



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Office of Audit Services

August 4, 2003

Report Number: A-07-02-00144

Region VII  
601 East 12th Street  
Room 284A  
Kansas City, Missouri 64106

Mr. Ron Ross, Director  
Nebraska Health and Human Services System  
P.O. Box 95044  
Lincoln, Nebraska 68509-5044

Dear Mr. Ross:

Attached are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Service's (OAS) report entitled "Nebraska's Foster Care IV-E Administrative Costs Claimed During the Five-Year Period Ending September 1999." A copy of this report will be forwarded to the action official noted below for his review and any action deemed necessary.

Final determinations as to actions taken on all matters reported will be made by the HHS official named below. We request that you respond to the HHS action 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.

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To facilitate identification, please refer to Report Number A-07-02-00144 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Aasmundstad", with a long horizontal flourish extending to the right.

James P. Aasmundstad  
Regional Inspector General  
for Audit Services

Enclosures - as stated

**Direct Reply to HHS Action Official:**

Ms. Linda Lewis  
Regional Administrator, Region VII  
601 East 12<sup>th</sup> Street, Room 276  
Kansas City, MO 64106

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**NEBRASKA'S FOSTER CARE IV-E  
ADMINISTRATIVE COSTS CLAIMED  
DURING THE FIVE-YEAR PERIOD  
ENDING SEPTEMBER 1999**



**AUGUST 2003  
A-07-02-00144**

# *Office of Inspector General*

<http://oig.hhs.gov/>

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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 awarding agency will make final determination on these matters.





August 4, 2003

Report Number: A-07-02-00144

Region VII  
601 East 12th Street  
Room 284A  
Kansas City, Missouri 64106

Mr. Ron Ross, Director  
Nebraska Health and Human Services System  
301 Centennial Mall South, Fifth Floor  
Lincoln, Nebraska 68509

Dear Mr. Ross:

This final report represents the results of our audit of **Nebraska's Foster Care IV-E Administrative Costs Claimed During the Five-Year Period Ending September 1999.**

## **BACKGROUND**

The Foster Care program under title IV-E of the Social Security Act is administered by the Nebraska Health and Human Services System (Nebraska). Nebraska claimed \$6,057,322 for adjusting prior periods and \$60,013,702 for IV-E administrative costs.

## **OBJECTIVE**

The objective of this audit was to determine if the administrative costs claimed by Nebraska were allocable and allowable in accordance with applicable laws, regulations, and program policies.

## **FINDINGS**

Nebraska overcharged the Foster Care IV-E program by \$2,274,062 for adjusting prior periods and \$6,397,021 for costs incurred. Specifically, Nebraska:

- overstated adjustments for prior periods because they used an incomplete, non-statistical case review process to reclassify foster care children as IV-E eligible,
- allocated costs to the IV-E program that did not relate to foster care children,
- did not allocate allowable costs, foster care licensing, to the IV-E program (this resulted in an under claim), and
- used allocation procedures that were outdated or not in accordance with their cost allocation plan (CAP).

## **RECOMMENDATIONS**

We are recommending Nebraska (1) reduce their prior period adjustments by \$2,274,062 and the corresponding federal financial participation (FFP) in the amount of \$1,137,031 and (2) comply with all future agreements with federal agencies concerning the equitable and reasonable methodology to be followed for identifying retroactive adjustments. In addition, we are recommending Nebraska reduce costs by the non-IV-E claimed during the audit period by \$6,397,021 (FFP \$3,198,511). Nebraska may be able to reclaim under other federal programs some of these adjustments for costs incurred during the audit period.

Nebraska officials disputed our findings. They responded that they allocated costs in accordance with the approved 1997 CAP. They believe based on the Division of Cost Allocation (DCA) approval of the CAP and “reasonable reliance thereon” that all costs claimed benefited foster children, and should be allowed. However, we still believe Nebraska claimed costs that did not benefit the program. Concerning the retroactive adjustments, Nebraska responded that they are continuing to “investigate” because the adjustments were made for a two-year period ending 1994, which was about 11 years ago. They are requesting additional time “to collect data.” We still believe that Nebraska did not adequately document the retroactive adjustment.

Following the recommendations for our findings, we have summarized Nebraska’s response and added our comments. The State’s response is included in its entirety as Appendix B.

## **INTRODUCTION**

### **BACKGROUND**

The 1967 amendments to the Social Security Act established Foster Care as a mandatory program under title IV-A, Aid to Families with Dependent Children (AFDC). In 1980, the Adoption Assistance and Child Welfare Act, Public Law 96-272, established the title IV-E program. Title IV-E authorized federal funds for states to enable them to provide foster care and adoption assistance for children under an approved state plan.

At the federal level, the program is administered by the Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS). At the state level, Nebraska is responsible for administering the program. General cost principles governing the program are found in the Office of Management and Budget (OMB) Circular A-87. Administrative costs related to the title IV-E Foster Care program are to be allocated in accordance with a CAP approved by the HHS, DCA.

The OMB Circular A-87 states that costs are allocable to particular cost objectives (programs) only to the extent of the benefits received by such objective; only allocable costs are allowable; and costs must be reasonable and necessary for proper administration of the program.

Effective January 1, 1997, the Nebraska Partnership Act combined (1) the Department of Social Services, (2) The Department of Public Institutions, (3) the Department of Health, (4) The Department on Aging, and (5) the Office of Juvenile Service within the Department of

Correctional Services. This combined entity was called the Nebraska Health and Human Services System. As a result of this reorganization, Nebraska contracted with KPMG Peat Marwick LLP to develop a CAP for this new system. During the 6-month period ending June 30, 1997, the basic operations of the five former departments/agencies continued unchanged. Effective July 1, 1997, with the inception of a new budget year, a consolidated budget was compiled recognizing the new organizational structure of Nebraska. However, it was decided that the CAP in effect would be extended through September 1997. A new plan was implemented starting October 1997.

## **OBJECTIVE AND SCOPE**

### **Objective**

The objective of our audit was to determine whether the administrative costs claimed were allocable and allowable in accordance with applicable laws, regulations, and program policies. Our audit covered the reporting period October 1, 1994 through September 30, 1999.

### **Scope**

We conducted our audit of administrative costs in accordance with generally accepted government auditing standards except our audit objectives did not require that we review or evaluate Nebraska's internal control structure.

This review focused on the \$66,071,024 (FFP \$33,035,512) of IV-E administrative costs claimed from October 1, 1994 to September 30, 1999. We reviewed the methods by which Nebraska allocated and charged administrative costs.

Our fieldwork was performed at the Nebraska's offices in Lincoln, Nebraska. We discussed our findings with Nebraska's officials.

## **FINDINGS AND RECOMMENDATIONS**

Nebraska claimed \$6,057,322 of retroactive costs during our audit period for prior period adjustments, but these costs were overstated by \$2,274,062. This overstatement resulted because they used an incomplete, non-statistical case review process to identify the eligible foster care children for the 2-year period ended September 1994. In addition, Nebraska claimed \$60,013,702 of administrative costs incurred during our audit period that were overstated by \$6,397,021. Specifically, Nebraska: (1) allocated \$6,012,533 of costs to the IV-E program that did not benefit foster care children, (2) did not allocate \$104,294 of allowable costs, foster care licensing, to the IV-E program, and (3) allocated \$488,782 of costs using procedures that were outdated or not in accordance with their CAP.

Our total adjustments of \$8,671,083 resulted in a FFP reduction of \$4,335,542. See Appendix A for more details. Details of our adjustments are discussed in the following paragraphs.

## **OVERSTATED RETROACTIVE ADJUSTMENTS**

During our audit period, Nebraska submitted two prior period adjustments that added \$3,916,409 to the IV-E administrative costs for the 2-year period ended September 1994. Nebraska overstated these costs by \$2,274,062 because they did not identify costs in accordance with an agreement with DCA and ACF requiring a complete review of foster care cases.

During August 1994, Nebraska contracted with MAXIMUS, a consulting firm, for services designed to identify additional IV-E children and reimbursable costs. MAXIMUS was to review the case files of non-IV-E foster care children to determine if the IV-E eligibility requirements could be met. Based on these reviews, MAXIMUS would provide Nebraska with reports for claiming additional IV-E costs.

Before reviewing cases, Nebraska and MAXIMUS had met with DCA and ACF. Subsequently, MAXIMUS prepared a letter of understanding that indicated that a one hundred percent case review would be accomplished to determine the number of additional IV-E eligible cases. In reviewing MAXIMUS' data, we found that the information provided for computing the two retroactive adjustments was not based on a review of all non-IV-E cases. The summary results provided by the consultant indicated that they had reviewed only 7,537 of the 17,731 cases for the period being adjusted. Also, the backup document showed that 2,595 of the 7,537 cases reviewed were IV-E eligible. However, MAXIMUS projected the results of their sample to estimate the total eligible cases and consequently the prior adjustment amount. (We reviewed the procedures used by MAXIMUS but did not actually examine the cases for eligibility.)

MAXIMUS used the results of the cases reviewed to project the total number of eligible cases for the period claimed. Neither MAXIMUS nor Nebraska were able to provide a sampling plan; therefore, we could not conclude that the sample was randomly taken and statistically valid for projecting the sample results. Also, there were obvious flaws in the sample. For example, MAXIMUS projected results of the sample for the 2-year period ending September 1994, but included sample cases from one quarter immediately after the period. However, they included no samples from the first three quarters of 1993. It is our opinion that MAXIMUS started out to review all cases, but due to time restraints had to use a non-statistical process that was not equitable and reasonable. During our discussions with Nebraska officials, they were unaware that MAXIMUS did not review all of the cases.

The methodology used by MAXIMUS for developing the prior period claims was not equitable and reasonable because it was not based on a valid statistical method. We are only accepting a prior period adjustment of \$1,642,347 based on cases actually reviewed, as was agreed upon in the letter of understanding. As a result, we are recommending that Nebraska adjust \$2,274,062 from the reported costs and \$1,137,031 FFP from the federal claim. Nebraska cannot reclaim this adjustment because the costs claimed do not meet other federal program eligibility requirements and cannot qualify for reimbursement. We recommend that Nebraska: (1) develop and have approved an allocation plan if only a partial review is used to allocate costs, and (2) comply with all future agreements with federal agencies concerning the equitable and reasonable methodology to be followed for identifying adjustments for prior periods.

## **ALLOCATED COSTS THAT DID NOT BENEFIT THE IV-E PROGRAM**

For the last 2-years of our audit period, Nebraska allocated \$26,429,653 to the Foster Care program. Our review determined that \$6,397,021 was allocated from cost centers that did not benefit foster care children and, therefore, should not be allowable for reimbursement. Even though these cost centers did not benefit the IV-E program, they were allocated in accordance with the 1997 CAP. Nebraska subsequently corrected these allocation errors for future quarterly reports by amending the CAP. Nebraska did not make any retroactive adjustments of these questioned costs. The following are the costs centers that did not benefit the foster care children.

### **Juvenile Justice and Probation Costs / Cost Center**

The 1997 reorganization combined into one cost center the Juvenile Justice and Parole Section of the Department of Corrections and the Children and Family Services of the Health and Human Services Department. The costs for justice and parole activities do not benefit foster care children. The CAP allocated the combined cost center in the same manner as if it contained only the children and family services costs, which directly relates to foster care. In our adjustments, we reduced the claimed costs by \$3,730,908, the costs of the juvenile justice and parole section.

### **Child Care Costs / Cost Center**

The childcare cost center contains the costs for day care provider oversight and licensing. While these costs do not directly benefit the foster care children, the foster care provider may be eligible for day care services under certain circumstances. Child day care licensing and oversight is covered under other federal programs including: Child Care Block Grant and Temporary Assistance for Needy Families. Nebraska may be able to subsequently reclaim these costs under these federal programs. In our adjustments, we reduced the claimed costs by \$1,511,639.

### **Special Services Children and Adults / Cost Center**

The costs included in this cost center were primarily for children and adults needing special services and not IV-E foster care children. These special services costs should have been charged directly to these benefiting programs: (1) Medical Handicapped Children (Title V), (2) Aged and Disabled (Title XX), (3) Developmental Disabilities Medicaid waivers for persons with mental retardation, and (4) the Early Intervention program. Nebraska may be able to subsequently reclaim these costs under these federal programs. In our adjustments, we reduced the claimed costs by \$769,986.

## **COST OF FOSTER CARE LICENSING NOT ALLOCATED TO IV-E PROGRAM**

Nebraska did not allocate foster care licensing costs to the IV-E program. These costs benefit the foster care children and are allowable for federal reimbursement. We allocated these costs using the ratio of IV-E cases to other program cases. In our adjustments, we increased the costs by \$104,294.

## **ALLOCATION PROCEDURES**

We asked Nebraska to rerun the allocation for the last 2-years in this audit period to correct several cost centers that were being allocated based on outdated information or not in accordance with the CAP. The net adjustment for these procedural errors was a decrease of costs by \$488,782. The following allocation procedures were outdated or not in accordance with the CAP:

- The data processing costs were allocated based on a historical case count because the new computer system was not capable of tracking the data needed without program changes. These costs had been allocated by the same fraction since the quarter ending December 1994. In rerunning these costs, we updated the fraction for each quarter, which resulted in a lower allocation to IV-E.
- Nebraska used time studies to determine the activity hours to be charged to the different programs. However, the time studies were not updated every quarter as required by the CAP. In rerunning these costs, we used updated time studies for each quarter.
- Full time equivalents (FTEs) were not determined in accordance with CAP. For individuals working in 24-hour facilities, the FTEs should be divided by three because the facilities should be allocated as other activities using an eight-hour workday. In rerunning these costs, we used the procedure outlined in the CAP, and approved by DCA, for determining FTEs.

## **SUMMARY**

Nebraska claimed \$6,057,322 for adjusting prior periods, but overstated costs by \$2,274,062. This overstatement resulted because they used-- an incomplete, non-statistical case review process-- to identify the eligible foster care children for the 2-year period ended September 1994. In addition, Nebraska claimed \$60,013,702 for IV-E administrative costs incurred during the audit period, but overstated costs by \$6,397,021. This overstatement resulted because they: (1) allocated costs that did not benefit foster care children; (2) did not allocate allowable costs, foster care licensing, to the IV-E program; and (3) used allocation procedures that were outdated or not in accordance with their CAP.

## **RECOMMENDATIONS**

We are recommending that Nebraska:

- reduce the retroactive claim for prior periods by \$2,274,062 (FFP \$1,137,031),
- comply with all future agreements with federal agencies concerning the equitable and reasonable methodology to be followed for identifying adjustments for prior periods, and
- reduce costs claimed during the audit period by \$6,397,021 (FFP \$3,198,511). (Some of these costs may be claimed under other federal programs.)

## **NEBRASKA RESPONSE**

### **Improper Allocated Cost Centers**

Nebraska Department of Health and Human Services responded that they allocated costs in accordance with the approved 1997 CAP. They believe based on the DCA approval of the CAP and “reasonable reliance thereon” that all costs claimed benefited foster children, and should be allowed.

### **Overstated Retroactive Adjustments**

Nebraska is continuing to “investigate” because the retroactive adjustments were made for a two-year period ending 1994, which was about 11 years ago. They are requesting additional time “to collect data.”

We have paraphrased Nebraska’s response. The full text of the reply is included as Appendix B.

## **OIG RESPONSE**

### **Improperly Allocated Cost Centers**

For our audit period, Nebraska was working under a plan that was approved on October 23, 1998, for the period effective October 1, 1997. This plan was inaccurate because all allocated costs did not benefit the IV-E program. Nebraska subsequently submitted an amended plan, dated September 30, 1999, that was approved by DCA for the period effective July 1, 1999. This updated plan should have been effective during our audit period.

Furthermore, DCA stated in the approval letter for the plan effective October 1, 1997 that:

“The operation of the costs allocation plan/amendment approved by this document may from time to time be reviewed by authorized Federal staff including DCA, HHS, HHS Audit, and General Accounting office staff. The disclosure of inequities during such reviews may necessitate changes to the plan.”

In addition, according to 45 CFR Section 95.519 “...if the State failed to submit an amended costs allocation plan ... the costs improperly claimed will be disallowed.” Regardless of whether the approved CAP was properly updated, we determined if the costs claimed by Nebraska benefited the IV-E Program. Clearly, Nebraska should have submitted an amended CAP to cover costs during our audit period. It is still our opinion Nebraska claimed costs that did not benefit the IV-E program and should be disallowed.

**Overstated Retroactive Adjustments**

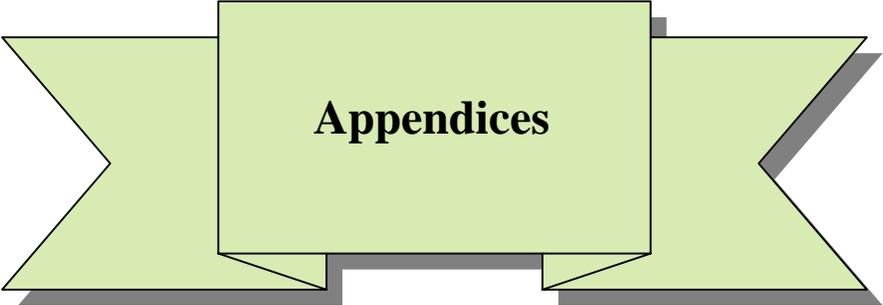
Nebraska did not provide further information at the time of the audit or in their response to support the allocation in the retroactive adjustment. In addition, their response did not dispute any statement in the draft report finding. Nebraska indicated that they were now in the "time consuming" process of collecting information to support the adjustment. It is still our position that the retroactive adjustment is unsupported and should be disallowed.

Sincerely,



James P. Aasmundstad  
Regional Inspector General  
for Audit Services

Enclosure



**Appendices**

**Nebraska Health and Human Services System**  
**Foster Care Title IV-E Administrative Costs**  
**Claimed During the period October 1, 1994 through September 30, 1999**  
**Report Number: A-07-02-00144**

FYE	Administrative Costs Claimed	Costs/ Questionable/ Disallowed	Net	Prior Period Adjustments	Costs Questionable/ Disallowed	Net
1995	\$8,814,324	\$0	\$8,814,324	\$4,308,576 <sup>1</sup>	\$2,274,062	\$2,034,514
1996	12,076,210	0	12,076,210	1,550,095 <sup>2</sup>	0	1,550,095
1997	12,693,515	0	12,693,515	0	0	0
1998	12,751,214	2,329,177	10,422,037	198,651 <sup>3</sup>	0	198,651
1999	<u>13,678,439</u>	<u>4,067,844</u>	<u>9,610,595</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals	\$60,013,702	\$6,397,021 <sup>4</sup>	\$53,616,681	\$6,057,322	\$2,274,062 <sup>5</sup>	\$3,783,260
FFP	\$30,006,851	\$3,198,511	\$26,808,340	\$3,028,661	\$1,137,031	\$1,891,630

<sup>1</sup> The \$4,308,576 is computed by (a) adding \$396,655 of Foster Care Review Board costs for the period September 1993 to June 1995 and subtracting \$4,488 of training costs previously incurred for the quarter ending March 31, 1995 and (b) adding \$4,605,391 and subtracting \$688,982 incurred during the two year period ending September 1994 resulting from the MAXIMUS foster care case review. The following paragraphs discuss these prior period adjustments submitted based on the MAXIMUS case reviews.

Nebraska made a retroactive adjustment of \$4,605,391 for fiscal years 1993 and 1994 on the quarterly report for the period ending December 1994 using preliminary information developed by their consultant, MAXIMUS. Nebraska asked MAXIMUS to review all non IV-E foster care cases and determine if they were misclassified. MAXIMUS initially made an estimate of the valid cases and then arbitrarily reduced the IV-E case count down 15 percent to ensure that their estimate was conservative. Nebraska then used this conservative estimate as the basis for computing the initial retroactive adjustment.

Subsequently, on the quarterly report for the period ending September 1995, Nebraska made a negative retroactive adjustment of \$688,982 based on the results of MAXIMUS' finalized case review. The net amount for these two retroactive adjustments was \$3,916,409. See footnote 5 for our finding related to these two retroactive adjustments.

<sup>2</sup> The \$1,550,095 is computed by subtracting \$385,106, the adjustment of foster care licensing costs incurred for the period January 1995 through September 1995 from \$1,935,201, the adjustment of resource development costs incurred during the period January 1995 through December 1995.

<sup>3</sup> The \$198,651 is computed by subtracting \$182,003 from \$380,654. The \$182,003 is the adjustment for consulting fees claimed for the period June 1996 to June 1997, but was reversed by the U. S. Department of Health and Human Services Departmental Appeals Board decision #1660. The \$380,654 is an adjustment for Foster Care Review Board costs for the quarters September 1997 through March 1998.

<sup>4</sup> We determined that Nebraska: (a) allocated costs that did not benefit foster care children including (i) \$3,730,908 for Juvenile Justice/ Parole costs, (ii) \$1,511,639 for Child Care costs, and (iii) \$769,986 for Special Services Children and Adults; (b) did not allocate allowable costs of \$104,294, foster care licensing, to the IV-E program; and (c) used allocation procedures that were outdated or not in accordance with the CAP resulting in errors of \$488,782. The amount \$6,397,021 is computed by adding all of these findings except for the \$104,294 that is subtracted.

<sup>5</sup> Nebraska made two retroactive adjustments that in total added \$3,916,409 (see footnote 1) to the IV-E administrative costs for the 2-year period ending September 1994. We determined that Nebraska overstated these costs by \$2,274,062 because they did not identify costs in accordance with an agreement, with DCA and ACF, requiring a complete review of foster care cases.



Wednesday, May 28, 2003

James P. Aamundstad  
Regional Inspector General for Audit Services  
Office of Inspector General  
Office of Audit Services  
Region VII  
601 E. 12<sup>th</sup> Street  
Kansas City, MO 64106

Via Fax and US Mail

RE: #A-07-02-00144

Dear Mr. Aamundstad:

The Nebraska Department of Health and Human Services' disputes the findings of the Draft Audit produced by your office concerning Nebraska's IV-E Administrative Costs claimed during the five-year period ending September 1999. Nebraska denies the OIG's contention that IV-E funds were improperly allocated to certain cost centers. Nebraska is continuing to investigate the issue of alleged overstated retroactive adjustments.

*Allocation of Costs*

The Nebraska Department of Health and Human Services allocated costs in accordance with its approved 1997 Cost Allocation Plan (CAP), and therefore denies that IV-E funds were improperly allocated. As stated in the draft audit of the Office of the Inspector General, Nebraska allocated costs from 1997 to 1999 in accordance with its approved 1997 CAP. Reasonably relying on that approval Nebraska concluded that IV-E funds were properly allocated and allowable for reimbursement.

Nebraska received no notice that the proposed allocation was improper during this time period. The Health and Human Services Division of Cost Allocation in fact approved this plan in the middle of the proposed period of disallowance on October 23, 1998. The approval was retroactive to October 1, 1997. Based on the approval of Health and Human Services and Nebraska's reasonable reliance thereon, costs which the OIG now alleges "did not benefit foster children" should be allowed.

***Retroactive Adjustments***

Nebraska is continuing to investigate the retroactive adjustments. However, these adjustments were taken in 1994 for a two year period ending September 1994. Given that these adjustments were taken 9 years ago for a period of time beginning almost 11 years ago, it is labor intensive and time consuming to collect this information. We would ask that you give the agency additional time to collect data.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Jorgensen', written over a vertical line.

Julie Jorgensen  
Attorney Health and Human Services  
Finance and Support

**Attachment**

cc: Lloyd Schmeckle (via fax)  
Ron Ross  
Stephen B. Curtiss

## ACKNOWLEDGEMENTS

This report was prepared under the direction of James P. Aasmundstad. Other principal Office of Audit Services staff that contributed include:

Tom Suttles, *Audit Manager*

Lloyd Schmeckle, *Senior Auditor*

James Carter, *Auditor*

Kellie Neely, *Auditor*

Bert Mehrer, *Auditor*

### Technical Assistance

Gerald Thompson, *Independent Reviewer*

Office Administrative Personnel

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