



Office of Audit Services, Region III  
Public Ledger Building, Suite 316  
150 South Independence Mall West  
Philadelphia, PA 19106-3499

December 7, 2004

TO: Nancy B. O'Connor  
Acting Regional Administrator  
Centers for Medicare & Medicaid Services

FROM: Regional Inspector General for Audit Services

SUBJECT: Medicaid Payments for Skilled Professional Medical Personnel Reimbursed at Enhanced Rate – West Virginia (A-03-04-00204)

Attached is a copy of our final report providing the results of a Centers for Medicare & Medicaid Services (CMS) requested review of "Medicaid Payments for Skilled Professional Medical Personnel Reimbursed at Enhanced Rate – West Virginia," for the period October 1, 2002, through September 30, 2003. The review was to determine if the State of West Virginia properly claimed Federal Medicaid reimbursement at the enhanced rate for skilled professional medical personnel.

In written comments, CMS concurred with our recommendations and the State agency generally concurred with our findings and recommendations. The State agency provided clarifying information that was incorporated into the report. The CMS, in conjunction with the State agency, will have to make a final determination of the applicability of the reclassified 11 Medicaid Management Information System Operations personnel and the 1 remaining individual that we have identified as non-qualifying skilled professional medical personnel. The CMS and State agency comments are included as appendixes to our report.

Please send us your final management decision, including any action plan, as appropriate, within 60 days. If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Bernard Siegel, Audit Manager, at (215) 861-4484, or through e-mail at [bernard.siegel@oig.hhs.gov](mailto:bernard.siegel@oig.hhs.gov). Please refer to report number A-03-04-00204 in all correspondence.

A handwritten signature in black ink, appearing to read "Stephen Virbitsky".

Stephen Virbitsky

Attachment-as stated

**Direct Reply to HHS Action Official:**

Nancy B. O'Connor  
Acting Regional Administrator  
Region III  
Public Ledger Building, Room 216  
150 S. Independence Mall West  
Philadelphia, PA 19106-3499

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF MEDICAID PAYMENTS  
FOR SKILLED PROFESSIONAL  
MEDICAL PERSONNEL  
REIMBURSED AT ENHANCED RATES**

**WEST VIRGINIA**

**OCTOBER 1, 2002 THROUGH  
SEPTEMBER 30, 2003**



**DECEMBER 2004  
A-03-04-00204**

# *Office of Inspector General*

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## **OAS FINDINGS AND OPINIONS**

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



## **EXECUTIVE SUMMARY**

### **BACKGROUND**

Title XIX of the Social Security Act provides for States to be reimbursed by the Federal Government for administrative costs necessary for the proper and efficient administration of the Medicaid State program. In general, the Federal Government reimburses States for Medicaid administrative costs at a matching rate of 50 percent.

Federal regulations provide an enhanced Medicaid rate of 75 percent for the compensation and training of skilled professional medical personnel and their supporting staff. Generally, in order for the enhanced rate to be available, skilled professional medical personnel must have completed a 2-year program leading to an academic degree or certificate in a medically related program, and perform activities that require the use of their professional training and experience.

### **OBJECTIVE**

Our objective was to determine if the West Virginia Bureau for Medical Services (State agency) properly claimed Federal Medicaid reimbursement at the enhanced rate for skilled professional medical personnel.

### **FINDING**

The State agency claimed and was reimbursed the Federal enhanced rate for 38 individuals improperly classified as skilled professional medical personnel. Those reimbursements included compensation and training costs, and other non-compensation expenditures. Those individuals did not meet the definition of “skilled professional medical personnel” as defined in the Social Security Act and implementing Medicaid regulation in 42 CFR § 432. Non-compensation expenditures claimed under the Federal enhanced rate were either not allowed or were not properly documented. As a result, the State agency received Medicaid overpayments for fiscal year (FY) 2003 totaling \$296,485 for individuals and \$2,875 for non-compensation expenditures that did not meet the criteria of skilled professional medical personnel.

### **RECOMMENDATIONS**

We recommend that the State agency:

1. refund \$299,360 for the enhanced Federal share of unallowable Medicaid costs associated with the 38 individuals and other non-compensation costs that were improperly claimed and reimbursed at the Federal enhanced rate for skilled professional medical personnel, and
2. implement procedures and maintain appropriate documentation to ensure that only qualified compensation and training costs and related non-compensation expenditures are claimed at the Federal enhanced rate for skilled professional medical personnel.

## **CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS) AND STATE AGENCY COMMENTS**

The CMS and State agency generally agreed with our findings and recommendations. We adjusted the recommended refund due based on information provided by the State agency. However, the State agency has classified 11 individuals who were claimed and reimbursed at the Federal enhanced rate for skilled professional medical personnel as Medicaid Management Information System (MMIS) Operations personnel in order retain to the Federal enhanced rate. Also, the State agency disagrees with the classification of one individual as non-qualifying.

We did not review the applicability of the 11 personnel as MMIS Operations personnel but agree with the State agency that they were not eligible for the Federal enhanced rate for skilled professional medical personnel. Also, based on our review of the original and reclassified job description for one individual, we believe that the individual remains as non-qualifying.

The CMS and State agency will have to make the final determination as to the applicability of those 12 individuals.

**TABLE OF CONTENTS**

	<b>Page</b>
<b>INTRODUCTION</b> .....	1
<b>BACKGROUND</b> .....	1
<b>OBJECTIVE, SCOPE, AND METHODOLOGY</b> .....	1
Objective .....	1
Scope.....	1
Methodology .....	1
<b>FINDING AND RECOMMENDATIONS</b> .....	2
<b>FINDING</b>	
West Virginia Received Incorrect Enhanced Rate Payments .....	2
<b>CRITERIA</b>	
Skilled Professional Medical Personnel.....	2
Social Worker Education Requirement .....	3
<b>CONDITION</b>	
Unallowable Reimbursement at the Enhanced Rate.....	3
<b>CAUSES</b>	
Lack of Professional Training and Education.....	4
Non-Qualifying Direct and Clerical Support Staff .....	4
Non-Qualifying Non-Compensation Reimbursements.....	5
<b>EFFECT</b>	
Over-Reimbursement of Skilled Professional Medical Personnel Costs.....	5
<b>RECOMMENDATIONS</b> .....	5
<b>CMS AND STATE AGENCY COMMENTS</b> .....	6
<b>AUDIT RESPONSE</b> .....	6
<b>APPENDIXES</b>	
<b>CMS RESPONSE</b> .....	A
<b>STATE OF WEST VIRGINIA RESPONSE</b> .....	B

## **INTRODUCTION**

### **BACKGROUND**

Title XIX of the Social Security Act provides for States to be reimbursed by the Federal Government for administrative costs necessary for the proper and efficient administration of the Medicaid State program. In general, the Federal Government reimburses States for Medicaid administrative costs at a matching rate of 50 percent.

Federal regulations provide an enhanced Medicaid rate of 75 percent for the compensation and training of skilled professional medical personnel and their supporting staff. Generally, in order for the enhanced rate to be available, skilled professional medical personnel must have completed a 2-year program leading to an academic degree or certificate in a medically related program, and perform activities that require the use of their professional training and experience.

### **OBJECTIVE, SCOPE AND METHODOLOGY**

#### **Objective**

Our objective was to determine if the State agency properly claimed Federal Medicaid reimbursement at the enhanced rate for skilled professional medical personnel.

#### **Scope**

We reviewed the State agency's claim for Federal enhanced reimbursement for 97 skilled professional medical personnel totaling \$3,347,880 (Federal payment totaling \$2,510,909) from October 1, 2002, through September 30, 2003.

Our review was limited to determining whether the enhanced Federal reimbursement for skilled professional medical personnel was allowable. For costs that do not meet the Federal enhanced rate requirements, we accepted the costs claimed at the Federal matching rate of 50 percent, unless the costs were specifically unallowable as Medicaid administrative costs. For costs found to be specifically unallowable, we questioned the entire amount claimed.

We did not perform a detailed review of the State agency's internal controls. Our review of internal controls was limited to obtaining an understanding of the State agency's policies and procedures used to claim skilled professional medical personnel costs.

Fieldwork was performed at the Medicaid State agency from March through April 2004.

#### **Methodology**

To accomplish the audit objective, we:

- reviewed Federal regulations and CMS guidance,

- reviewed State agency procedures for claiming skilled professional medical personnel costs,
- obtained supporting documentation from the State agency pertaining to the relevant paid claims,
- reviewed payments at the enhanced rate for administrative services provided in a school setting, and
- interviewed individuals claimed as skilled professional medical personnel.

Our audit was performed in accordance with generally accepted government auditing standards.

## **FINDING AND RECOMMENDATIONS**

### **FINDING**

**West Virginia Received Incorrect Enhanced Rate Payments.** The State agency claimed and was reimbursed the Federal enhanced rate for 38 individuals improperly classified as skilled professional medical personnel. Those reimbursements included compensation and training costs, and other non-compensation expenditures. Those individuals did not meet the definition of “skilled professional medical personnel” as defined in the Social Security Act and implementing Medicaid regulation in 42 CFR § 432. Non-compensation expenditures claimed under the Federal enhanced rate were either not allowed or were not properly documented. As a result, the State agency received Medicaid overpayments for FY 2003 totaling \$296,485 for individuals and \$2,875 for non-compensation expenditures that did not meet the criteria of skilled professional medical personnel.

### **CRITERIA**

**Skilled Professional Medical Personnel.** Skilled professional medical personnel are defined in 42 CFR § 432.2 as:

. . . physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Medicaid agency. It does not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or the Medicaid program.

Section 1903(a)(2) of the Social Security Act provides that States are entitled to an amount equal to 75 percent of sums expended for compensation or training of skilled professional medical personnel and staff supporting such personnel. Also, 42 CFR § 432.50(d) states that the Federal enhanced rate is available for skilled professional medical personnel and directly supporting staff when the following criteria are met:

(i) The expenditures are for activities that are directly related to the administration of the Medicaid program, and as such do not include expenditures for medical assistance;

(ii) The skilled professional medical personnel have professional education and training in the field of medical care or appropriate medical practice. "Professional education and training" means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This is demonstrated by possession of a medical license, certificate, or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization. . . .

(iii) The skilled professional medical personnel are in positions that have duties and responsibilities that require those professional medical knowledge and skills.

(iv) A State-documented employer-employee relationship exists between the Medicaid agency and the skilled professional medical personnel and directly supporting staff; and

(v) The directly supporting staff are secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that are directly necessary for the completion of the professional medical responsibilities and functions of the skilled professional medical staff. The skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

**Social Worker Education Requirement.** In 1992, CMS issued Letter #92-1 to address education requirements for social workers that were previously questioned by the State of Montana. The letter states, in part, that:

State agencies must show that social workers' education and training in social work specifically includes health care and/or medical applications. States should use graduate level concentrations, or specializations or tracks, as defined by the various master's in social work (MSW) programs, to identify those social workers who would be eligible for payment at the enhanced SPMP rate. There must be a clear distinction between the master's degree, which need not have any medical focus, and the MSW degree plus medical course work which would satisfy the language of the regulation.

Departmental Appeals Board (DAB) Decision No. 1434, issued in August 1993, affirmed that the educational requirements cited in CMS Letter #92-1 must be met for social workers to be eligible for reimbursement at the Federal enhanced rate of 75 percent.

## **CONDITION**

**Unallowable Reimbursements at the Enhanced Rate.** The State agency claimed and was reimbursed the Federal enhanced rate for 38 individuals improperly classified as skilled professional medical personnel. Those reimbursements included compensation and training costs, and other non-compensation expenditures. This condition occurred because (1) social workers did not possess the required professional training and education requirements, and (2) other direct support and clerical staff did not qualify for the Federal enhanced rate for

specialized professional medical personnel based on their job duties or other program requirements.

## **CAUSES**

**Lack of Professional Training and Education.** The State agency classified 15 social workers as skilled professional medical personnel even though they lacked the professional training and education required. As directed in CMS Letter #92-1 and affirmed by DAB Decision No. 1434, social workers must have a master's degree in social work that includes a specialization in clinical practice, health care practice, other medical application, or its equivalent in order to be claimed as specialized professional medical personnel.

Thirteen of the social workers did not have the required master's degree in social work. Two social workers had master's degrees, but the State agency did not have documentation to verify that the graduate course work included the required specialization. Those 15 social workers compensation and training costs totaled \$467,579.

**Non-Qualifying Direct and Clerical Support Staff.** The State agency classified 23 direct and clerical support staff as skilled professional medical personnel even though they did not meet the requirements for reimbursements under the Federal enhanced rate. Direct support staff includes secretarial, stenographic, and copying personnel, and file records clerks who provide clerical services that are directly necessary for the completion of the professional medical responsibilities and functions of, and under the direct supervision of, skilled professional medical personnel. Other support staff (for example, management assistants, technicians, accounting clerks, administrative assistants, statistical clerks, office managers) that work for skilled professional medical personnel, did not qualify. These include:

- 5 direct support staff who were not under the direct supervision of skilled professional medical personnel,
- 17 direct and clerical support staff who did not have the necessary medical skills or whose job functions did not require professional medical responsibilities and functions in support of skilled professional medical personnel, and
- 1 direct support social worker that was fully qualified as a skilled professional medical personnel but whose job description and duties did not include responsibilities that required those specialized skills.

Those 23 direct support and clerical staff compensation and training costs totaled \$718,362.

**Non-Qualifying Non-Compensation Reimbursements.** The State agency received reimbursements for non-compensation expenditures that were not incurred by skilled professional medical personnel or were not properly documented or supported. Non-compensation reimbursements at the Federal enhanced rate must be for activities that are directly related to the duties of the skilled professional medical personnel. Those non-compensation costs totaled \$3,497 and include the items shown in the Table below.

**Table. Unallowed Non-Compensation SPMP<sup>1</sup> Expenditures.**

Type of Non-Compensation Expenditure	Total Medicaid Costs	Disallowed	
		Percent	Amount
Mercer County – Business Expense Billed Twice	\$ 311	100	\$ 311
Valley Health – Training Cost for Non-SPMP	288	25	72
Grant County – Expenditures for Non-SPMP	160	25	40
Grant County – Overcharge for Mileage	1,478	100	1,478
First Care Services – Expenditures for Non-SPMP	381	25	95
First Care Services – Unsupported Expenditures	879	100	879
<b>Totals</b>	<b>\$3,497</b>		<b>\$2,875</b>

**EFFECT**

**Over-Reimbursement of Skilled Professional Medical Personnel Costs.** The State agency paid a total of \$1,185,941 to 38 employees inappropriately claimed as skilled professional medical personnel. Consequently, the State agency received excess Federal reimbursements (the enhanced 25 percent portion) that resulted in Medicaid overpayments to the State agency totaling \$296,485. In addition, excess Federal reimbursement for non-compensation costs, totaling \$2,875, was overpaid to the State agency.

The State agency did not have procedures to identify why selected individuals were claimed as skilled professional medical personnel and had no documentation to support the State agency’s initial determination.

**RECOMMENDATIONS**

We recommend that the State agency:

1. refund \$299,360 for the enhanced Federal share of unallowable Medicaid costs associated with the 38 individuals and other non-compensation costs that were improperly claimed and reimbursed at the Federal enhanced rate for skilled professional medical personnel, and
2. implement procedures and maintain appropriate documentation to ensure that only qualified compensation and training costs and related non-compensation expenditures are claimed at the Federal enhanced rate for skilled professional medical personnel.

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<sup>1</sup> SPMP – Skilled Professional Medical Personnel

## **CMS AND STATE AGENCY COMMENTS**

The CMS concurred with the recommendations presented in our draft report.

The State agency generally concurred with the first recommendation but did not concur with the amount of the disallowance presented for the following reasons. However, while the State agency concurred that 11 individuals were inappropriately claimed and reimbursed at the Federal enhanced rate for skilled professional medical personnel, it stated that those personnel are eligible for the Federal enhanced rate as MMIS Operations personnel. The State agency is making retroactive adjustment to reclassify those individuals as MMIS personnel in order retain the enhanced rate. Also, the State agency disagreed that one individual we identified as non-qualifying skilled professional medical personnel was eligible for the Federal enhanced rate because of the individual's background, education, and job requirements.

The State agency concurred with the second recommendation and has taken action to re-evaluate all employees' job descriptions and functions and reorganize the Bureau accordingly. However, the State agency has also reclassified cost center assignments and plans to make retroactive adjustment in accordance with its reorganization and reclassification to MMIS personnel.

## **AUDIT RESPONSE**

Based on information provided by the State agency, we revised the number of questioned individuals from 39 to 38 and adjusted the questioned amount from \$300,087 to \$299,360.

We did not review the applicability of the 11 personnel that the State agency has reclassified as MMIS Operations personnel. The State agency agreed that those individuals were incorrectly claimed as skilled professional medical personnel. Also, based on our review of the original and reclassified job description and discussions with that individual during the audit, we believe that the individual remains non-qualifying.

The CMS, in conjunction with the State agency, will have to make a final determination of the applicability of the reclassified 11 MMIS Operations personnel and the 1 remaining individual that we have identified as non-qualifying skilled professional medical personnel.

A copy of the CMS response is provided in Appendix A; the redacted State agency response is provided in Appendix B. Redacted information included employee names. We did not include Attachments A and B provided by the State agency because they were lengthy and they contained confidential personnel information.

# **APPENDIXES**



## Memorandum

Centers for Medicare & Medicaid Services

Region III

Suite 216, The Public Ledger Bldg  
150 S. Independence Mall West  
Philadelphia, PA 19106-3499

**Date:** September 10, 2004

**To:** Regional Inspector General

**From:** Manager, Financial Review Branch  
Division of Medicaid and Children's Health

**Subject:** Draft Audit Report - Medicaid Payments for Skilled Professional Medical Personnel Reimbursed at Enhanced Rates – West Virginia (Report Number: A-03-04-00204)

We have read your draft report on West Virginia's Medicaid Payments for Skilled Professional Medical Personnel Reimbursed at Enhanced Rates and we concur with your recommendations that:

- The State agency should refund \$300,087 for the enhanced Federal share of unallowable Medicaid costs associated with the 39 individuals and other non-compensation costs that were improperly claimed and reimbursed at the Federal enhanced rate for skilled professional medical personnel, and
- The State agency should implement procedures and maintain appropriate documentation to ensure that only qualified compensation and training costs and related non-compensation expenditures are claimed at the Federal enhanced rate for skilled professional medical personnel.

We appreciate your sharing of information in matters of mutual concern.

A handwritten signature in black ink that reads "Ted Gallagher". The signature is written in a cursive style.

Ted Gallagher



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR MEDICAL SERVICES  
350 Capitol Street, Room 251  
Charleston, West Virginia 25301-3706  
Phone (304) 558-1700 Fax (304) 558-1509

Bob Wise  
Governor

Paul L. Nusbaum  
Secretary

October 18, 2004

Stephen Virbitsky  
Regional Inspector General for Audit Services  
Office of Audit Services, Region III  
Public Ledger Building, Suite 316  
150 South Independence Mall West  
Philadelphia, Pennsylvania 19106-34999

**Re: Response to Draft Report  
Number: A-03-04-00204**

Dear Mr. Virbitsky:

The West Virginia Department of Health and Human Resources and the Bureau for Medical Services (Bureau), the single state agency, offers this response to the draft report of the audit of Medicaid payments for Skilled Professional Medical Personnel (SPMP) Reimbursed at Enhanced Rates, dated August 9, 2004. We will address specifically the conclusions and recommendations.

**RECOMMENDATION #1:**

Refund \$300,087 for the enhanced Federal share of unallowable Medicaid costs associated with the thirty-nine (39) individuals and other non-compensation costs that were improperly claimed and reimbursed at the Federal enhanced rate for skilled professional medical personnel.

**Response and West Virginia's Recommendations:**

The State does not concur with the amount of disallowance due to the following:

**Disallowances Allowable Under MMIS Operations:**

**Section 11276.3** - Costs Reimbursable at 75 Percent FFP of the State Medicaid Manual allows FFP at 75 percent for direct costs directly attributable to the Medicaid Program for ongoing automated processing of claims, payments, and reports. Included are personnel costs of operations control clerks, suspense and/or exception claims processing clerks, data entry operators, microfilm operators, peripheral equipment operators, terminal operators and claims coding clerks.

Stephen Virbitsky  
Page Two  
October 18, 2004

Eleven (11) employees were identified by the OIG audit staff and the State concurs with their findings that their personnel costs were inappropriately claimed as SPMP; however, the job description and activities these individuals perform would qualify their personnel costs at the enhanced rate under MMIS operations. The eleven (11) individuals identified in this review are: [REDACTED]

The State will make a retroactive adjustment to reclassify these individuals to retain the enhanced match as eligible costs under MMIS Operations.

**Personnel Not Charged as SPMP:**

The OIG audit review identified the following individual's personnel costs as SPMP; however, per the payroll documentation provided it was determined that [REDACTED] personnel costs were not charged as SPMP.

This employee was coded in the reporting system in cost center 2673; however the update did not occur in the payroll system and the employee's personnel costs were charged to cost center 2676. Cost center 2676 was not charged to Line 3 as SPMP costs. Supporting documentation is provided in **Attachment A**. This document was provided in electronic format to the review staff so that a comparison can be made.

The State requests reconsideration of \$7,396.38 disallowed in the draft report.

**Salary and Fringe Benefits Error:**

In reviewing the OIG's spreadsheet, the following errors were found:

The Total Salary and Fringe Benefits identified for [REDACTED] and [REDACTED] were in error. For the period reviewed, the totals should be \$37,519.43 and \$33,620.39.

This error results in an additional disallowance of \$6,669.48.

**Request for Reconsideration:**

The State would also request reconsideration of the disallowance of the personnel costs for employee [REDACTED] which was identified by the OIG as disallowed due to Non-Qualifying SPMP Functions. [REDACTED] possesses a Masters Degree in Social Work with a background in employment and training working with the MR/DD population. Her position requires an understanding of the services and needs of this population in order to assess the individuals treatment plans to assure continued support and appropriate services are being provided to maintain these individuals in their communities rather than institutionalization.

Stephen Virbitsky  
Page Three  
October 18, 2004

Additional documentation for your consideration is provided in **Attachment B**.

**RECOMMENDATION #2:**

Implement procedures and maintain appropriate documentation to ensure that only qualified compensation and training costs and related non-compensation expenditures are claimed at the Federal enhanced rate for skilled professional medical personnel.

**Response and West Virginia's Recommendations:**

The State concurs with the recommendation and has taken the following actions:

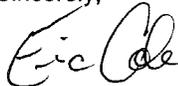
1. The Bureau has completed a re-evaluation of all employees' job descriptions and functions due to the reorganization of the Bureau.
2. Reclassification of cost center assignment occurred July 1, 2004 – the effective date of the reorganization.
3. Retro adjustments will be made once the review results are finalized.

**Summary of Conclusions and Recommendations:**

1. The State requests consideration of the adjustments identified to the amount disallowed in the draft report.
2. The State concurs with the recommendation and has taken action to address the deficiencies.

Should you have any questions, please feel free to contact me at (304) 558-4739.

Sincerely,



Eric E. Cole  
Deputy Commissioner, Finance & Administration  
Bureau for Medical Services

EEC:lsc  
Attachments  
cc: Paul Nusbaum  
Nancy Atkins  
Danny Franco

# ACKNOWLEDGMENTS

This report was prepared under the direction of Stephen Virbitsky, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff that contributed includes:

Bernard Siegel, *Audit Manager*  
Anita Anderson, *Senior Auditor*  
John Brisco, *Auditor*  
Wayne Wright, *Auditor*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.