



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Office of Audit Services
1100 Commerce, Room 632
Dallas, TX 75242

September 10, 2009

Report Number: A-06-09-00006

Dr. Adolfo M. Valadez
Assistant Commissioner Prevention and Preparedness Services
Texas Department of State Health Services
1100 West 49th Street
Austin, Texas 78756

Dear Dr. Valadez:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of City of El Paso Department of Public Health's Bioterrorism and Emergency Preparedness Program." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, OIG reports generally are made available to the public to the extent that information in the report is not subject to exemptions in the Act. Accordingly, this report will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (214) 767-8414 or contact Cheryl Blackmon, Audit Manager, at (214) 767-9205 or through email at Cheryl.Blackmon@oig.hhs.gov. Please refer to report number A-06-09-00006 in all correspondence.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Wheeler".

Patricia Wheeler
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Mr. Alan Kotch, MBA
Director
Procurement and Grants Office (MS E-14)
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, Georgia 30333

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF CITY OF EL PASO
DEPARTMENT OF PUBLIC
HEALTH'S BIOTERRORISM AND
EMERGENCY PREPAREDNESS
PROGRAM**



Daniel R. Levinson
Inspector General

(September 2009)
A-06-09-00006

Office of Inspector General

<http://oig.hhs.gov>

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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

In accordance with sections 301, 317, and 319 of the Public Health Service Act, the Centers for Disease Control and Prevention (CDC) provides funds to State and major local health departments to improve preparedness and response capabilities for bioterrorism and other public health emergencies. From August 31, 1999, to August 30, 2005, CDC provided this funding through the Public Health Preparedness and Response for Bioterrorism Program. Since August 31, 2005, CDC has provided funding through the Public Health Emergency Preparedness Program. We refer to these two programs collectively as “the program.”

In Texas, the Department of State Health Services (the State agency) administers the program and distributes funds to subrecipients, including the City of El Paso Department of Public Health (the department), to carry out program objectives. (Prior to January 1, 2008, the department was called the El Paso City-County Health and Environmental District.) For the period September 1, 2004, through August 31, 2006, the department claimed program reimbursement totaling \$2,376,812.

OBJECTIVE

Our objective was to determine whether the costs that the department claimed for reimbursement under the program for the period September 1, 2004, through August 31, 2006, were allowable, allocable, and reasonable.

SUMMARY OF FINDINGS

The \$274,077 in program expenditures that we reviewed for the 2-year period ending August 31, 2006, was allowable, reasonable, and allocable to the program. However, we are questioning two additional amounts: \$156,820 in unobligated funds that the department did not return to the State agency and \$30,019 in undocumented expenditures (\$22,019 in payroll expenditures and \$8,000 in undetermined expenditures.) These deficiencies occurred because the State agency and the department did not ensure that all costs claimed for reimbursement complied with applicable laws, regulations, and program guidance.

RECOMMENDATIONS

We recommend that the State agency:

- refund the \$156,820 in unobligated funds to CDC;
- monitor grant- and subgrant-supported activities to ensure compliance with applicable Federal requirements; and

- ensure that the department:
 1. provides documentation for \$22,019 in undocumented payroll expenditures or refund the amount to CDC,
 2. provides documentation for \$8,000 in undocumented, undetermined expenditures or refund the amount to CDC, and
 3. ensures that all costs claimed for reimbursement comply with applicable laws, regulations, and program guidance.

TEXAS DEPARTMENT OF STATE HEALTH SERVICES COMMENTS

In its comments on our draft report, the State agency did not specifically address our findings. Regarding our nonmonetary recommendations, the State agency provided information on the actions that it had taken or planned to take. Regarding our monetary recommendations, the State agency said that we did not review indirect costs associated with the program and that, for our review period, salary costs of \$778,418 generated indirect costs that offset the amounts questioned for unobligated program funds and undocumented program expenditures. The State agency's comments are included in their entirety as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

The State agency provided documentation showing an approved indirect cost rate of 20.146 percent, but the cost rate was not agreed upon until May 2007, about 8 months after the close of the audit period. The State agency did not provide any documentation supporting a provision that allowed the State agency to retroactively apply the indirect cost rate to our audit period. In addition, the documentation did not support the claim that indirect costs were incurred. Further, the contracts between the State agency and the department for the period ending August 31, 2006, did not have a provision for claiming indirect costs. The State agency did not provide any additional documentation to cause us to change our findings. Therefore, we continue to recommend that the State agency refund to CDC \$156,820 in unobligated funds and \$30,019 in undocumented expenditures.

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INTRODUCTION

BACKGROUND

Preparedness for Bioterrorism and Other Public Health Emergencies

The Centers for Disease Control and Prevention (CDC) provides funds to State and major local health departments to improve preparedness and response capabilities for bioterrorism and other public health emergencies. From August 31, 1999, to August 30, 2005, CDC provided this funding through the Public Health Preparedness and Response for Bioterrorism Program. Since August 31, 2005, CDC has provided funding through the Public Health Emergency Preparedness Program.

The Public Health Preparedness and Response for Bioterrorism Program was authorized under sections 301(a), 317(k)(1)(2), and 319 of the Public Health Service Act (42 U.S.C. §§ 241(a), 247b(k)(1)(2), and 247(d)); the Public Health Emergency Preparedness Program was authorized under section 319C of the Public Health Service Act (42 U.S.C. § 247(d)(3)). We refer to these two programs collectively as “the program.”

CDC issues Notices of Cooperative Agreement to awardees to set forth the approved budget as well as the terms and conditions of the individual awards. To monitor the expenditure of these funds, CDC requires awardees to submit financial status reports (FSR) showing the amounts expended, obligated, and unobligated.

Texas Program Funding

In Texas, the Department of State Health Services (the State agency) administers the program and distributes funds to subrecipients, including the City of El Paso Department of Public Health (the department), to carry out program objectives. (Prior to January 1, 2008, the department was called the El Paso City-County Health and Environmental District.) For the 2-year period ending August 31, 2006, the department claimed program reimbursement totaling \$2,376,812.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the costs that the department claimed for reimbursement under the program for the period September 1, 2004, through August 31, 2006, were allowable, allocable, and reasonable.

Scope

Our audit covered the \$2,376,812 in direct costs (\$2,219,992) and unobligated funds (\$156,820) that the department claimed for program activities during the 2-year period September 1, 2004, through August 31, 2006. We limited our review of direct costs to nonstatistical samples of program expenditures totaling \$274,077.

We did not review the department's overall internal control structure. We limited our review of internal controls to obtaining an understanding of the procedures that the department used to account for program funds.

We conducted our fieldwork at the department from September 2007 through February 2008 and from November 2008 through January 2009.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal regulations and subgrants between the State agency and the department to gain an understanding of financial and program requirements;
- reviewed the department's accounting procedures;
- tested FSRs for completeness and accuracy and reconciled the amounts reported on the FSRs to the accounting records;
- reviewed State agency guidance provided to subrecipients;
- selected and tested a nonstatistical sample of department expenditures to determine whether the department had expended program funds for allowable, allocable, and reasonable costs; and
- interviewed department 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 objective.

FINDINGS AND RECOMMENDATIONS

The \$274,077 in program expenditures that we reviewed for the 2-year period ending August 31, 2006, was allowable, reasonable, and allocable to the program. However, we are questioning two additional amounts: \$156,820 in unobligated funds that the department did not return to the State agency and \$30,019 in undocumented expenditures (\$22,019 in payroll expenditures and \$8,000 in undetermined expenditures). These deficiencies occurred because the State agency and the department did not ensure that all costs claimed for reimbursement complied with applicable laws, regulations, and program guidance.

UNOBLIGATED PROGRAM FUNDS NOT RETURNED

In accordance with 45 CFR § 92.50(d)(2), upon closeout “[t]he grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.” (See 45 CFR § 92.4(a), which makes these provisions generally applicable to subgrants, as defined in 45 CFR § 92.3, to Governments.)

Pursuant to 45 CFR § 92.22(a)(1), “[g]rant funds may be used only for . . . [t]he allowable costs of the grantees, subgrantees, and cost-type contractors” To be allowable under Federal awards, costs must be “allocable to Federal awards under the provisions of 2 CFR part 225” and “adequately documented” (2 CFR part 225, Appendix A, section C.1). Furthermore, “[a] cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received” (2 CFR part 225, Appendix A, section C.3.a).

Regulations (45 CFR § 92.21(c)) state: “Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.”

The department did not return unobligated program year 2004 funds totaling \$156,820 to the State agency. Because the department was a subgrantee of the State agency, the department should have returned unobligated funds in accordance with closeout procedures. Department officials said that they had transferred unobligated funds to the department’s general revenue fund at the end of the program year.

According to the State agency, it entered into a deliverable-based contract rather than its usual cost-reimbursable contract because of delays in the implementation of the agreement between the department and the State agency. Under the deliverable-based contract, the department received a fixed amount for each deliverable that it met regardless of whether it had expenditures to support all program funds received. The State agency entered into a deliverable-based contract because officials wanted to ensure that the department received its full allocation of program funds.

The department did not return unobligated program funds because the State agency did not require the department to do so. The State agency required only that the department meet the deliverables of the subgrant to receive its allocation of program funds. Because the department transferred the funds to the general revenue fund, the funds were not used for the purposes of the Federal grant. In addition, the funds were not expended for costs allocable to the grant award during the applicable grant period and are therefore not allowable grant costs. Therefore, the State agency must return these funds to CDC.

UNDOCUMENTED PROGRAM EXPENDITURES

The department could not provide support for program expenditures totaling \$30,019 (\$22,019 for payroll expenditures and \$8,000 for undetermined expenditures) claimed on the program year 2005 final FSR.

Undocumented Payroll Expenditures

In accordance with 2 CFR part 225, Appendix B, section 8.h(1), “[c]harges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.”

Regulations (2 CFR part 225, Appendix A, section C.1.j) state that to be allowable under Federal awards, costs must be “adequately documented.”

Pursuant to 45 CFR § 92.20(a)(2), “[f]iscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to . . . [p]ermit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.”

The department did not have documentation to support program year 2005 payroll expenditures totaling \$22,019. The payroll expenditures reported in the department’s accounting records did not reconcile to the payroll documentation provided by the department.

We asked department officials several times to explain why the payroll documentation did not fully support payroll expenditures charged to the program. The officials said that they did not have anyone on staff who could explain why the payroll documentation did not fully support payroll expenditures charged to the program because of staff turnover.

Financial Status Reports Did Not Support Accounting Records

Regulations (2 CFR part 225, Appendix A, section C.1.j) state that to be allowable under Federal awards, costs must be “adequately documented.”

In accordance with 45 CFR § 92.20(a)(2), “[f]iscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to . . . [p]ermit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.”

The department claimed on the final program year 2005 FSR \$8,000 in expenditures that were not included in the accounting records. We first attempted to reconcile the interim FSR with the

accounting records for the program year.¹ Because the interim FSR did not reconcile to the accounting records, we attempted to reconcile the final FSR. We are questioning the total unsupported amount in the final FSR because we could not reconcile either the interim or final FSR to accounting records.

We asked department officials several times to explain why the final FSR did not support the accounting records. Department officials said that they did not have anyone on staff who could explain why the final FSR did not support the accounting records because of staff turnover.

RECOMMENDATIONS

We recommend that the State agency:

- refund the \$156,820 in unobligated funds to CDC;
- monitor grant- and subgrant-supported activities to ensure compliance with applicable Federal requirements; and
- ensure that the department:
 1. provides documentation for \$22,019 in undocumented payroll expenditures or refund the amount to CDC,
 2. provides documentation for \$8,000 in undocumented, undetermined expenditures or refund the amount to CDC, and
 3. ensures that all costs claimed for reimbursement comply with applicable laws, regulations, and program guidance.

TEXAS DEPARTMENT OF STATE HEALTH SERVICES COMMENTS

In its comments on our draft report, the State agency did not specifically address our findings. Regarding our nonmonetary recommendations, the State agency provided information on the actions that it had taken or planned to take. Regarding our monetary recommendations, the State agency said that we did not review indirect costs associated with the program and that, for our review period, salary costs of \$778,418 generated indirect costs that offset the amounts questioned for unobligated program funds and undocumented program expenditures. The State agency's comments are included in their entirety as the Appendix.

¹The interim FSR covered the period September 1, 2005, to August 31, 2006. The State agency extended the period to expend program year 2005 funds for 1 year; thus, the final FSR covered the 2-year period ending August 31, 2007. We did not review expenditures from the second year of program year 2005 because it was outside of the scope of our audit.

OFFICE OF INSPECTOR GENERAL RESPONSE

The State agency provided documentation showing an approved indirect cost rate of 20.146 percent, but the cost rate was not agreed upon until May 2007, about 8 months after the close of the audit period. The State agency did not provide any documentation supporting a provision that allowed the State agency to retroactively apply the indirect cost rate to our audit period. In addition, the documentation did not support the claim that indirect costs were incurred. Further, the contracts between the State agency and the department for the period ending August 31, 2006, did not have a provision for claiming indirect costs. The State agency did not provide any additional documentation to cause us to change our findings. Therefore, we continue to recommend that the State agency refund to CDC \$156,820 in unobligated funds and \$30,019 in undocumented expenditures.

APPENDIX



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

DAVID L. LAKEY, M.D.
COMMISSIONER

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Austin, Texas 78714-9347
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August 3, 2009

Gordon Sato, Regional Inspector General for Audit Services
Office of Inspector General
Office of Audit Services
Department of Health and Human Services
1100 Commerce, Room 632
Dallas, TX 75242

Re: Report A-06-09-00006

Dear Mr. Sato:

The Department of State Health Services (DSHS) has received and reviewed your agency's draft report entitled "Review of City of El Paso Department of Public Health's Bioterrorism and Emergency Preparedness Program." Our response to the findings and recommendations included in the report is attached to this correspondence.

We appreciate your staff's willingness to provide assistance and information during this review process. We look forward to working with you to improve the Public Health Preparedness Program in Texas.

If you have any questions or comments concerning this response, please contact Ms. Julie Beisert, Chief of Staff for the Division for Prevention and Preparedness Services. Ms. Beisert may be reached by telephone at 1-888-963-7111, extension 3952, or by e-mail to Julie.Beisert@dshs.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Adolfo M. Valadez".

Adolfo M. Valadez, M.D., M.P.H.
Assistant Commissioner for Prevention and Preparedness Services
Texas Department of State Health Services

**Management Response
To
Report A-06-09-00006
Review of
City of El Paso Department of Public Health's
Bioterrorism and Emergency Preparedness Program**

The Department of State Health Services (DSHS) provides the following management response to the findings regarding unobligated program funds not returned and undocumented program expenditures.

UNOBLIGATED PROGRAM FUNDS NOT RETURNED

The draft report detailed unobligated program year 2004 funds not returned totaling \$156,820. These funds were reimbursed to City of El Paso Department of Public Health (EPDPH) under their FY2005 Public Health Emergency Preparedness (PHEP) contract, DSHS Document 7460007499-2003-13. This contract was a deliverable-based contract: EPDPH submitted completed deliverables (approximately 50 required in the contract) and billed DSHS the amount specified in the contract for completion of each deliverable. Payment was issued upon review and acceptance of the deliverable.

The draft report mentions the sample of expenditures reviewed was allowable, reasonable and allocable to the program. The report went on to question \$156,820 in unobligated funds. Discussions with OIG staff indicate their field work did not include a review of the indirect costs associated with the program. Although they were not reviewed, indirect costs do represent additional, allowable and allocable costs to the program. For the timeframe of the audit, EPDPH's approved indirect rate was 20.146% of direct salary expense. At this rate, salary costs of \$778,418 generate indirect costs equal to the unobligated amount. DSHS is requesting consideration of these indirect costs to mitigate the questioned costs due to unreturned, unobligated amounts. We will work with the federal audit staff to ensure that salary costs for the test period are sufficient to cover these amounts.

As noted in the audit, DSHS entered into a deliverable based contract due to delays in reaching an agreement with the City of El Paso. However, it was the intent of DSHS that all funds provided to the entity were used for the purpose of carrying out this program. DSHS is now using only cost reimbursable contracts for this program consistent with its other subrecipient programs. DSHS has also increased its contract monitoring, including desk reviews and other types of limited reviews, to document contractor expenditures and activities during the term of the contract.

UNDOCUMENTED PROGRAM EXPENDITURES

The draft report detailed undocumented expenditures in the amount of \$30,019 (\$22,019 for payroll expenses and \$8,000 for undetermined expenses).

As noted in the above section, the expenditures reviewed at EPDPH did not include indirect costs associated with the contracts. These costs offset the amounts questioned for undocumented expenditures as well as the unobligated amounts noted in the section above.

Again, as an agency, DSHS continues to improve its oversight of contractor compliance and monitoring efforts.