

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**SUNSET PARK HEALTH COUNCIL
DID NOT ALWAYS CLAIM
RECOVERY ACT COSTS IN
ACCORDANCE WITH FEDERAL
REQUIREMENTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



**James P. Edert
Regional Inspector General**

**March 2013
A-02-11-02018**

Office of Inspector General

<https://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <https://oig.hhs.gov>

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

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 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.

Under the American Recovery and Reinvestment Act of 2009 (Recovery Act), P.L. No. 111-5, 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 Capital Improvement Program (CIP), and Increased Demand for Services (IDS) grants.

The Sunset Park Health Council (Sunset Park), a nonprofit organization, is the governing board for Lutheran Family Health Centers, a network of 9 primary care sites, 31 school-based health and dental clinics, and 3 daycare centers.

Sunset Park reported approximately \$442 million in revenue from all funding sources during calendar years 2009 through 2011, including \$4,204,183 awarded by HRSA. Of this amount, \$3,015,385 was awarded under CIP grants to make improvements to existing facilities and \$1,188,798 was awarded under IDS grants to increase access and reduce barriers to health care within Sunset Park's service area. Sunset Park claimed \$2,914,387 of the \$4,204,183 awarded.

Sunset Park must comply with Federal cost principles in 2 CFR part 230, *Cost Principles for Non-Profit Organizations*; the requirements for health centers in 42 U.S.C. § 254(b); and the financial management system requirements in 45 CFR § 74.21.

Pursuant to 2 CFR part 230, Appendix A, § A.2.g, costs must be adequately documented to be allowable under an award. Pursuant to 2 CFR part 230, Appendix B, §§ 8.b and 8.m, for salaries and wages to be allowable for Federal reimbursement, grantees must maintain personnel activity reports that reflect the distribution of activity of each employee whose compensation is charged, in whole or in part, directly to Federal awards.

OBJECTIVE

Our objective was to determine whether costs claimed by Sunset Park were allowable under the terms of the grants and applicable Federal requirements.

SUMMARY OF FINDINGS

Sunset Park did not always claim Recovery Act costs that were allowable under the terms of the grant and applicable Federal requirements. Of the \$2,605,480 in costs that we reviewed, Sunset Park claimed unallowable salary costs totaling \$904,855 for employees whose salaries were charged to one of Sunset Park's IDS Recovery Act grants but for whom Sunset Park did not maintain personnel activity reports. Sunset Park officials believed they were not required to maintain personnel activity reports for these employees because, they stated, the employees worked for and were solely funded by this IDS grant.

RECOMMENDATIONS

We recommend that HRSA:

- require Sunset Park to refund \$904,855 to the Federal Government or work with Sunset Park to determine whether any of these costs that it claimed against one of its IDS grants (grant number H8BCS12379) were allowable and
- educate Sunset Park officials on Federal requirements for supporting salaries and wages and ensure that Sunset Park maintains personnel activity reports for each employee who works on Federal awards.

SUNSET PARK HEALTH COUNCIL COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, Sunset Park disagreed with our finding. Specifically, Sunset Park stated that reports produced by its timekeeping and cost allocation system satisfied requirements for maintaining personnel activity reports. Nevertheless, Sunset Park indicated that it has created a "more specific timekeeping system which will enhance the tracking of personnel activity efforts to specific grants."

After reviewing Sunset Park's comments, we maintain that our finding and recommendations are valid. Federal regulations require salary costs to be supported by personnel activity reports that reflect the distribution of 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. Sunset Park's timekeeping and cost allocation system did not produce reports that met these requirements.

Sunset Park's comments are included in their entirety as Appendix A.

HEALTH RESOURCES AND SERVICES ADMINISTRATION COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, HRSA concurred with our recommendation that it require Sunset Park to refund \$904,855 to the Federal Government or work with Sunset Park to determine whether any of the costs that Sunset Park claimed against one of its IDS grants (grant number H8BCS12379) were allowable. HRSA also concurred with our recommendation to educate Sunset Park officials on Federal requirements for supporting salaries and wages and ensure that Sunset Park maintains personnel activity reports for each employee who works on Federal awards.

HRSA's comments are included in their entirety as Appendix B.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Health Center Program	1
American Recovery and Reinvestment Act of 2009.....	1
Sunset Park Health Council	1
Federal Requirements for Grantees	2
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective.....	2
Scope.....	2
Methodology.....	2
FINDINGS AND RECOMMENDATIONS	3
UNALLOWABLE EXPENDITURES CLAIMED FOR FEDERAL REIMBURSEMENT	3
Federal Requirements	3
Salary Costs	4
RECOMMENDATIONS	4
SUNSET PARK HEALTH COUNCIL COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE	4
HEALTH RESOURCES AND SERVICES ADMINISTRATION COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE	5
APPENDIXES	
A: SUNSET PARK HEALTH COUNCIL COMMENTS	
B: HEALTH RESOURCES AND SERVICES ADMINISTRATION COMMENTS	

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 non-profit 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. Health centers funded by HRSA are community-based and patient-directed organizations meeting the definition of “health center” under 42 U.S.C. § 254b(a).

American Recovery and Reinvestment Act of 2009

Under the American Recovery and Reinvestment Act of 2009 (Recovery Act), P.L. No. 111-5, 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 Capital Improvement Program (CIP) and Increased Demand for Services (IDS) grants.

Sunset Park Health Council

Sunset Park Health Council (Sunset Park), a nonprofit organization, is the governing board for Lutheran Family Health Centers, a network of 9 primary care sites, 31 school-based health and dental clinics, and 3 daycare centers.

Sunset Park reported approximately \$442 million in revenue from all funding sources during CY 2009 through 2011, including \$4,204,183 awarded by HRSA. Of this amount, \$3,015,385 was awarded under CIP grants to make improvements to existing facilities and \$1,188,798 was awarded under IDS grants to increase access and reduce barriers to health care within Sunset Park’s service area.¹ Sunset Park claimed \$2,914,387 of the \$4,204,183 awarded.

¹ The grant budget periods for the CIP grants awarded were: June 29, 2009, through June 28, 2011, and March 1, 2011, through June 28, 2011. The grant budget periods for the IDS grants awarded were: March 27, 2009, through March 26, 2011, and November 1, 2010, through March 26, 2011.

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, Sunset Park must comply with Federal cost principles in 2 CFR pt. 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 specify the criteria that costs must meet to be reasonable, allocable, and otherwise allowable. The HHS awarding agency may include additional requirements that are considered necessary to attain the award's objectives.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether costs claimed by Sunset Park were allowable under the terms of the grants and applicable Federal requirements.

Scope

We reviewed selected costs of \$1,416,682 under the CIP grants and \$1,188,798 under the IDS grants, or \$2,605,480 of the \$2,914,387 claimed by Sunset Park during grant performance periods starting as early as March 27, 2009, and ending as late as June 28, 2011.² We did not perform an overall assessment of Sunset Park's internal control structure. Rather, we reviewed only the internal controls related to our objective.

We performed our fieldwork at Sunset Park's administrative offices in Brooklyn, New York.

Methodology

To accomplish our objective, we:

- reviewed relevant Federal laws, regulations, and guidance;
- obtained and reviewed Sunset Park's Recovery Act grant application packages and HRSA's Notices of Grant Award;
- interviewed Sunset Park personnel to gain an understanding of Sunset Park's accounting system, internal controls over Federal expenditures, and CIP and IDS grant activities;
- reviewed Sunset Park's independent auditor's reports and related financial statements for calendar years 2008 through 2011;

² Sunset Park was awarded a total of \$4,204,183 in CIP and IDS grants for the period March 27, 2009 through June 28, 2011.

- compared budgeted amounts to actual grant expenditures and analyzed discrepancies;
- obtained a list of the grantee's drawdowns and compared them with the amounts expended to ensure that drawdowns did not exceed expenditures;
- reconciled grant expenditures to Federal financial reports;
- selected and reviewed a judgmental sample of 236 transactions totaling \$2,605,480, based on transaction amount, description, and timing of costs;
- analyzed selected expenditures for allowability; and
- discussed our results with Sunset Park 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

Sunset Park did not always claim Recovery Act costs that were allowable under the terms of the grant and applicable Federal requirements. Of the \$2,605,480 in costs that we reviewed, Sunset Park claimed unallowable salary costs totaling \$904,855 for employees whose salaries were charged to one of Sunset Park's IDS Recovery Act grants (grant number H8BCS12379) but for whom Sunset Park did not maintain personnel activity reports. Sunset Park officials believed they were not required to maintain personnel activity reports for these employees because, they stated, the employees worked for and were solely funded by this IDS grant.

UNALLOWABLE EXPENDITURES CLAIMED FOR FEDERAL REIMBURSEMENT

Federal Requirements

Pursuant to 2 CFR part 230, Appendix A, § A.2.g, costs must be adequately documented to be allowable under an award. Pursuant to 2 CFR part 230, Appendix B, §§ 8.b and 8.m, for salaries and wages to be allowable for Federal reimbursement, grantees must maintain personnel activity reports that reflect the distribution of 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.

Salary Costs

Sunset Park claimed unallowable salary costs totaling \$904,855 for employees whose salaries were charged to one of Sunset Park's IDS grants (grant number H8BCS12379) but for whom Sunset Park did not maintain personnel activity reports, as required by 2 CFR part 230, Appendix B, §§ 8.b and 8.m. Specifically, the employees whose salaries were charged to this Sunset Park IDS grant did not complete personnel activity reports of their actual activity. Sunset Park officials were aware of the requirement to maintain personnel activity reports of the actual activity for employees who worked on Federal awards; however, they stated they believed that they were not required to maintain the reports for these employees because the employees worked for and were solely funded by this IDS grant.

RECOMMENDATIONS

We recommend that HRSA:

- require Sunset Park to refund \$904,855 to the Federal Government or work with Sunset Park to determine whether any of these costs that it claimed against one of its IDS grants (grant number H8BCS12379) were allowable and
- educate Sunset Park officials on Federal requirements for supporting salaries and wages and ensure that Sunset Park maintains personnel activity reports for each employee who works on Federal awards.

SUNSET PARK HEALTH COUNCIL COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, Sunset Park disagreed with our finding. Specifically, Sunset Park stated that reports produced by its timekeeping and cost allocation system satisfied requirements for maintaining personnel activity reports. Nevertheless, Sunset Park indicated that it has created a "more specific timekeeping system which will enhance the tracking of personnel activity efforts to specific grants."

After reviewing Sunset Park's comments, we maintain that our finding and recommendations are valid. Federal regulations require salary costs to be supported by personnel activity reports that reflect the distribution of 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. Sunset Park's timekeeping and cost allocation system did not produce reports that met these requirements.³

Sunset Park's comments are included in their entirety as Appendix A.

³ We did not review Sunset Park's revised timekeeping system because it was created after the completion of our audit.

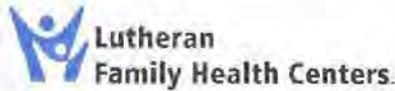
HEALTH RESOURCES AND SERVICES ADMINISTRATION COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, HRSA concurred with our recommendation that it require Sunset Park to refund \$904,855 to the Federal Government or work with Sunset Park to determine whether any of the costs that Sunset Park claimed against one of its IDS grants (grant number H8BCS12379) were allowable. HRSA also concurred with our recommendation to educate Sunset Park officials on Federal requirements for supporting salaries and wages and ensure that Sunset Park maintains personnel activity reports for each employee who works on Federal awards.

HRSA's comments are included in their entirety as Appendix B.

APPENDIXES

APPENDIX A: SUNSET PARK HEALTH COUNCIL COMMENTS



150 55th. Street
Brooklyn, NY 11220-2574
Telephone: 718-630-7000

December 10, 2012

Mr. James P. Edert
Regional Inspector General
For Audit Services
Office of Inspector General
Office of Audit Services, Region II
Jacob K. Javits Federal Building
26 Federal Plaza, Room 3900
New York, NY 10278

Report Number: A-02-11-02018

Dear Mr. Edert,

Thank you for your letter and report of December 5, 2012 and for the opportunity to respond and comment to the report before it is filed with the Health Resources and Services Administration.

As indicated in the report under the American Recovery and Reinvestment Act of 2009 (ARRA), Sunset Park received both a Capital Improvement Program (CIP), and an Increased Demand for Services (IDS) grant. As also indicated in the report, the aim of this funding 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. Based on these guidelines, Sunset Park proposed and was awarded the IDS grant with the primary purpose of retaining recently hired Primary Care providers who were slated for layoff in 2009-2010. The identified providers charged to the grant [REDACTED] and [REDACTED] worked 100% of their time for Sunset Park. Their only job was to see patients, and they were located at delivery sites that have significant rising rates of uninsured patients which considerably reduces our ability to collect any visit/patient related revenue. Compounded with reductions in City, State and Private funding, without IDS funding Sunset Park would have been forced to proceed with the layoffs of these individuals.

In response to the auditors' findings that "Sunset Park claimed unallowable salaries costs totaling \$904,855 for employees whose salaries were charged to one of Sunset Park's IDS Recovery Act grants but for whom Sunset Park did not maintain personnel activity reports," we would like to clarify our position and response to this finding as follows:

Sunset Park has a timekeeping and cost allocation system called KRONOS which is used network wide. This electronic system combines an employee's Identification Card and a fingerprinting system. Every location throughout the network has timekeeping clocks. Each employee swipes his/her card and then presses a finger, so the fingerprint gets scanned. Every day, all employees swipe their cards at the

Office of Inspector General note: Potentially identifying information has been redacted.

Page 2 - Mr. James P. Edert

Report Number: A-02-11-02018

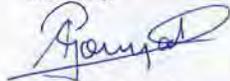
start and end of their work day, which registers the following: 1) time and attendance, and 2) the department and work location. The system has the ability to allocate employees' time to two or more project cost centers (grants) should the need arise (that is if the employee works for more than one project at the time). Each department has time keepers whose job is to monitor the daily accuracy of the time keeping, and time allocation activity. Furthermore, the work of the time keepers is then reviewed and approved bi-weekly by a Supervising Department Head before the time, attendance and allocation reports are submitted to payroll. The KRONOS system further provides a labor distribution report which reconciles the hours worked to the department and/or grant. The doctors funded by the IDS grant were recorded by Kronos, the Labor Distribution Report, the time keeper and ultimately approved by the Department Heads, as working 100% of the time to fulfill the purpose of the IDS grant, which was to continue to see mostly uninsured and underinsured patients. For this reason, we believed that our Kronos system, and its corresponding Labor Distribution Reports which tie into the General Ledger system and are approved by Department Heads, were sufficient to satisfy the personnel activity report for these employees.

These KRONOS reports, Labor Distribution Reports and General Ledger reports were provided during the audit as attestation that these primary care doctors' solely worked for this grant, therefore fulfilling the personnel activity requirement for allowable costs under this grant. Respectfully, it was our belief that this was sufficient documentation as to maintain personnel activity reporting for the grant, and therefore to proof that these are allowable costs. With the request set forth by the recommendation from the auditors during their visit to us, we have since then created a more specific time keeping system which will enhance the tracking of personnel activity efforts to specific grants. We, however, look forward to further guidance on how other organizations take care of this task, so we can further improve our personnel activity reports.

I would like to take this opportunity to point out that besides this finding; we believe that we fulfilled the aim of the IDS grant. As aforementioned, the aim was to be able 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. The IDS funding allowed us to retain these much needed Primary Care providers, therefore creating/saving jobs and also these providers served mostly uninsured and underinsured patients therefore fulfilling the requirements of the grant.

Please do not hesitate to contact me if there is any question, or if we can provide further information or clarification. My contact information via e-mail is astridgonzalez@lmcmc.com, or via phone: 718-630-8973. Thank you.

Sincerely,



Astrid P. Gonzalez
Senior Vice President of Finance
Lutheran Family Health Centers

Cc: Larry McReynolds
Executive Vice President/ Executive Director
Lutheran Family Health Centers

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



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Resources and Services
Administration

Rockville MD 20857

JAN 31 2018

TO: Inspector General
FROM: Administrator
SUBJECT: OIG Draft Report: "Sunset Park Health Council Did Not Always Claim Recovery Act Costs in Accordance with Federal Requirements" (A-02-11-02018)

Attached is the Health Resources and Services Administration's (HRSA) response to the OIG's draft report, "Sunset Park Health Council Did Not Always Claim Recovery Act Costs in Accordance with Federal Requirements" (A-02-11-02018). 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 –
"Sunset Park Health Council Did Not Always Claim Recovery Act Costs in Accordance
With Federal Requirements" (A-02-11-02018)**

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) recommendations are as follows:

OIG Recommendation:

We recommend that HRSA require Sunset Park to refund \$904,855 to the Federal Government or work with Sunset Park to determine whether any of these costs that it claimed against one of its IDS grants (grant number H8BCS12379) were allowable.

HRSA Response:

HRSA concurs with OIG's recommendation and will work with Sunset Park to determine the amount of unallowable costs charged against the HRSA grants.

OIG Recommendation:

We recommend that HRSA educate Sunset Park officials on Federal requirements for supporting salaries and wages and ensure that Sunset Park maintains personnel activity reports for each employee who works on Federal awards.

HRSA Response:

HRSA concurs with OIG's recommendation and will ensure that Sunset Park maintains personnel activity reports for each employee who works on federal awards.