Agenda

• Introduction to the OIG,
  – James Ortmann, Office of Counsel to the Inspector General
• Internal Controls,
  – Maritza Hawrey, Office of Audit Services
• Fraud Statutes and Compliance Programs,
  – Andrea Treese Berlin, Office of Counsel to the Inspector General
• Detecting and Preventing Fraud in Tribal Programs,
  – Brian Harris, Office of Investigations
Who We Are
OIG Mission

To protect the integrity of Department of Health & Human Services programs as well as the health and welfare of program beneficiaries
What We Do

Audit  Evaluate  Investigate  Counsel
Check out our website!

https://oig.hhs.gov/
Checkout our website

https://oig.hhs.gov/fraud/grant/index.asp
Check out our webpage!

- Go to oig.hhs.gov
- Once there, in the right hand corner, search for Indian Health and Human Services
## OIG Work Plan

### Recently Added Items

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9. Ensuring Program Integrity and Quality in Programs Serving American Indian and Alaska Native Populations

In FY 2016, HHS administered 45 percent of all Federal funds that serve American Indian and Alaska Native (AI/AN) communities—a total of $7 billion. A number of HHS agencies administer programs for AI/ANs throughout the United States. With an annual budget of approximately $6 billion, the Indian Health Service (IHS) is the largest of these programs and, in partnership with Tribes, provides or funds health care to approximately 2.2 million AI/ANs who are members of the 567 federally recognized Tribes located in 36 States served by 662 health care facilities. Other HHS agencies provide grants to Tribes for human services programs, ranging from Head Start to the Low Income Home Energy Assistance Program (LIHEAP). HHS faces significant challenges to ensuring effective delivery of crucial services to AI/ANs and protecting funds from fraud, waste, and abuse. Key components of the challenge are improving IHS quality of care, management, and infrastructure; combating fraud and misuse of funds, and ensuring adequate internal controls and staff training for HHS grant programs in Indian Country.

Internal Controls

Maritza Hawrey
Office of Audit Services
Grants and Internal Activities Division
Managing Grants through Internal Controls
Objectives

- What are Internal Controls? What are the benefits?
- Examples of Poor Internal Controls and How to Address them
- Internal Control Resources
NEON 2011 audits show flawed accounting practices (Documents attached)

By ROBERT KOCH
Hour Staff Writer

NORWALK -- Norwalk Economic Opportunity Now (NEON) didn't monitor its financial reporting system and lacked a segregation of duties in the areas of payroll, accounts payable, online banking and cash receipts.

Those are among the findings of a newly completed audit of NEON's books for the calendar year 2011.

On Monday afternoon, the anti-poverty agency released to the media, city officials and others the 2011 audit, as prepared by CohnReznick, LLP, as well as BlumShapiro's audit of CTE, Inc., for the nine-month period ending Sept. 30, 2011.
WHAT ARE INTERNAL CONTROLS?

WHAT ARE THEY GOOD FOR?
Green Book Definition

• An Internal Control is a process used by management to help an entity achieve its objectives.
Maintain an Effective Accounting System

• Accounting problems = control problems
• Accounting help you monitor and protect your program’s funds.
• Keep source documents
• Goal: all grant dollars support that grant
  – Funds cannot be transferred from one program to another!
Manage a Detailed Timekeeping System

Timekeeping = greatest problem

- Personnel and salary costs are large
- Individual effort not traceable
Eligibility Controls

• What makes a person eligible to receive program benefits?
  – What age does a person need to be to receive meals?
  – What if they bring guests to meals?

• Definition should be consistent and well-communicated to intake personnel.

• Contact the granting agency if you need clarification on eligibility requirements.
Additional Internal Controls

- Top level performance reviews
- Reviews of individual grants
- Segregation of duties
- Health & Safety
- Access restrictions
- Supporting documentation
- Reconciliations
- Posting regularly and timely
Why should you have Internal Controls?

To defend your program!
Internal Controls are required

- 2 CFR § 200.303: “The non-Federal entity must establish and maintain effective internal controls over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.”
  - Transactions are properly recorded and accounted for,
  - Transactions are executed in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award, and
  - Funds, property, and other assets are safeguarded against loss from unauthorized use.
Benefits of Internal Controls

• Provides management with added confidence regarding the achievement of program objectives

• Provides feedback on how effectively a Tribal program is operating

• Helps reduce risks affecting the achievement of program objectives

• Helps you make sure that your program doesn’t run out of money
Examples Of Poor Internal Controls
Example 1: Tribal Health Board

- Expenses Incurred by the Rocky Boy Health Board Were not Always Allowable or Adequately Supported (A-07-15-04221)
• Salary Payments – made prior to the end of the pay period
  – Allowed employees a salary advance
  – Duplicate salary payments totaling $82,175 over a 2-year period to seven employees

• Excessive Retirement Benefits - Employees received a percentage of their gross wages as a retirement benefit
  – Allowed advances on retirement benefits
  – Allowed to request advance for several consecutive pay periods
  – Eight employees – excessive retirement benefits of $65,696 for 1-year
Oversight Failures

- Overtime Payments
  - Two exempt employees received overtime payments - $31,800
  - Non-exempt employees received overtime even though they did not work 40 hour work weeks (took annual or sick leave) - $12,360

There was no policy or corresponding procedure to establish management oversight. This could have been achieved through monitoring unusual payroll expenses and authorizing approval for these compensations.
Tribal LIHEAP Audits

The Three Affiliated Tribes Improperly Administered Low-Income Home Energy Assistance Program Funds for Fiscal Years 2010 Through 2014 (A-07-16-04230)

The Turtle Mountain Band of Chippewa Indians Improperly Administered Some Low-Income Home Energy Assistance Program Funds for Fiscal Years 2010 Through 2013 (A-07-16-04233)
Example 2

Communication between project management and financial staff
IV.5. Funding Restrictions

Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are considered unallowable costs under grants or cooperative agreements awarded under this funding opportunity announcement.

Note: Costs incurred for grant application preparation are not considered allowable costs under an award and may not be included in the project budget or budget justification.

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this grant award.
Internal Control Resources

- *Standards for Internal Control in the Federal Government* – by the Comptroller General of the United States dated September 2014
- Committee of Sponsoring Organizations of the Treadway Commission (COSO) - *Internal Control – Integrated Framework*
  - Website: [https://www.aicpa.org/InterestAreas/BusinessIndustryAndGovernment/Resources/CorporateGovernanceRiskManagementInternalControl/Pages/COSO_Integrated_Framework_Project.aspx](https://www.aicpa.org/InterestAreas/BusinessIndustryAndGovernment/Resources/CorporateGovernanceRiskManagementInternalControl/Pages/COSO_Integrated_Framework_Project.aspx)
Questions?
Compliance Programs for Grants Management

Andrea L. Treese Berlin
Senior Counsel
Administrative and Civil Remedies Branch
U.S. Department of Health and Human Services
Office of Counsel to the Inspector General
The Purpose of a Compliance Program

(Comply with what?)
False Claims Act (FCA)
31 U.S.C. Sections 3729-33

Prohibits knowingly making or causing to be made:
- False Claim
- False record or statement
- Reverse false claim (not repaying when discovered)

Remedies:
- Treble Damages
- Penalties

Common Issues:
- Conspiracy
- Not Medically Reasonable or Necessary
- Grant Fraud

Essentially, when you knew or should have known that your actions caused the government to:

1) pay for something, but not get what it paid for, or
2) provide funds to do something, but the money is being used for something else.
Civil Monetary Penalties (CMPs) - 42 U.S.C. Section 1320a-7a

- False or Fraudulent Claims
- Grant and Contract Fraud
- Kickbacks
- Prohibition on Certain Physician Referrals (Stark)
- Billing while excluded
- Patient dumping (EMTALA)
- About 40 other OIG CMPs
An excluded individual or entity may not get paid, either directly or indirectly, by the Federal health care programs, for an items or services they furnish, order, or prescribe.

Another remedy that effects the ability to get paid is suspension/debarment.
Self-Disclosure

- Should I disclose?
- How do I disclose?
Self-Disclosure Information

The Office of Inspector General (OIG) has several self-disclosure processes that can be used to report potential fraud in Department of Health and Human Services (HHS) programs. Choose the one that applies to you from the following descriptions to learn more.

Self-disclosures should not be reported to the OIG Hotline.

Health Care Provider Self-Disclosures

› Health care providers, suppliers, or other individuals or entities subject to Civil Monetary Penalties can use the Provider Self-Disclosure Protocol, which was created in 1990, to voluntarily disclose self-discovered evidence of potential fraud. Self-disclosure gives providers the opportunity to avoid the costs and disruptions associated with a Government-directed investigation and civil or administrative litigation. Visit the Provider Self-Disclosure Protocol webpage for more information.
HHS Contractor Self-Disclosures

Contractors are individuals, businesses, or other legal entities that are awarded Government contracts, or subcontracts, to provide services to the Department of Health and Human Services (HHS). OIG's contractor self-disclosure program enables contractors to self-disclose potential violations of the False Claims Act and various Federal criminal laws involving fraud, conflict of interest, bribery or gratuity. This self-disclosure process is available for those entities with a Federal Acquisition Regulation-based contract. Visit the Contractor Self-Disclosure webpage for more information.

HHS Grantee Self-Disclosures

HHS grantees or subrecipients may voluntarily disclose evidence of potential violations of Federal criminal law involving fraud, bribery, or gratuity violations, potentially affecting the Federal award. 45 C.F.R. 75.113 notes mandatory disclosures of criminal offenses that non-Federal entities must make with respect to HHS grants. Recipients submitting disclosures in connection with this requirement should include the subject reference line "Mandatory Grant Disclosure." Recipients choosing to disclose conduct that may not fit squarely within the scope of offenses described in 45 C.F.R. 75.113, should include the following subject reference line in the submission: "Voluntary Grant Disclosure."

Both mandatory and voluntary self-disclosures should be mailed to:

DHHS/OIG/OIG
Grantee Self-Disclosures
330 Independence Avenue, Room 5527
Washington, DC 20201
Key Components of a Compliance Program
Reactive
Proactive
Seven Fundamental Elements

1. Written policies and procedures
2. Compliance professionals
3. Effective training
4. Effective communication
5. Enforcement of standards
6. Internal monitoring
7. Prompt response
Tips for Structuring a Compliance Program
### Where Can I Look for Guidance?

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Grant Fraud

Small Business Innovation Research (SBIR) Fraud

- The Small Business Innovation Research (SBIR) program provides seed money to domestic start-ups, and small businesses so they can develop new and advanced technologies across a wide array of industries. OIG has found instances of fraud and waste in HHS’s SBIR program. In this Eye on Oversight, Operations Officer Francis Montoya describes two fraud cases involving millions in SBIR grant funds being diverted for personal use.

Hurricane Sandy Grant and Contract Guidance

- Inspector General Daniel Levinson and OIG senior staff discuss grant and contract vulnerabilities related to Hurricane Sandy and how to minimize the risk of fraud, waste, and abuse in HHS grants.

Spread the Word: Fight Grant or Contract Fraud
Home, Compliance, The Compliance Resource Portal

The Compliance Resource Portal

This page provides links to handy resources for the public that can help ensure that you are in compliance with Federal health care laws.

- Toolkits
- Provider Compliance Resources and Training
- Advisory Opinions
OIG negotiates corporate integrity agreements (CIA) with health care providers and other entities as part of the settlement of Federal health care program investigations arising under a variety of civil false claims statutes. Providers or entities agree to the obligations, and in exchange, OIG agrees not to seek their exclusion from participation in Medicare, Medicaid, or other Federal health care programs.

CIAs have many common elements, but each one addresses the specific facts at issue and often attempts to accommodate and recognize many of the elements of providing voluntary compliance programs. A comprehensive CIA typically lasts 5 years and includes requirements to:

Related Information:
- Corporate Integrity Agreement Documents
- Corporate Integrity Agreement FAQs
- Quality of Care CIAs
- CIA Compliance Resources
- CIA Enforcements
Special Fraud Alerts

06-26-2014
- Special Fraud Alert: Laboratory Payments to Referring Physicians

03-26-2013
- Special Fraud Alert: Physician-Owned Entities

01-13-2010
- Updated Special Fraud Alert: Telemarketing by Durable Medical Equipment Suppliers
  + OIG Letter Regarding Updated Special Fraud Alert (03-02-2010): Telemarketing by Durable Medical Equipment Suppliers
  + CMS Telemarketing Frequently Asked Questions

I’m looking for
- Accountable Care Organizations
- Advisory Opinions
- Compliance Resource Portal
- Compliance Guidance
- Corporate Integrity Agreements
- Open Letters
Grant Fraud Alert

The Office of Inspector General (OIG) is alerting the public to the latest scheme to defraud the government and steal money from the American people.

This scheme involves contact (by phone, email or letter) from someone pretending to be from a government agency, such as the U.S. Department of Health & Human Services (HHS). Although the precise message may vary, the caller or writer provides his or her name and a false employee ID, and then typically tells you that you will receive “government grant money” as an incentive for paying taxes on time. The caller will then ask for personal or financial information, such as a Social Security number or bank account number. The caller may also ask you to send a check or wire transfer to cover a “processing fee.”

If you receive such a call, **hang up immediately!** If you receive such an email or letter in the mail, do not respond! Call 1-800-HHS-TIPS (1-800-447-8477; TTY 1-800-377-4950).
Other Guidance

01-05-2018
- OIG Letter to PhRMA: Drug Companies that Provide Free Drugs to Federal Health Care Program Beneficiaries Impacted by Caring Voice Coalition, Inc.’s Decision Not to Provide Patient Assistance in 2016

12-07-2016
- Policy Statement Regarding Gifts of Nominal Value To Medicare and Medicaid Beneficiaries

06-22-2016
- Alert: Improper Arrangements and Conduct Involving Home Health Agencies and Physicians

10-30-2015
- OIG Policy Statement Regarding Hospitals That Discount or Waive Amounts Owed by Medicare Beneficiaries for Self-Administered Drugs Dispensed in Outpatient Settings

10-06-2015
- From the IG: A Reminder about Information Blocking and the Federal Anti-Kickback Statute

06-09-2015
- Fraud Alert: Physician Compensation Arrangements May Result in Significant Liability

11-24-2014
- OIG Alerts Tribes and Tribal Organizations To Exercise Caution in Using Indian Self-Determination and Education Assistance Act Funds

Tribal Alert
Indian Health and Human Services

This webpage offers an overview of the Office of Inspector General’s (OIG) body of work as it relates to the Indian health and human services.

Overview

The Department of Health and Human Services (HHS) and its many agencies carry out health and human services programs for American Indians and Alaska Natives (AI/ANs) throughout the U.S.

The Indian Health Service (IHS), which has a budget of approximately $6 billion, provides or funds a wide range of clinical, public health, and community services to approximately 2.2 million AI/ANs who are members of the 567 federally recognized Tribes located in 35 states. IHS and tribally-run facilities generally also serve as Medicare and Medicaid providers for eligible AI/ANs.

Other HHS agencies provide tribal grants for human services programs ranging from Head Start to the Low Income Home Energy Assistance Program.
Ten Practical Tips

1. Make compliance plans a priority now

2. Designate (and empower!) an individual or team responsible for compliance
Ten Practical Tips

3. Know risk areas

4. Manage your sub-awards
Ten Practical Tips

5 Educate your employees

6 Carry a message of compliance from top to bottom
Ten Practical Tips

7 Conduct audits

8 Just because someone else does something doesn’t mean you can or should
Ten Practical Tips

9. Open lines of communication

10. When in doubt, ask for help
Detecting and Preventing Fraud in Tribal Programs

Special Agent Brian Harris
Office of Investigations
Special Investigations Branch
Our Mission

OI’s mission is to protect the integrity of HHS programs.

OI conducts investigations of fraud and misconduct related to HHS programs, operations and employees.

• Criminal
• Civil
• Administrative
Working together

• There are six components that carry out this mission.

  – Immediate Office (IO)
  – Office of Policy and Management (OMP)
  – Office of Audit Services (OAS)
  – Office of Evaluation and Inspections (OEI)
  – Office of Counsel to the Inspector General (OCIG)
  – Office of Investigations (OI)
Let’s talk fraud......
• Fraud includes any intentional or deliberate act to deprive another of property or money by deception, or other unfair means.

• Intentional or unintentional, careless spending or mismanaging government funds.

• Excessively or improperly using government resources, including position and authority.
Types of Fraudulent Conduct

- Theft/embezzlement (grant administrators/program directors)
- Bribery of officials and contractors
- Grantees and recipients providing false information on applications
- False documents including invoices
- Unauthorized/inflated salaries (staff, family, friends)
- Wages paid, yet no work performed
- Grant funds used for personal travel and other items of personal enhancement
Fraud, Waste, and Abuse

THE FRAUD TRIANGLE

Pressure
Motivation or Incentive to Commit Fraud

Rationalization
Justification of Dishonest Actions

Opportunity
The Knowledge and Ability to Carry Out Fraud

The Fraud Triangle by Donald R. Cressey
Scope

Fraud Scale

Appropriate Operations  Mistakes  Gross Negligence  Fraud

Mistakes Gross Negligence Fraud

Fraud Scale
Fraud Indicators

- One person in control
- No separation of duties
- Lack of internal controls
- No prior audits
- High turnover of personnel
- Conflict of Interest
- Money problems
- Allegations of fraudulent conduct
- Unusual behavior
- Living beyond means
Investigating Grant Fraud

- Interviews
- Investigative subpoenas
- Surveillance
- Document review
- Consensual monitoring
- Trash runs

© Original Artist
Fraud Schemes

• Hiring/contracting family members
• Issuing checks to friends/relatives/self
• Participating in decision-making process when family members are involved
Fraud Schemes

• Submitting invoices for personal expenses

• Diverting funds to bogus/related companies

• Inflating labor costs/hours/enrollees

• Hiring or charging for ghost employees, contractors or consultants
Fraud Schemes

- Falsifying grant applications or progress reports
- Fees for non-existent consulting services
- Using funds for unauthorized purposes
- Creating fictitious records
- Accepting kickbacks
Case Study

LIHEAP

• United States v. Samone Milk, et al

• Oglala Sioux Tribe (OST) contacted the OIG for assistance when the LIHEAP program ran out of propane during the winter season
• Kickbacks and embezzlement by OST employees and contractors
• DHHS – Administration for Children & Families provide FY 2010 funding to OST:
  o Low Income Home Energy Assistance Programs (LIHEAP) funding: $1,131,308
  o Community Service Block Grant (CSBG) funding: $490,328
• LIHEAP provides funding to OST for heating assistance, cooling assistance, crisis intervention assistance, and weatherization.
• CSBG provide funding to alleviate the causes and conditions of poverty
• OST lacked significant program oversight and internal controls resulting in Federal funds being used for personal benefits.
• OST employees and OST contractors participated in the pay-to-play scheme
• Restitution was paid back to the Tribe.
Case Study

**Samone Milk**
aka Samone Long Pumpkin

- Executive Secretary – OST LIHEAP Office
- Ring leader of OST LIHEAP Scheme
- Recruited Treasurer’s Office employee and contractors
- Drafted fake invoices and other documents
- Federal funds used for cocaine, alcohol, partying, etc.
- Plead guilty to 18 USC §§ 371 and 666(a)(1)(A)
- Sentenced to 14 months in BOP custody
- Restitution: $109,135

**Heather Garcia**
aka Heather Brings Plenty

- Accounts Payable Technician – OST Treasurer’s Office
- Plead guilty to 18 USC § 666(a)(1)(A)
- Sentenced to five years probation
- Restitution: $83,585

**Joe Garcia**

- OST Tribal Contractor
- Plead guilty to 18 USC §§ 371 and 666(a)(1)(A)
- Was on supervised release during offenses (cocaine conviction)
- Sentenced to 15 months in BOP custody
- Restitution: $83,585
Case Study

Wayne W. Cortier
- Federal Employee with the Department of Interior
- OST Tribal Contractor
- Plead guilty to 18 USC §§ 666(a)(1)(A) and 2
- Sentenced to one year probation
- Restitution: $27,620

Robert L. Running Bear
- OST Employee – LIHEAP Office
- Acting Director and Data Coordinator
- Kickback case with Wayne Cortier for car
- Plead guilty to 18 USC § 1163
- Sentenced to one year probation
- Restitution: $2,070
Report Suspected Fraud, Waste or Abuse to HHS OIG

http://www.oig.hhs.gov

Reporting suspected fraud to OIG Hotline Operations does not result in a prosecution the next day.

A Hotline complaint is an *allegation*.
Hotline complaints are treated with privacy and discretion.

OI conducts independent investigations and hotline complaints can provide helpful information.
Questions?

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