require grantees to establish written procedures for lease/purchase analyses.

Barrio leased furniture, including dental chairs, desk chairs, and desks. The capital lease required Barrio to pay \$64,853, which was described as the purchase cost, and \$14,982 in interest over the 5-year term and allowed Barrio to purchase the furniture for \$1 at the end of the lease, which was a bargain purchase. According to the chief financial officer, Barrio decided to lease the furniture for “cash flow purposes.” During our review period, Barrio recorded \$63,522 of furniture expense and \$9,347 of interest expenses related to the NAP grant. Barrio failed to perform the requisite lease/purchase cost analysis and to document that the interest was a fair market rate and did not have policies and procedures requiring it to do so. As a result, Barrio’s claim for \$9,347 in interest on its capital lease was not an allowable expenditure of Federal funds. However, because Barrio did not separately account for the use of its NAP grant in its accounting system, we were unable to confirm which portion, if any, of these costs was funded through the NAP grant and which portion was funded by other sources.

CASH MANAGEMENT PROCEDURES WERE INADEQUATE

Drawdown of Recovery Act Funds Not Based on Cash Requirements

Pursuant to 45 CFR § 74.22(b)(2), "... cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project."

Barrio used organizationwide cash requirements rather than the requirements for each grant to calculate the amount of funds to draw from the HHS Payment Management System. For example, Barrio's drawdowns for the IDS grant exceeded cumulative expenses by an average of \$224,115 per month for the 4-month period ended May 31, 2010. Barrio did not have policies and procedures for drawing down funds based on cash requirements for individual grants.

Preparation and Review of Bank Statement Reconciliations Not Timely

Regulations (45 CFR § 74.21(b)) state: "Recipients' financial management systems shall provide for the following: (3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes." Bank statement reconciliations help provide effective control over cash by identifying any differences between an entity's bank statement and its accounting records. Barrio's policies and procedures state that "on a monthly basis the Accounting Manager will prepare the bank statement reconciliations and submit them to the CEO for approval."

Barrio prepared reconciliations of its bank statements and accounting records an average of 2 months after the date of the statements. In addition, the chief executive officer reviewed the statements an average of 6 months after the statement dates. This occurred because Barrio did not follow its procedures to ensure that bank reconciliations were prepared and reviewed in a timely manner. As a result, Barrio increased its risk of misusing grant funds.

PROCUREMENT PROCEDURES WERE INADEQUATE

Regulations (45 CFR § 74.45) state: "Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action." The analysis can be based on price quotes, market prices, or similar documentation. Grantees must have written procurement procedures that require an analysis of "lease and purchase alternatives to determine which would be the most economical and practical procurement for the recipient and the Federal Government" (45 CFR § 74.44(a)(2)).

Barrio did not perform a cost analysis for the following procurements:

- In October 2008, Barrio signed a 122-month lease agreement for a clinic in San Marcos, Texas. The total estimated cost of the lease payments was \$897,543, of which Barrio claimed \$244,666 of the NAP grant. According to the chief financial officer, Barrio provided information on the type of facility and preferred location to a real estate agent.

The agent located a facility that Barrio found acceptable, but Barrio did not have documentation to show that the cost of the lease was reasonable.

- Barrio paid \$5,824 for a contractor to fabricate and install cabinets for its leased facility in San Marcos, Texas.
- On behalf of South Texas Network, Inc., Barrio contracted with two consultants without making and documenting a cost analysis. One consultant was to provide evaluative services for a period of 2 years, from December 1, 2009, through November 30, 2011. Barrio paid the consultant \$18,213 for services provided through November 2010. Barrio contracted with and paid the other consultant \$4,998 to assist with strategic planning.

Barrio's procedures did not require it to perform and document a cost analysis on items purchased from the same vendor if previous experience with that vendor was satisfactory. Barrio's policies stated that it expected vendors to provide "products of adequate quality at reasonable prices."

RECOMMENDATIONS

We recommend that HRSA require Barrio to:

- refund \$12,543,068 to the Federal Government for salary and salary-related expenses (\$9,832,854 of the section 330 grant, \$1,290,653 of the NAP grant, \$735,382 of the IDS grant, and \$684,179 of the two HIT grants), or work with Barrio to determine whether any of the \$12,543,068 was allowable;
- refund \$50,240 to the Federal Government for salary increases charged to one of the HIT grants, or work with Barrio to determine whether the increases were reasonable;
- refund \$9,347 of the NAP grant to the Federal Government for interest expense related to a capital lease, or work with Barrio to determine whether any of the \$9,347 was allowable;
- develop and implement procedures to maintain personnel activity reports for each employee who works on Federal awards;
- ensure that its financial system provides accurate, current, and complete disclosure of financial results, identifies the source and application of funds for HHS-sponsored activities, and accounts for grant funds separately from all other funds;
- develop and implement procedures requiring analysis of lease and purchase alternatives;
- develop and implement procedures to ensure that requests for cash advances are limited to the amounts needed to carry out approved projects;

- follow its policies to ensure that bank statement reconciliations are prepared and approved monthly; and
- develop and implement procedures to make and document a cost analysis for each procurement action.

BARRIO COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, Barrio disagreed or partially disagreed with our recommendations. Barrio's comments are included as Appendix B. We did not include the minutes of a board of directors' meeting that Barrio included with its comments because they contained personally identifiable information.

Insufficient Documentation of Salaries and Salary-Related Costs

Barrio Comments

Barrio disagreed with our recommendation to refund \$12,543,068 to the Federal Government for salary and salary-related expenses or to work with HRSA to determine whether any of the \$12,543,068 was allowable. Barrio stated that employee timesheets met the requirements of 2 CFR part 230, Appendix B, section 8.m(2)(a)-(d). Barrio also referred to 2 CFR part 230, Appendix B, section 8.m.1, which states that the "[c]harges to awards for salaries and wages ... will be based on documented payrolls approved by a responsible official(s) of the organization," and stated that it met those requirements. In addition, Barrio stated that our conclusion that it allocated employee salaries based on budget estimates was incorrect. Barrio said that it used Employee Status Change Forms, which showed the percentage of an employee's work "that should be charged to each grant," and that the forms are updated if changes occur in the employee's work assignment or activities. Barrio also stated that clinicians and administrative staff generally perform the same type of activities throughout the day and provided hypothetical examples of when allocations would change.

Office of Inspector General Response

We disagree that Barrio employee timesheets met the requirements of 2 CFR part 230, Appendix B, section 8.m(2)(a)-(d). The timesheets documented employee time worked but did not provide an after-the-fact determination of employee activities. Barrio used the Employee Status Change Forms, which showed allocations based on the percentage of employee work that Barrio planned to charge to each grant, but Barrio did not have a follow-up procedure to verify the accuracy of the allocations after completion of work.

Inadequate Financial Management System

Barrio Comments

Barrio disagreed with our recommendation to ensure that its financial system provides accurate, current, and complete disclosure of financial results, identifies the source and application of funds for HHS-sponsored activities, and accounts for grant funds separately from all other funds.

Barrio stated that it had complied with applicable requirements by recording the costs associated with the section 330 project and the NAP project in separate accounts from other grants. Barrio stated that regulations cited in the draft report did not require separate accounting of expenditures. Barrio's interpretation of 42 CFR § 51c.112(a) was that a health center must account for "expenditures made with Section 330 funds or with program income in a manner acceptable to HRSA." Barrio referenced HRSA Policy Information Notice 95-15, which Barrio quoted as stating that "budgeted costs generally will not be specifically identified as being covered by grant or non-grant funds" In addition, Barrio referred to 42 U.S.C. § 254b(e)(5)(D), which states that nongrant funds may be used to promote the project, if not specifically prohibited.

Office of Inspector General Response

After reviewing Barrio's comments, we maintain that the finding is valid. The grantee is required to provide accurate, correct, and complete disclosure of financial results and records that identify the source and application of funds for HHS-sponsored activities (i.e., expenditures for section 330 and NAP grants should be segregated and accounted for separately from other operational expenditures) (45 CFR § 74.21(b)(1) and (2) and 42 CFR § 51c.112(a)). The brief quote from the HRSA Policy Information Notice 95-15 that Barrio mentions describes how budgeted costs are identified and does not describe the accounting requirements for incurred costs. In addition, 42 U.S.C. § 254b(e)(5)(D) identifies how nongrant funds may be used but does not specify accounting requirements for the costs. Regulations require grantees to separately account for expenditures for each funding source.

Insufficient Documentation To Justify Salary Increases

Barrio Comments

Barrio disagreed with our recommendation that it refund \$50,240 to the Federal Government for unreasonable salary increases charged to one of the HIT grants. Barrio stated that it complied with policies it had at the time it increased the executive salaries and provided a salary schedule that the board of directors approved in its November 13, 2008, meeting. Barrio said that it had used salary surveys from the San Antonio area to establish the schedule and that it had used the schedule to adjust the executive salaries. In addition, Barrio stated that the cost principles did not require Barrio to maintain documentation of the salary surveys used for the schedule.

Office of Inspector General Response

We agree that Barrio may have followed its procedures in using a salary schedule approved by the board of directors as a basis for salaries. However, the basis for the significant increase in 2008 remains unclear because Barrio did not document the methodology that it used to develop the salary schedule. We did not base our finding solely on Barrio's policies. We maintain that the salary increase may be unreasonable and should be refunded if Barrio cannot provide sufficient documentation that would have justified the increase. We revised the recommendation to have Barrio work with HRSA to determine whether the increases were reasonable.

Interest Paid for Furniture Lease Lacked the Required Cost Analysis

Barrio Comments

Barrio disagreed with our recommendation to refund \$9,347 of the NAP grant to the Federal Government for interest expense related to a capital lease or to work with HRSA to determine whether any of the \$9,347 was allowable. Specifically, Barrio said that the furniture lease did not qualify as a capital lease because the furniture did not meet the definition of capital assets. Barrio referenced the definition of capital assets in OMB Circular A-122, which is “an acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-profit organization for financial statement purposes, or \$5,000,” and further states that Barrio’s policies do not designate a capitalization lower than \$5,000. Barrio stated that its arrangement did not qualify as a capital lease, and the requirements cited by OIG in 2 CFR part 230, Appendix B, sections 23 and 43, did not apply.

Office of Inspector General Response

Regardless of whether the rented furniture is considered a supply or a capital asset, the interest claimed as a result of the lease is unallowable. Interest generally is not an allowable cost: “Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the non-profit organization’s own funds, however represented, are unallowable” (2 CFR part 230, Appendix B, section 23.a). The rules provide for a limited exception for interest incurred on capital assets, a term that includes assets incurred through capital leases, if certain terms are met (see also 2 CFR part 230, Appendix B, section 43.d). We concluded that the auditee’s lease of furniture met the definition of a capital lease according to Financial Accounting Standards Board Statement 13 and documents related to the lease transaction. The documentation identified the furniture leased in total costs, with interest.

Contrary to Barrio’s assertion that it did not have policies that designated a capitalization level lower than \$5,000, policy number ACC803, with an effective date of January 2008, states: “Any item with an original purchase price of \$1,000 or more and a useful life of more than two years shall be capitalized as a fixed asset. The capitalization threshold also applies to groups of related items with a useful life of more than two years when the combined acquisition costs exceed \$500.... Fixed Assets are recorded into the fixed asset module of the Fundware Accounting System.”

Although \$21,105 of the individual items of furniture did not meet the \$1,000 threshold Barrio established for equipment capitalization, more than \$43,000 did meet the threshold. In addition, Barrio accounted for each piece of furniture by tagging the individual items and recording the items in the fixed asset module of its accounting system. Furthermore, the grantee, in general ledgers, grouped this expense under “Equipment: Off & Furn.,” and account detail reports listed the expense as the “Baytree Capital Lease.” Although the lease of furniture may meet the definition of a capital lease, the terms under which interest may be allowable were not met. As discussed in the audit report, we determined that the grantee failed to follow the capital asset terms set forth in the rules and thus failed to ensure that this interest might be allowed. Even if,

as the auditee says, this furniture is characterized as a supply, there is no basis for asserting that the interest incurred in the rental of the furniture is an allowable cost.⁷

Finally, even though the grantee budgeted for this equipment as supplies and used that portion of its budget to cover the cost of the furniture, HRSA's approval of the budget does not mean that the cost of the interest incurred in the rental of the furniture is allowable. The Departmental Appeals Board has held that an agency's approval of an agreement to lease-purchase equipment does not mean that all costs, specifically interest that is otherwise precluded by regulation, are allowable.⁸

Drawdown of Recovery Act Funds Not Based on Cash Requirements

Barrio Comments

Barrio partially concurred with our recommendation to develop and implement procedures to ensure that requests for cash advances are limited to the amounts needed to carry out approved projects. Barrio conceded that it had significant discrepancies between expenditures and drawdowns during some months of our review, but it also stated that it had generally complied with the requirement for cash advances. Barrio stated that it did not draw down a fixed percentage of the total award each month and instead made draws based on actual cash needs of the program.

Office of Inspector General Response

Barrio did not comply with the requirements and did not have procedures to draw down funds based on the cash requirements for each grant, as required by 45 CFR § 74.22(b)(2).

Preparation and Review of Bank Statement Reconciliations Not Timely

Barrio Comments

Barrio partially concurred with our recommendation to follow its policies to ensure that bank statement reconciliations are prepared and approved monthly. Barrio stated that its bank reconciliation policy ensures that it maintains control and accountability. Barrio stated that the policy requires preparation and submission of the reconciliations "on a monthly basis" but does not require completion and review of the reconciliation in the same month the bank statement is issued.

Office of Inspector General Response

We agree that Barrio had adequate policies to provide effective controls over cash. We also agree that its policies did not require the reconciliation and review of the bank reconciliation to be completed in the same month the bank issued the statement. However, the "monthly basis"

⁷ See Marshalls Community Action Agency, DAB No. 328 (1982) (interest charges incurred on purchase of supplies not allowable).

⁸ See Washington Department of Social and Health Services, DAB No. 741 (1986).

requirement implies preparation and review within 1 month of the statement's issuance, which Barrio did not follow.

Procurement Procedures Were Inadequate

Barrio Comments

Barrio did not concur with our recommendations to develop and implement procedures to require analysis of lease and purchase alternatives and to make and document a cost analysis for each procurement action. Barrio stated that it had updated its purchasing policy in May 2012 and that for purchases less than \$10,000, the purchasing agent is authorized to use his or her best judgment, based on several factors. In addition, Barrio indicated that it would work with HRSA to refine the policy.

Office of Inspector General Response

We understand that the purchasing agent may use his or her best judgment when making purchasing decisions, but Federal regulations require analysis of lease-versus-purchase options, where appropriate, and documentation of cost and price analysis with every procurement action (45 CFR §§ 74.44(a)(2) and 74.45).

HEALTH RESOURCES AND SERVICES ADMINISTRATION COMMENTS

In written comments on our draft report, HRSA concurred with our recommendations. HRSA's comments are included in their entirety as Appendix C.

APPENDIXES

**APPENDIX A: GRANT AMOUNTS AND AMOUNTS REVIEWED, ALLOWABLE,
AND POTENTIALLY UNALLOWABLE**

Grant¹	Federal Share of Award	Reviewed	Allowable	Potentially Unallowable
CIP	\$1,447,420	\$1,447,420	\$1,447,420	\$0
HIT	1,115,625	1,115,625	750,294	365,331
HIT	2,909,072	1,584,038	1,214,950	369,088
IDS	746,863	740,179	4,797	735,382
NAP	1,300,000	1,300,000	0	1,300,000
330	9,832,854	9,832,854	0	9,832,854
Total	\$17,351,834	\$16,020,116	\$3,417,461	\$12,602,655

¹ CIP = Capital Improvement Program, HIT = Health Information Technology Implementation, IDS = Increased Demand for Services, NAP = New Access Point, 330 = section 330.

APPENDIX B: BARRIO COMMENTS



FELDESMAN
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EDWARD T. WATERS
ewaters@ftlf.com

March 1, 2013

BY EMAIL AND FEDERAL EXPRESS

Ms. Patricia Wheeler
Regional Inspector General for Audit Services
DHHS/Office of Inspector General
Office of Audit Services, Region VI
1100 Commerce St., Rm. 632
Dallas, TX 75242

Re: OIG Draft Report # A-06-11-00067

Dear Ms. Wheeler:

We represent Barrio Comprehensive Family Health Care Center, Inc. dba CommuniCare Health Centers ("CommuniCare") and are responding on its behalf to your office's draft report, dated January 30, 2013, entitled *Barrio Comprehensive Family Health Care Center, Inc., Did Not Always Follow Federal Regulations* (the "Draft Report").

I. Background

The grant funds that CommuniCare has received through the American Recovery and Reinvestment Act ("ARRA") and the Affordable Care Act ("ACA") have resulted in dramatic benefits for the patients the health center serves in San Antonio, San Marcos, and Kyle, Texas. The ARRA and ACA grants have enabled CommuniCare to open new sites to serve uninsured, underinsured, and indigent residents of San Marcos and Kyle; to expand dental services at the Dr. Frank Bryant Health Center in San Antonio; and through the Southwest Texas Network (STN), to support FQHCs in 16 Texas counties in implementing electronic health records and electronic practice management. CommuniCare fully and satisfactorily carried out these federally funded projects.

While CommuniCare welcomes the opportunity to work with its primary funding agency, the Health Resources and Services Administration (HRSA), to resolve any questions that HRSA may have about the use of grant funds, CommuniCare does not concur with the majority of the recommendations in the Draft Report. Most significantly, CommuniCare disagrees with OIG's recommendation that HRSA "require Barrio to . . . refund \$12,543,068 to the Federal Government for salary and salary-related expenses . . . or work with Barrio to determine whether any of the \$12,543,068 was allowable," on account of OIG's conclusion that CommuniCare did not sufficiently document salary costs. CommuniCare believes that this finding, as well as others discussed below, should be withdrawn.

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II. Responses to OIG Recommendations

OIG Recommendation #1: OIG recommends that HRSA require CommuniCare to “refund \$50,240 to the Federal Government for unallowable salary increases charged to one of the HIT grants and follow its policies to ensure that compensation does not exceed reasonable limits.” Specifically, OIG finds that salary increases for CommuniCare’s chief financial officer (CFO), chief operating officer (COO), and chief information officer (CIO) in November 2008 “did not conform to Barrio’s established policy and were not adequately determined and supported.”

CommuniCare Response: CommuniCare does not concur with OIG’s recommendation.

While CommuniCare will work with HRSA as needed to clarify its policies concerning compensation, it believes that the compensation of the three employees identified in the Draft Report, and the adjustments to their salaries in November 2008, fully complied with Office of Management and Budget (“OMB”) Circular A-122. Specifically, per Appendix B, paragraph 8 of the Circular, total compensation to each employee is allowable if the compensation (1) conforms to the organization’s established policies; (2) is “reasonable” – *i.e.*, for an organization that is predominantly engaged in federally-sponsored activities, “comparable to that paid for similar work in the labor markets in which the organization competes”; and (3) does not fall within a category of unallowable costs listed in other paragraphs of the Circular. See OMB Cir. A-122 (2 C.F.R. Part 230), App. B, ¶¶ 8.b, 8.e. We address points (1) and (2) below. There is not, so far as we know, any suggestion that the salaries paid fell within a category of unallowable costs.

With respect to (1), CommuniCare complied with the policies that were in effect at the time of the salary adjustment identified in the Draft Report. Specifically, in its November 13, 2008 Board meeting, CommuniCare’s Board approved a schedule of 27 salary grades and pay ranges for each grade (the “Salary Schedule”). See Attachment A, Salary Schedule and Board Minutes approving same. Using that Salary Schedule (the CIO falls in Grade 18 and the CFO and COO in Grade 20), on November 17, 2008, CommuniCare set the salaries for the three employees discussed in the Draft Report. These adjustments were properly documented in each employee’s personnel file through an “Employee Status Change Form,” which recorded the salary adjustment and noted the reason for the adjustment (merit or market factors). The status change forms indicated that the November 2008 salary adjustments were based on market considerations (*i.e.*, to align the salary with the newly-approved range). The employees’ personnel files also indicate that the adjustment brought each officer’s salary only to the midpoint of the range for his grade.

As to (2), as noted above, the requirement in Circular A-122 is that salaries be reasonable in amount (essentially fair market value for the position in question). The main concern identified in the Draft Report appears to be that CommuniCare did not retain the back-up information used to set the salary ranges, not that the salaries paid were unreasonable. As to that statement, we would ask that your office consider the following information. First, CommuniCare reviewed available salary surveys for the San Antonio area in 2008 and used those surveys to establish the Salary Schedule that was subsequently approved by the Board (Attachment A). The sources used were Salary.com and RobertHalf.com. Second, while it is true that CommuniCare did not retain copies of the webpages that it used to set the Salary Schedule, there is no requirement in Circular A-122 to conduct salary surveys, much less to keep those surveys. Accordingly, since there is nothing to suggest that the salaries were, in fact, unreasonable, CommuniCare was in compliance with the compensation provisions of the Circular.

Finally, the Draft Report is largely premised on CommuniCare's policy that is entitled "Wage and Salary Administration." This policy was not in existence in November of 2008 when the salaries for the three employees were established, but was first adopted by CommuniCare in April of 2009 and was subsequently revised in 2010 and 2013. Indisputably, relying on policies that did not exist at the time of the events in question to support an audit finding about those events is simply wrong. Accordingly, this recommendation should be revised and, CommuniCare believes, withdrawn.

OIG Recommendations #2 and #4: OIG made two related recommendations concerning documentation of salary expenses and allocation of salary expenses to grant awards. Specifically, OIG recommended that HRSA require CommuniCare to:

- "refund \$12,543,068 to the Federal Government for salary and salary-related expenses (\$9,832,854 of the section 330 grant, \$1,290,653 of the NAP grant, \$735,832 of the IDS grant, and \$684,179 of the two HIT grants), or work with Barrio to determine whether any of the \$12,543,068 was allowable"; and
- "develop and implement procedures to maintain personnel activity reports for each employee who works on Federal awards."

CommuniCare Response: CommuniCare does not concur with these recommendations. CommuniCare contends that it has complied fully with federal requirements. CommuniCare employees' personnel activity reports ("timesheets") are prepared contemporaneously, contain the required approvals, and adequately document actual work activity. In addition, the timesheets, along with other records maintained in personnel files, ensure an accurate allocation of salaries to the relevant grants.

Personnel Activity Reports

To charge personnel costs to a federal grant, the grantee must have records satisfying four documentation standards found in OMB Circular A-122. Specifically, timesheets must:

1. reflect an after-the-fact determination of the actual activity of each employee;
2. account for the total activity for which employees are compensated;
3. be signed by the employee or by a supervisory official with first-hand knowledge of the employee's activities; and
4. be prepared at least monthly and coincide with pay periods.

See OMB Cir. A-122, App. B, ¶ 8.m.2(a)-(d).

CommuniCare uses the Kronos timekeeping and payroll system. Per CommuniCare's documented policies, all employees record their time contemporaneously. Non-exempt employees clock in and out using a hand "punch" system, while exempt employees prepare timesheets, which they submit to their supervisors on a bi-weekly basis. In the case of both categories of employees, the supervisor reviews and authorizes the time entered. An electronic timesheet is not finalized until it reflects both employee and supervisor approval. By electronically signing the timesheet, the employee verifies that he or she has carried out job duties as described in the job description for the position. In addition, for clinicians, abundant data (for example, appointment logs and on-call schedules) document patient care services performed during the clinician's worked hours.

CommuniCare's time and effort system thus satisfies the four numbered standards set forth above. CommuniCare disagrees with OIG's conclusion that the timesheets did not reflect

the employees' "actual activity." As noted above, the employee's job description and (in the case of clinicians) clinical records document actual work activities. Circular A-122 does not require that personnel activity reports include a textual description of work.

Allocation of Salary to Grants

Circular A-122 requires that "[c]harges to awards for salaries and wages . . . will be based on documented payrolls approved by a responsible official(s) of the organization." OMB Cir. A-122, App. B, ¶ 8.m.1. CommuniCare's payroll procedures fully meet this requirement and also ensure that salaries are allocated appropriately among federal awards.

Under CommuniCare's policy entitled "Processing Bi-Weekly Payroll," after a supervisor finalizes a timesheet, the accountant reviews and verifies the hours worked, leave taken, *etc.* The accountant / payroll administrator signs off on the timesheet and adds the employee's information to the documented payroll for that biweekly period.

OIG's concern appears to be that in charging each grant for salary costs, CommuniCare does not use an allocation based on task descriptions in the timesheet. OIG asserted that CommuniCare "allocated salaries for each grant in accordance with the percentage of time budgeted for each employee in the grant applications."

OIG's conclusion is inaccurate. In allocating each employee's time to grant awards, CommuniCare uses "Employee Status Change Forms" maintained in the personnel file. These forms indicate any change in the full-time equivalency (FTE) percentage of the employee's work that should be charged to each grant. The forms are updated regularly. If a change in an employee's work assignment or activities after the start of a grant budget period alters the appropriate allocation of his or her salary among grants, the change is recorded on a new status form. Potential examples of such updates are as follows:

- Under the Increased Demand for Services (IDS) grant that HRSA awarded to CommuniCare for the budget period March 27, 2009 through March 26, 2011, CommuniCare expanded oral health services in our Dr. Frank Bryant Health Center by hiring new clinicians and support staff. If a dentist hired under the IDS grant were transferred to another location, her FTE allocation would be removed entirely from the IDS grant.
- A New Access Point (NAP) grant with budget period March 1, 2009 through February 28, 2011 supported the opening of a new site in San Marcos. If a clinician were assigned to provide services on one day of the five-day work week at another site, the clinician's FTE allocation under the NAP grant would be reduced accordingly.

In general, clinicians and administrative staff perform the same types of activities throughout the day – *i.e.*, patient care services in the clinician's area of specialty, or support services. The allocation of wages and salaries to the respective HRSA grants is contingent on factors such as the service site or the general type of services provided, and not on any particular patient served or task performed. (Indeed, if specific information about patient services were required on the timesheet, it would likely violate health information privacy rules.) Events triggering a change in the grant allocation are captured on the status change form, and the allocation is not required to be based on a narrative in the timesheet.

CommuniCare will work with HRSA to resolve any concerns about CommuniCare's time and effort reporting, but CommuniCare maintains that it fully complied with federal requirements in this area and asks that OIG withdraw its recommendations on this topic.

OIG Recommendations #3, #6, and #9: Three of OIG’s recommendations relate to CommuniCare’s lease of a facility for its new San Marcos site and lease of furniture for that site. Specifically, OIG’s draft report recommends that HRSA require CommuniCare to:

- “refund \$9,347 of the NAP grant to the Federal Government for interest expense related to a capital lease, or work with Barrio to determine whether any of the \$9,347 was allowable”;
- “develop and implement procedures requiring analysis of lease and purchase alternatives”; and
- “develop and implement procedures to make and document a cost analysis for each procurement action.”

CommuniCare Response: While CommuniCare will work with HRSA to make any needed improvements in its policies on Purchasing, Receiving Supplies and Equipment, and Competitive Bids, CommuniCare believes that these policies comply fully with federal requirements, and therefore CommuniCare does not concur with the recommendations.

With respect to Recommendation #3, the acquisition of furniture for CommuniCare’s San Marcos site, which OIG characterizes as a “capital lease,” complied with the requirements of OMB Circular A-122 and 45 C.F.R. Part 74. In characterizing this transaction as unallowable, OIG cited inapplicable provisions of Circular A-122. OIG concluded that the arrangement did not meet the requirements for capital leases under a bargain purchase option, but those rules apply only to leases of capital assets and equipment. *See* OMB Cir. A-122, ¶¶ 23, 43. “Capital assets” are comprised of equipment, buildings, and land, and “equipment” is “an article of non-expendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-profit organization for financial statement purposes, or \$5000.” OMB Cir. A-122, ¶¶ 15.a.1, 15.a.2; *see also* 45 C.F.R. § 74.2. “Equipment” is determined based on per-unit, not cumulative, cost. CommuniCare’s policies do not designate a capitalization level lower than \$5000.

The rules cited do not apply to this transaction because the furniture falls under the “supplies” category, not “capital assets” or “equipment.” CommuniCare’s budget justification for the NAP grant application listed, under “supplies,” a cost item for “noncapitalized equipment for New Office set up and ongoing costs. . . No item is over \$5,000.”

With respect to Recommendations #6 and #9, CommuniCare’s policy on Purchasing, most recently updated in May 2012, is intended to ensure that the health center procures equipment and supplies at the lowest possible price, also keeping in mind considerations of quality, timeliness, and service after sale. The policy establishes different rules for procurements above the simplified acquisition threshold of \$100,000; items costing between \$50,000 and \$99,000; items costing between \$10,000 and \$49,999; and items costing less than \$10,000. As to the latter, under the policy, the purchasing agent is authorized to use his or her best judgment, considering prior experience with the vendor, proposed quality, and price. CommuniCare would be glad to work with HRSA on any further needed refinements to the policy, such as adding a requirement that the purchasing agent analyze whether purchase or lease would be most economical or practical.

OIG Recommendation #5: OIG recommends that HRSA require CommuniCare to “ensure that its financial system provides accurate, current, and complete disclosure of financial results, identifies the source and application of funds for HHS-sponsored activities, and accounts for

grant funds separately from all other funds.” In particular, OIG asserts, based on 42 C.F.R. § 51c.112(a), “the accounting records for the section 330 and NAP grants did not separate expenditures related to the Federal grants from other funding sources.”

CommuniCare Response: CommuniCare does not concur with this recommendation.

As OIG acknowledged, CommuniCare uses a separate account for each grant. OIG’s concern, apparently, is that CommuniCare does not maintain separate accounts for expenditures paid with grant funds and for expenditures paid with “other funding sources.” Specifically, OIG stated: “Barrio recorded all expenses related to the grant in the account, and because the budget for those grants included other funding sources, we could not reconcile a specific expense to its funding source.”

While it is not clear what the “other funding sources” are that are referred to in Draft Report, we assume that this term is a reference to program income such as Medicare and Medicaid payments received by CommuniCare in the course of operating within the scope of its HRSA-approved project. Under the Section 330 program, there are special rules governing the treatment of program income, which is referred to as “nongrant” revenue in the Public Health Service Act. 42 U.S.C. § 254b(e)(5)(D), Public Health Service Act § 330(e)(5)(D). Simply stated, none of the regulations cited in the Draft Report would require separate accounting for expenditures paid out of a Section 330 grant and for expenditures paid out of program income generated by that grant.

Indeed, the Section 330 implementing regulation cited in the Draft Report in support of OIG’s recommendation, in the sentence following that cited by OIG, provides:

With respect to each approved project, the grantee shall account for the *sum total of all amounts paid as well as other funds and in-kind contributions* by presenting or otherwise making available *evidence satisfactory to the Secretary of expenditure for direct and indirect costs*. . . .

42 C.F.R. § 51c.112(a) (emphasis added). In short, this provision requires a health center to account for expenditures made with Section 330 funds or with program income in a manner acceptable to HRSA. In that regard, longstanding guidance from HRSA makes clear that there is no requirement of the type of separate accounting of expenditures that is asserted in the Draft Report. For example, HRSA Policy Information Notice (“PIN”) 95-15 (Feb. 28, 1995) states that “budgeted costs generally will not be specifically identified as being covered by grant or non-grant funds. . . .”

By recording the costs associated with the Section 330 project and the NAP project in separate accounts from other grants, and by comparing with those costs, in each respective account, the “sum total” of grant funds and program income for the Section 330 operating grant or NAP grant, CommuniCare fully complied with the applicable requirements.

In light of these authorities, CommuniCare requests that OIG withdraw recommendation #5.

OIG Recommendation #7: OIG recommends that HRSA require CommuniCare to “develop and implement procedures to ensure that requests for cash advances are limited to the amounts needed to carry out approved projects.”

CommuniCare Response: CommuniCare concurs in part with this recommendation.

Rather than drawing down a fixed percentage of the total award each month, CommuniCare makes draws based on actual cash needs of the program. In general,

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CommuniCare Response to
OIG Draft Report # A-06-11-00067
March 1, 2013
Page 7 of 7

CommuniCare therefore believes that it has complied with the requirement under the regulations that "cash advances . . . be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements" of the grantee. 45 C.F.R. § 74.22.

However, CommuniCare concedes that in some months during the OIG's review period, there were significant discrepancies between draws and expenditures. CommuniCare will work with HRSA as necessary to ensure it is complying with relevant federal requirements, and CommuniCare will implement a formal policy on cash advances.

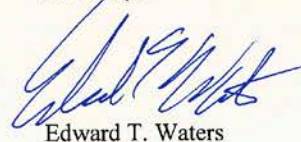
OIG Recommendation #8: OIG recommends that HRSA require CommuniCare to "follow its policies to ensure that bank statement reconciliations are prepared and approved monthly." In support of this contention, OIG notes that CommuniCare prepared reconciliations "an average of 2 months after the date of the statements," and that the CEO reviewed the statements "an average of 6 months after the statement dates."

CommuniCare Response: CommuniCare concurs in part with this recommendation.

CommuniCare agrees that promptly reviewing bank statements and reconciling them with accounting records is a component of "effective control over and accountability for all funds, property, and other assets." 45 C.F.R. § 74.21(b)(3). CommuniCare's documented bank reconciliation policy ensures that the health center maintains control and accountability. The policy requires that the accounting manager prepare bank statement reconciliations and submit them to the CEO "on a monthly basis." The policy does not require that the reconciliation be completed in the same month that the bank statement is issued, or that the CEO complete his review in that same month.

Again, CommuniCare appreciates the opportunity to comment on OIG's draft audit findings. Please let me know if you have further questions or need additional information.

Sincerely,



Edward T. Waters

cc: Paul M. Nguyen, Chief Executive Officer

Enclosure

**APPENDIX C: HEALTH RESOURCES AND SERVICES
ADMINISTRATION COMMENTS**



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Resources and Services
Administration

Rockville MD 20857

JUN 26 2013

TO: Inspector General

FROM: Administrator

SUBJECT: OIG Draft Report: "Barrio Comprehensive Family Health Care Center, Inc., Did Not Always Follow Federal Regulations" (A-06-11-00067)

Attached is the Health Resources and Services Administration's (HRSA) response to the OIG's draft report, "Barrio Comprehensive Family Health Care Center, Inc., Did Not Always Follow Federal Regulations" (A-06-11-00067). If you have any questions, please contact Sandy Seaton in HRSA's Office of Federal Assistance Management at (301) 443-2432.

A handwritten signature in cursive script that reads "Mary K. Wakefield".

Mary K. Wakefield, Ph.D., R.N.

Attachment

**Health Resources and Services Administration’s Comments on the OIG Draft Report –
“Barrio Comprehensive Family Health Care Center, Inc., Did Not Always Follow Federal
Regulations” (A-06-11-00067)**

The Health Resources and Services Administration (HRSA) appreciates the opportunity to respond to the above draft report. HRSA’s response to the Office of Inspector General (OIG) draft recommendations are as follows:

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio Comprehensive Family Health Care Center, Inc., (Barrio) to refund \$12,543,068 to the Federal Government for salary and salary-related expenses (\$9,832,854 of the section 330 grant, \$1,290,653 of the NAP grant, \$735,382 of the IDS grant, and \$684,179 of the two HIT grants), or work with Barrio to determine whether any of the \$12,543,068 was allowable.

HRSA Response:

HRSA concurs with the OIG recommendation and will work with Barrio to determine which salary and salary-related expenses charged against the HRSA grants were allowable.

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio to refund \$50,240 to the Federal Government for salary increases charged to one of the HIT grants, or work with Barrio to determine whether the increases were reasonable.

HRSA Response:

HRSA concurs with the OIG recommendation and will work with Barrio to determine if the salary increases charged to one of the HIT grants were reasonable.

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio to refund \$9,347 of the NAP grant to the Federal Government for interest expense related to a capital lease, or work with Barrio to determine whether any of the \$9,347 was allowable.

HRSA Response:

HRSA concurs with the OIG recommendation and will work with Barrio to determine if the interest expense related to a capital lease charged to the NAP grant was allowable.

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio to develop and implement procedures to maintain personnel activity reports for each employee who works on Federal awards.

HRSA Response:

HRSA concurs with the OIG recommendation and will ensure that Barrio develops and implements procedures to maintain personnel activity reports for each employee who works on federal awards.

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio to ensure that its financial system provides accurate, current, and complete disclosure of financial results, identifies the source and application of funds for HHS-sponsored activities, and accounts for grant funds separately from all other funds.

HRSA Response:

HRSA concurs with the OIG recommendation and will ensure that Barrio maintains a financial system that provides precise, up-to-date, comprehensive disclosure of financial results, can identify the source and application of funds for HHS-sponsored activities, and accounts for grant funds separately from all other funds.

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio to develop and implement procedures requiring analysis of lease and purchase alternatives.

HRSA Response:

HRSA concurs with the OIG recommendation and will ensure that Barrio develops and implements procedures requiring analysis of lease and purchase alternatives.

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio to develop and implement procedures to ensure that requests for cash advances are limited to the amounts needed to carry out approved projects.

HRSA Response:

HRSA concurs with the OIG recommendation and will ensure that Barrio develops and implements procedures to make certain that requests for cash advances are limited to the amounts needed to carry out approved projects.

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio to follow its policies to ensure that bank statement reconciliations are prepared and approved monthly.

HRSA Response:

HRSA concurs with the OIG recommendation and will ensure that Barrio follows its policies to ensure that bank statement reconciliations are prepared and approved monthly.

OIG Recommendation to HRSA:

We recommend that HRSA require Barrio to develop and implement procedures to make and document a cost analysis for each procurement action.

HRSA Response:

HRSA concurs with the OIG recommendation and will ensure that Barrio develops and implements procedures to make and document a cost analysis for each procurement action.