



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

Melissa Santistevan
Inspector General

P.O. Box 1293, Suite 5025
Albuquerque, New Mexico 87103
Telephone: (505) 768-3150
Fax: (505) 768-3158

Report of Investigation

FILE NO: 21-0033-C

DATE: 12/23/21

SUBJECT: Alleged fraud related to a Contractor/Sub-Recipient's billings to the City of Albuquerque contract and Medicaid

STATUS: Final

INVESTIGATOR: Melissa R. Santistevan/Peter Pacheco

DocuSigned by:

Melissa R. Santistevan

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MELISSA SANTISTEVAN
INSPECTOR GENERAL
OFFICE OF INSPECTOR GENERAL

DocuSigned by:

Edmund E. Perea, Esq.

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EDMUND E. PEREA, ESQ
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EXECUTIVE SUMMARY

Pursuant to City Ordinance 2-17-2, the Inspector General's goals are to: (1) Conduct investigations in an efficient, impartial, equitable and objective manner; (2) Prevent and detect fraud, waste and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the City's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

On August 11, 2021, the Contractor/Sub-Recipient was issued a letter from the Department of Family and Community Services (FCS) stating that the City of Albuquerque (City) was invoking contract provisions for an audit of the Assisted Outpatient Treatment (AOT) contract due to concerns over ability to adhere to/meet the contract provisions. This letter was provided to the Office of Internal Audit (OIA) to initiate an audit. OIA began to gather information and documentation and during this process found that the audit was being initiated as the result of alleged fraudulent activity by the Contractor/Sub-Recipient. In the letter dated August 11, 2021, the City alleged contract fraud as the result of duplicate billings to the City and to Medicaid. On September 20, 2021, the Office of Inspector General (OIG) was added to a Zoom meeting between FCS and OIA to discuss whether the audit should be conducted by OIA or OIG, given the allegation of fraud. On this date, it was determined that the allegation contained potential fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to address potential fraud, waste, or abuse related to alleged fraud via duplicate billings to the City contract and to Medicaid. During the investigation, OIG became aware that the Contractor/Sub-Recipient received Payroll Protection Program (PPP) funds and determined that duplication of billings could be occurring with the City contract, Medicaid and PPP, all of which are federal funds.

The OIG investigated the allegations by obtaining and reviewing: the contract, additional amendments and budgets, the City's policies and procedures, relevant emails between the Contractor/Sub-Recipient and the City as they relate to the contract, supporting documents from the City and the Contractor/Sub-Recipient for the requests for reimbursement, the Contractor/Sub-Recipient PPP loan forgiveness application, supporting schedules and loan forgiveness approval, the Contractor/Sub-Recipient's payroll and allocation schedules for the period of the contract. Prior audits were obtained to determine if program was subject to single audit in last two years. We also researched PPP loan requirements and forgiveness applicability, federal program compliance requirements. Discussions of relevant City and Contractor/Sub-Recipient employees were reviewed and data was obtained and analyzed to determine if duplicate billing occurred. The OIG was provided access to the records and the OIG is appreciative to all personnel for their cooperation in the conduct of this fact-finding investigation.

In an effort to safeguard the proprietary payroll records of the Contractor/Sub-Recipient, the OIG elected not to disseminate the Contractor/Sub-Recipient's employee payroll data electronically or in paper form to any party. Instead, on December 1, 2021, the OIG offered both the City and Contractor/Sub-Recipient the opportunity to make an appointment with the OIG to review the discrepancies identified, prior to 5:00 pm on December 6, 2021. The City made two appointments with the OIG to review the identified discrepancies. The Contractor/Sub-Recipient, declined the opportunity to make an appointment to review the discrepancies identified, citing the time constraint due to their schedules.

The OIG's investigation reveals that the Contractor/Sub-Recipient did overbill the City contract by duplicating expenditures to both the City and to Medicaid. The Contractor/Sub-Recipient submitted requests for reimbursement and the City reimbursed the Contractor/Sub-Recipient \$155,586.25 in excess of actual costs. Included in the amount of \$155,586.25, the City was overbilled for budgeted line items totaling \$2,526.58 and for net allocated payroll totaling \$3,870.59.

These expenditures, totaling \$155,586.25 were improper and not supported by the Contractor/Sub-Recipient's records and the City should demand reimbursement from the Contractor/Sub-Recipient. Additionally, the Contractor/Sub-Recipient billed Medicaid for June 2021 Assisted Outpatient Treatment (AOT) services of \$15,653.58 without support via the general ledger.

The City and the Contractor/Sub-Recipient did not have adequate practices of monitoring. Both, the Contractor/Sub-Recipient's and the City's practices for the AOT program are significantly lacking in internal controls which make the City susceptible to fraud, waste and abuse, as indicated by the inaccurate reporting of contract revenues and expenditures. These factors result in non-compliance of the contract between the City and the Contractor/Sub-Recipient. As a result of our investigation, OIG has made nine (9) recommendations for improvement related to findings. See the FINDINGS AND RECOMMENDATIONS section on pages 11-33 of the report.

ABBREVIATIONS

City: City of Albuquerque
OIA: Office of Internal Audit
OIG: Office of Inspector General
FCS: Family and Community Services
PPP: Payroll Protection Program
AOT: Assisted Outpatient Treatment
SAMHSA: Substance Abuse and Mental Health Services Administration

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque in order to safeguard and preserve the public trust.

The OIG received a request to conduct a special audit of a Contractor/Sub-Recipient based on an allegation of a Contractor/Sub-Recipient billing the city for expenses that were also billed to Medicaid.

SCOPE AND METHODOLOGY

The scope of the investigation involved the performance of certain procedures to assess the Contractor/Sub-Recipient's compliance with policies and procedures. The methodology consisted of:

- Obtain and review the contract, any amendments and budgets
- Obtain and review City policies and procedures
- Obtain and review relevant emails between the Contractor/Sub-Recipient and the City as they relate to the contract
- Obtain supporting documents from the City and the Contractor/Sub-Recipient for the requests for reimbursement
- Obtain Contractor/Sub-Recipient PPP loan forgiveness application, supporting schedules and loan forgiveness approval
- Obtain the Contractor/Sub-Recipient's payroll and allocation schedules for the period of the contract
- Reviewed prior audits to determine if program was subject to single audit in last two years
- Research PPP loan requirements and forgiveness applicability

- Research federal program compliance requirements
- Interviews of relevant City and Contractor/Sub-Recipient employees
- Analyze data obtained to determine if duplicate billing occurred

This report was developed based on information from interviews, inspections, observations, and the OIG's review of selected documentation and records.

INVESTIGATION

City Program Background

In June 2016, the City applied for and obtained federal funding to establish AOT programming in Bernalillo County including the creation of an infrastructure to effectively implement the newly adopted legislation for court ordered treatment (including medication) for seriously mental ill individuals who have a history of medication noncompliance, as a condition of their remaining in the community. AOT is proven effective in reducing the incidence and duration of hospitalization, homelessness, arrests and incarcerations, victimization, and violent episodes. AOT also increases treatment compliance and promotes long-term voluntary compliance, while reducing caregiver stress.

The City experienced ongoing delays to the implementation of the Substance Abuse Mental Health Services Administration (SAMHSA) funded Assisted Outpatient Treatment Program in Albuquerque, New Mexico due to the original contractor being unable to proceed with the collaboration to provide clinical services. A secondary Contractor/Sub-Recipient was approached by the City to provide the clinical services. This Contractor/Sub-Recipient has experience working with persons with serious mental illness, many of whom have not been successful in traditional outpatient treatment.

The AOT program was fully implemented in August 2019 with a contract between the City and the secondary Contractor/Sub-Recipient for the period covering August 15, 2019 through September 30, 2022.

Contractor/Sub-Recipient Background

The Contractor/Sub-Recipient is a nonprofit organization that was incorporated under the laws of the State of New Mexico on October 30, 1985. The Contractor/Sub-Recipient's mission is to assist people who are experiencing homelessness by providing resources, opportunities, and hope.

The Contractor/Sub-Recipient receives major funding provided by the U.S. Department of Housing and Urban Development, the U.S. Department of Health and Human Services, the New Mexico Department

of Health, the City of Albuquerque, the New Mexico Mortgage Finance Authority, the United Way of Central New Mexico, with additional support from various private foundations, individual and corporate contributions.

The Contractor/Sub-Recipient utilizes the accrual basis of accounting to recognize revenue when earned and expenditures when incurred.

The Contractor/Sub-Recipient received a PPP loan in May 2020. The PPP loan period was from May 5, 2020 to October 20, 2020. The Contractor/Sub-Recipient received PPP loan forgiveness of \$1,102,722.00 in early October 2021.

Economic Background

In December 2019, a Global Pandemic ensued, causing federal, state and local governments to significantly limit or reduce operations. This reduction in operations had a severe effect on services provided, and on the economy as a whole. The US Government created emergency funding with federal funds that public, private for profit, not for profit, and governmental entities could apply for. These funds are subject to restrictions, and reimbursement of funds cannot be duplicated. The extreme financial strain of the effects of the pandemic resulted in the US government initiating a program with little guidance. Guidance from the US Government did come in subsequent months. The lag in guidance created an opportunity for errors and fraud.

Contract Background

On September 26, 2019, the City and the Contractor/Sub-Recipient entered into a contract whereby the Contractor/Sub-Recipient would provide AOT services as described in the contract with a budget of \$424,000 for the period August 15, 2019 to September 30, 2022. On March 17, 2021, the Contractor/Sub-Recipient submitted an email to the City's FCS department stating "Despite our efforts to secure the needed balance between contractual numbers and the required standard of care, we are incurring a growing deficit between revenues and our costs. To avoid operating this program at further loss, we will now cap our caseloads at 10 clients per case manager and 5 for the Lead case manager, totaling 35 clients enrolled in AOT at one time. We are currently at 34. Once we hit the cap, we will implement a wait list to meter in clients as slots open up. If additional contract funding becomes available to us, we would readily consider adding a 4th caseworker, thereby increasing the cap to 45." On November 1, 2020, a supplemental agreement was signed by the City and the Contractor/Sub-Recipient increasing the amount of the contract from \$424,000 to \$809,629 to support the continuation of the AOT program. On June 1, 2021, the City terminated the contract due to concerns regarding the Contractors/Sub-Recipients ability to adhere to/meet the contract provisions.

During a review of the AOT contract, dated September 26, 2019, between the City and the Contractor/Sub-Recipient, OIG noted that the funds were identified as federal funds under CFDA 93.997 requiring the Sub-Recipient to comply with all applicable requirements of Part 200 Uniform Requirements, which include, requirements regarding financial management, internal controls, cost principles, allowable costs, indirect costs, records retention and access, audit requirement, and lower tier subawards and/or procurement contracts.

The contract stated “Amendments to this Agreement shall be incorporated in written Supplemental Agreements to this Agreement, signed by both parties.”

The contract states “The Sub-Recipient represents that it has, or will secure, all personnel required in performing all of the Services required under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the City. Personnel salaries, benefits and other related costs may be paid for from contract fund as authorized in the City Budgets attached hereto.”

Section 41. Termination for cause, sections A and B state “If, through any cause, the Sub-Recipient shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Sub-Recipient shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Sub-Recipient of such termination and specifying the effective date thereof at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs and reports prepared by the Sub-Recipient under this Agreement shall, at the option of the City, become its property, and the Sub-Recipient shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.”

B. “Notwithstanding the above, the Sub-Recipient shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Sub-Recipient, and the City may withhold any payments to the Sub-Recipient for the purposes of set-off until such time as the exact amount of damages due the City from the Sub-Recipient is determined.”

Contract provision 44. Enforcement state “The Sub-Recipient agrees to pay to the City all costs and expenses including reasonable attorney's fees incurred by the City in exercising any of its rights or remedies in connection with the enforcement of this Agreement.”

Exhibit A, Scope of Services for Assisted Outpatient Treatment states the goals and objectives are to enable persons with a primary diagnosis of a mental health disorder, that may also have a co-morbid substance use disorder, engage in effective treatment and overcome the barriers to treatment engagement that have led to their high utilization of costly crisis-based treatment services and unnecessary incarceration. To plan and implement the clinical services for an Assisted Outpatient Treatment Program and to provide clinical services to approximately 345 clients committed to AOT.

Exhibit B is the approved budget of \$424,000, with salaries of \$286,135, Payroll taxes and Employee Benefits of \$56,998, operating expenses of \$42,388, and indirect costs of \$38,479.

The First Supplemental Agreement increased the budget from \$424,000 to \$809,629, with salaries of \$530,772, payroll taxes and employee benefits of \$103,142, operating expenses of \$96,689, and indirect costs of \$79,026.

On March 17, 2021, the Contractor/Sub-Recipient sent an email to the City stating the Contractor/Sub-Recipient was “incurring a growing deficit between revenue and costs.” To “avoid operating this program at further loss, we will now cap our caseloads at 10 clients per case manager and 5 for the Lead case manager, totaling 35 clients enrolled in AOT at one time.” This same email detailed that the Contractor/Sub-Recipient would consider adding a fourth caseworker, to increase the cap to 45, “if additional contract funding becomes available.” On March 29, 2021, in a meeting between the City and the Contractor/Sub-Recipient, the Contractor/Sub-Recipient indicated they were operating this program at a deficit because SAMHSA funds did not cover 100% of their costs. The assertion that SAMHSA did not cover 100% of the Contractor/Sub-Recipients costs highlighted a need for the Contractor to provide adequate documentation detailing their use for federal SAMHSA funds for services not covered by Medicaid or other commercial health insurances. On April 20, 2021, at a meeting between the City and the Contractor/Sub-Recipient, the Contractor/Sub-Recipient indicated that they would complete the contract year through the end of September 30, 2021. In this same meeting, the City detailed to the Contractor/Sub-Recipient that it would be unable to release further City and grant funds for services already reimbursed by Medicaid. On May 21, 2021, the Contractor/Sub-Recipient sent an email to the City indicating that they were prepared to end the contract immediately due to the burden of providing contractually required documentation. The contract was terminated by the City effective June 1, 2021.

The City’s FCS Department issued a fiscal monitoring report dated January 4, 2021 covering multiple City contracts including AOT. Specific to the AOT contract, the City made two (2) recommendations to enhance the overall documentation of services. The City’s monitoring report stated “In accordance with the documentation provided in the SPARS database, and the information reviewed during the time of monitoring, the agency is meeting its contractual obligations.” The monitoring review stated that the Contractor/Sub-Recipient “made every effort to bill Medicaid and other payers in order to maximize services for non-Medicaid clients and/or non-Medicaid covered expenses, as clinically appropriate. The review revealed no finding and no concerns.”

Despite the fact that a monitoring review was conducted by the City, the review considered clinical and programmatic aspects of the contract and did not reflect monitoring for compliance with applicable requirements of Part 200 Uniform Requirements. The requirements include a requirement regarding financial management, internal controls, cost principles, allowable costs, indirect costs, records retention and access, audit requirement, and lower tier subawards and/or procurement contracts.

An analysis of the original budget for the period August 15, 2019 to September 30, 2022 revealed that on September 30, 2020, the Contractor/Sub-Recipient's expenses were within the original budget in total and not "a growing deficit between revenues and costs: as indicated by the Contractor/Sub-Recipient. OIG specifically analyzed the payroll budget by job description noting that one (1) of the salaries allocated to the City contract was in excess of the prescribed budgeted line item.

If the City had prepared an analysis of the Contractor/Sub-Recipient's expenditures in March 2021, when the email from the Contractor/Sub-Recipient stated "we are incurring a growing deficit between revenues and our costs", the City would have been able to determine that the Contractor/Sub-Recipient was not operating at a deficit regarding the AOT program.

OIG also noted a discrepancy in the payroll budget from the original contract to the budget in the First Supplemental Agreement reflected as a decrease in salaries totaling \$27,828 and a decrease in benefits of \$5,544. Subsequent to the investigation, but prior to approval of the report, FCS provided the OIG with two budget adjustments to support the decrease in the budgeted salaries, which resulted in a finding being removed from the final report.

OIG scheduled out the Contractor/Sub-Recipient's expenditures by month and applied the indirect cost rate of 10% to obtain the total program costs by month. The monthly program costs by month were reduced by the Medicaid billings by month to derive the program costs to be reimbursed by the City. For the contract period August 15, 2019 to June 30, 2021, the date the contract was terminated, the City contract was billed in excess of reimbursable costs by \$155,586.25. The Contractor/Sub-Recipient also billed Medicaid for AOT services during June 2021 totaling \$15,653.68, however, there were no program expenses recorded in the Contractor/Sub-Recipient's general ledger for the AOT program. The overbilling to the City and for AOT Medicaid services billed in June 2021 total \$171,239.93.

OIG reviewed the Contractor/Sub-Recipient's AOT Medicaid Billings and Medicaid Payments received for each month during August 15, 2019 to June 30, 2021. The schedule of AOT Medicaid Billings to Payments indicates that Medicaid was billed \$174,580.56 and that the Contractor/Sub-Recipient received Medicaid payments of \$165,662.00 during this period with an outstanding balance of \$8,918.56 due from Medicaid. It should be noted that Medicaid payments are made in arrears and are based on eligible services, timely billed.

The City did not identify the fact that the Contractor/Sub-Recipient was using Medicaid payments received instead of Medicaid Billings on the reimbursement submissions. In January 2021, a conversation between the City's FCS department and the Contractor/Sub-Recipient resulted in concern of overbillings, which led to the City withholding payment until June 2021 and ultimately in the special audit.

OIG scheduled out all payroll allocated to the AOT program from August 15, 2019 to June 30 2021, noting total payroll costs of \$432,253.30. The budget for payroll was \$633,914.00. OIG noted that the

actual costs allocated to AOT for the Clinical Director of \$9,140.58 exceed the budgeted line item by \$2,526.58.

Neither party to the contract had an adequate system that would provide information in a manner that could easily identify non-compliance with the contract budget by line item.

While reviewing the requests for reimbursement along with the supporting documentation provided by the Contractor/Sub-Recipient, OIG noted that supporting documentation of paystubs and Activity sheets for eight (8) employees payroll totaling \$7,602.97 were missing. Three (3) activity sheets for one (1) employee allocated to the AOT program were signed two (2) months after payment was made to the employee. Ten (10) activity sheets were not signed by the employee.

Additionally, OIG noted fourteen (14) discrepancies in payroll allocations to the AOT program, nine (9) where the Contractor/Sub-Recipient under allocated salaries of \$2,961.78 based on time spent on the AOT program and, two (2) where the Contractor/Sub-Recipient over allocated salary of \$4,262.97 based on time spent on the AOT program. Additionally, there are questioned costs of \$2,569.40, related to the three (3) late signed activity sheets identified in Finding 6 for one (1) employee who was out of the office under the Families First Coronavirus Response Act (FFCRA) leave. The Contractor/Subrecipient allocated leave time to the City Contract. There is currently no policy regarding leave allocations to the contract where the leave was not accrued in relation to time spent working on the contract. When combined, the discrepancies result in a \$3,870.59 over allocation to the AOT program.

During its review of requests for reimbursements and the supporting documentation, the City did not identify or address the missing supporting documents, and discrepancies thus resulting in erroneous reimbursement to the Contractor/Sub-Recipient.

The OIG reviewed the payroll for the specified PPP period to attempt to determine if the Contractor/Sub-Recipient requested PPP forgiveness for payroll allocated to the AOT program and reimbursed by the City to the Contractor/Sub-Recipient. The OIG noted three (3) AOT employees whose allocated payroll to the AOT program and the general fund were in excess of the total payroll paid for the PPP period by \$6,564.96, resulting in questioned costs related to federal program expenditures and PPP reimbursements. These questioned costs could not be further investigated without looking into all other federal programs. OIG was unable to determine if the Contractor/Sub-Recipient properly claimed payroll expenses for the purpose of the PPP loan forgiveness leaving this matter unresolved.

CONCLUSION

The OIG's investigation reveals that the Contractor/Sub-Recipient did submit requests for reimbursement to the City contract in excess of actual costs. The City reimbursed the Contractor/Sub-Recipient \$155,586.25 in excess of actual costs. Included in the amount of \$155,586.25, the City was overbilled for budgeted line items totaling \$2,526.58 and for net allocated payroll of \$3,870.59. These

expenditures, totaling \$155,586.25 were improper and not supported by the Contractor/Sub-Recipient's records and the City should demand reimbursement from the Contractor/Sub-Recipient. Additionally, the Contractor/Sub-Recipient billed Medicaid for AOT services of \$15,653.58 in June 2021 without support via the general ledger. The OIG could not ascertain if the Medicaid billings could have been appropriately charged under another program.

The City and the Contractor/Sub-Recipient did not have adequate practices of monitoring. The Contractor/Sub-Recipient's practices for the AOT program are significantly lacking, as indicated by the inaccurate reporting of contract revenues and expenditures. Both contracted parties' general oversight of deficiencies and lack of monitoring the contract with requirements set forth in Part 200 Uniform Requirements and in the contract resulted in the City becoming susceptible to fraud, waste and abuse. As a result of our investigation, OIG has made nine (9) recommendations for improvement related to findings.

FINDINGS AND RECOMMENDATIONS

Responses to the findings are solely the opinion of the entity responding and have not been verified or audited by the OIG. Any footnotes included in the responses are references made by entity responding and are not to be considered part of the OIG report but are considered part of the entity's response.

SA-2021-1 Contract Monitoring

Condition: The City's monitoring review of the AOT program through June 2020, dated January 2021 did not include monitoring for applicable requirements of Part 200 Uniform Requirements, which include, requirements regarding financial management, internal controls, cost principles, allowable costs indirect costs, records retention and access, audit requirement, and lower tier subawards and/or procurement contracts.

Cause: The City's monitoring review focused on clinical and programmatic aspects of the contract with little attention to fiscal requirements, likely because of a lack of training on how to adequately review those compliance requirements.

Criteria: Administrative Requirements for Contracts Awarded Under the City of Albuquerque Department of Family and Community Services Section I. Fiscal Reports and Monitoring Requirements states:

(1) General Requirements

- (a) Monitoring Requirements. As often as may be required at the discretion of the City, fiscal office staff of the Department shall conduct scheduled on-site monitoring visits to Contractors receiving contract funding, where fiscal records are maintained.

Contractors will be required to make available appropriate financial records. In the case of computer-maintained records, availability means a printed copy of such records may be requested. Financial records related to the project include those as are necessary for the Department staff to:

- (i) Verify financial transactions and determine whether funds were used in accordance with applicable laws, regulations, and procedures;
 - (ii) Ascertain whether appropriate policies, plans, and procedures are being followed;
 - (iii) Provide management with systematic appraisals of financial and administrative controls; and
 - (iv) Determine the reliability of financial records.
- (b) Following the conclusion of an on-site monitoring visit, a written report of Findings and recommendations for corrective actions, if any, will be provided by the Department to the director and Governing Board of the organization. A nonprofit organization's written response, when required, to a Department monitoring report shall be signed by an Authorized Board Official and approved by the Governing Board of the organization. Reports submitted by a public Agency shall be reviewed and signed by an authorized official of that organization above the level of involvement.

Effect: The City did not identify deficiencies in the AOT contract and therefore, the City continued to reimburse the Contractor/Sub-Recipient erroneously and in excess of the what was allowable per the contract.

Recommendation: The City should consider acquiring Uniform Grant Guidance audit training for the individuals reviewing the fiscal requirements of federal funds.

City Department Response: The Department's monitoring through June 2020 did include both fiscal and program reviews. The Department agrees that more fiscal training is needed. Annual Uniform Grant Guidance training will occur with program and fiscal staff managing federally funded programs, with the first training to be held February 2022 to allow for adequate time for preparation and calendaring based on FY2023 budget process. Additionally, fiscal forms utilized in monitoring federally funded programs will be updated to include applicable federal regulations to ensure adequate monitoring. The forms will be updated for distribution at the training.

Contractor/Sub-Recipient Response: HopeWorks interprets this to be a recommendation directed toward the City of Albuquerque. If we are misunderstanding this recommendation, please let us know otherwise.

SA-2021-2 Over expended payroll budget per contract

Condition: An analysis of the contract’s payroll budget by job description and actual salaries paid revealed that one (1) of the salaries allocated to the City contract were in excess of prescribed budgeted line items. The actual payroll expenditures for the Clinical Director exceeded the budgeted line item by \$2,526.58.

Cause: Neither the City nor the Contractor/Sub-Recipient implemented an adequate system of budget monitoring that would provide information in a manner that could easily identify non-compliance with the contract budget by line item.

Criteria: The contract agreement between the City and the Contractor/Sub-Recipient Section 4. Compensation and Method of Payment

A. Maximum Compensation: For performing the Services specified in Section 2 of this Agreement, the City agrees to pay the Sub-Recipient a total amount not to exceed FOUR HUNDRED TWENTY-FOUR THOUSAND AND NO/100 DOLLARS (\$424,000.00) which amount includes any applicable gross receipts taxes and which amount shall constitute full and complete compensation for the Sub-Recipient's Services under this Agreement, including all expenditures made and expenses incurred by the Sub-Recipient in performing the Services per the "City Budgets" attached hereto and made a part hereof as Exhibit B.

Effect: The Contractor/Sub-Recipient requested reimbursement for two positions’ salaries in excess of the budget totaling \$9,894.97 and the City paid the claim for reimbursement.

Recommendation: In current and future contacts, the City and the Contractor/Sub-Recipient should develop and implement an adequate system of monitoring that would provide information in a manner that could easily identify non-compliance with the contract budget by line item.

City Department Response: Administrative Requirements allow “(ii) Reimbursement of costs for salaries and wages. Reimbursement for costs charged to the City for salaries and wages, including applicable payroll taxes and fringe benefits, shall be made only for positions included in an approved line item budget. The amount of such reimbursement shall normally be limited to an amount not to exceed the total amount budgeted for the position divided by the number of pay periods included in the term of the contract, as established in organization personnel policies, multiplied by the number of pay periods for which reimbursement is being requested.” In the review process for reimbursement, FCS reviews the line item for total salaries and wages, and line item for benefits, to ensure the reimbursement does not exceed budgeted amount. Furthermore, the Administrative Requirements provide the following guidance: “(2) Allowable Flexibility - Contractors may, without prior approval from the Department, submit a reimbursement request which exceeds the approved budget of a line item up to \$500 or five percent (5%) of the line item amount, whichever is greater, to the extent the total approved budget is not

exceeded. Line item changes in excess of the amount specified above will require a Request for Budget Revision form be submitted to and approved by the Department.” Moving forward, FCS will modify the request for reimbursement form to ensure adequate oversight of budget detail line item. The updated form will be distributed to agencies at the time of the updated Administrative Requirements, which we anticipate to be March 30, 2022.

FCS cannot speak to why the Contractor/Sub-Recipient submitted the non-compliant expenditures for reimbursement.

Contractor/Sub-Recipient Response: We do not have enough information provided in the report to respond to this finding. The OIG did not provide us with employee names of the two salaries in question (only job titles), and we are not sure what pay period this finding specifies.

In addition, the OIG reports that an “analysis of the contract’s payroll budget by job description and actual salaries revealed...” however, nowhere in this report, does the OIG specify her methodology in her research, what financial techniques/best practices/models she engaged in to compile this data and formulate her report, and how she determined her findings. The recommendation in this finding is vague, and the corresponding methodology is also vague.

SA-2021-3 Increasing contract budget without analysis

Condition: The City increased the contract budget with a signed First Supplemental Agreement in November 2020. There was no evidence of the Contractor/Sub-Recipient's profit or loss statement being requested or provided at the time. Later in April 2021 when the City asked for the detail, the Contractor/Sub-Recipient responded by stating that they were prepared to terminate the contract due to the burden of providing the additional information.

Cause: The City did not perform an analysis of the contract to determine if increasing the budget was justified based on current expenditures of the Contractor/Sub-Recipient.

Criteria: Good Accounting practices require analysis of data before taking any action in order to make sound, ethical financial decisions, rooted in fact.

Effect: The budget was increased permitting the flow of additional funding sources to the Contractor/Sub-Recipient that do not appear to be rooted in fact. The increase in the budget by the City contributed to the over billings to the City contract by the Contractor/Sub-Recipient.

Recommendation: The City should implement a process to analyze the actual revenues to actual expenditures. The Contractor/Sub-Recipient should have an accounting system that segregates and accounts for each federal program revenue and expenditures and should be required to produce this information when requested.

City Department Response: FCS fiscal staff attends the exit audit of the financial statements for each agency in which such statements are reviewed. The increase of this contract was based on conversations with program and fiscal staff employed by the Contractor/Sub-Recipient at the time of renewal, and based on budgeted amounts within the four-year grant. FCS will develop and implement a process to analyze revenues and expenditures prior to increasing budget allocations, to include the review of the financial statement audit and detail the expectations in the Administrative Requirements update, anticipated completion by March 30, 2022.

FCS cannot speak to why the Contractor/Sub-Recipient refused to provide additional information when requested or why the Contractor/Sub-Recipient threatened to terminate services that were important to our community rather than provide documentation. This refusal to provide basic financial information was one of the factors that led FCS to request this audit.

Contractor/Sub-Recipient Response: HopeWorks utilizes an accounting system that segregates and accounts for each federal program revenue and expenditures. The OIG's recommendation is incorrect and based on inaccurate information.

In April 2021, the City did not ask for HopeWorks' profit and loss statements; in August of 2021, it requested Medicaid reimbursements for the AOT program, which does not prove whether or not the program is operating at a deficit or profit.

This is supported by the Timeline of events with supporting documentation that was provided to the OIG on 10/29/21:

- *4/22/21: City (Ellen) sends an email to HW (Jeff) asking HW to change the way we bill the City for AOT (which we do not recall was discussed in the 4/20 ZOOM meeting, as the City indicates)*¹
- *This midstream change in billing was disruptive and burdensome to our Finance and Program staff. HW indicated this to the City already. **Midstream, unexpected, and not agreed-upon changes to the way we run programs affect our ability to serve our clients.***
- *5/10/21: The City decides to then retroactively force us to change the way we bill the City for AOT without any notice, and because we are not compliant, terminates our contract effective 6/1/21.*²
- *The City states that “We have an obligation to ensure we receive adequate documentation detailing federal SAMHSA funds are being utilized for services not covered by Medicaid or other commercial health insurances. This is not a change in any contract or billing requirement, but rather is consistent with grant requirements, and the Agreement that HopeWorks signed.” However, prior to May 2021, the City never asked for this documentation. It begs the question—why didn’t the City implement this practice to begin with?*
- *The City explains this oversight³, which doesn’t make sense to us. We never stated that “this grant was in the “red” because the program was not fully funded by SAMHSA grant dollars,” which is why the City (Ellen) states that she is asking for the documentation now. We did state that hiring additional staff would put us even further in the red.*⁴

1 Email I for supporting documentation.

2 Email A for supporting documentation.

3 Email H for supporting documentation.

4 Email N for supporting documentation.

SA-2021-4 Over billing of City's AOT Contract

Condition: The Contractor's/ Sub-Recipient's request for reimbursement reduced the monthly program costs by the monthly Medicaid payments received, rather than the monthly Medicaid billings resulting in City reimbursements in excess of program costs by \$155,586.25.

Cause: The Contractor/Sub-Recipient did not adhere to Section 13. Accounting for DFCS Social Services Contract Funds Section A. Basic Requirements for Proper Accounting of Funds and Section B. Accounting for Program Income and the City did not identify the issue in the request for reimbursement.

Criteria: Administrative Requirements for Contracts Awarded Under the City of Albuquerque Department of Family and Community Services

Section 13. Accounting for DFCS Social Services Contract Funds states:

A. Basic Requirements for Proper Accounting of Funds

(1) Accounting System

The Contractor's accounting system shall, at minimum, meet the following standards.

- (a) The system shall be designed so that no one person has access to all financial operations, procedures, and records.
- (b) The system shall clearly identify DFCS Social Services contract revenues and expenditures from those of other funding sources in posting to the books of account. The City may require the Contractor to maintain a separate banking account for DFCS Social Services contract funds, if required by state or federal regulations or deemed to be in the best interests of the City.
- (c) The system shall allow individual cost elements, including salaries and wages in their chart of accounts to be reconciled to the cost categories in the approved DFCS Social Services contract budget.
- (d) The system shall identify and segregate unallowable costs.
- (e) There shall be a filing system that is easily accessible which separates contract transactions in a consistent manner.
- (f) The system shall fully document all contract expenditures with invoices, statements, time sheets (i.e. PARS), and other source documentation signed by an authorized official.
- (g) The system shall assure that contract transactions are recorded and posted in the accounting books and records at least every thirty days.
- (h) The system shall provide for the separation of the accounting function from procurement (purchasing) and receiving.

- (i) The system shall be subject to internal controls sufficient to ensure the timeliness, accuracy and validity of the accounting data and that receipts and expenditures of the organization are made only in accordance with authorizations of management and directors of the organization, and with dual signatures as necessary to ensure adequate separation of duty and internal control.
- (j) The system shall require the Contractor to reconcile all bank accounts monthly and in accordance with authorizations of management and directors of the organization.

(2) Adequate Personnel

Whether employed directly by the organization or through contract, the organization shall currently employ or commit to hire personnel responsible for accounting functions with appropriate training and experience to adequately administer a contract of the size and complexity of the one proposed.

B. Accounting for Program Income

(1) Program Income

Program Income represents the gross income earned by the Contractor from City-supported activities or the gross income reduced by certain expenditures if so provided by the contract. Such income includes, but is not limited to income from:

- (a) fees for services performed;
- (b) the use of rental of Real Property or equipment acquired with City funds;
- (c) the sale of commodities or items fabricated under a grant agreement; and
- (d) any income earned from payments of principal and interest on loans made with contract funds.

Effect: The Contractor/Sub-Recipient requested reimbursement and the City reimbursed the Contractor/Sub-Recipient \$155,586.25 in excess of allowable contract expenses due to program income not being reported in accordance with the policy.

Recommendation: The City should review and provide additional training to City employees and to the Contractor/Sub-Recipient with regard to the City's Policy for Administrative Requirements for Contracts Awarded Under the City of Albuquerque Department of Family and Community Services. The City should send a demand letter to the Contractor/Sub-Recipient for repayment of identified unallowable

contact costs. The Contractor/Sub-Recipient must immediately repay the \$155,586.25 in order to be compliant with the contract and federal requirements.

City Department Response: FCS held a meeting on 4-20-21 with Contractor/Sub-Recipient executive leadership to address the issue of program income and to remind the contractor of the obligations and agreements under the Federal contract to seek payment from allowable insurance reimbursable services prior to billing against the contract. A summary of the agreed upon outcomes/next steps of the meeting was e-mailed to the Contractor/Sub-Recipient executive leadership team on 4-22-21. Contractor/Sub-Recipient responded on 4-23-21 and confirmed agreement of the outcome and next steps to disclose necessary documentation and Medicaid reimbursements to FCS. These meetings were held in good faith with the Contractor/Sub-Recipient and with intent to correct/improve reimbursement documentation needed by FCS to avoid this overpayment outcome.

On 5-10-21, FCS received the monthly invoice for February 2021 and it did not obtain the agreed-upon documentation. On 5-10-21, FCS responded to the email and asked for the Medicaid documentation for program billing and for the forms to be completed. Attempts from FCS to resolve this with the Contractor/Sub-Recipient resulted in the Contractor/Sub-Recipient communicating that FCS's requests were burdensome to the agency and a change in contractual agreements and that the agency would move to terminate the contract early if FCS insisted on this information being provided.

This response from the Contractor/Sub-Recipient made monitoring and review of submitted invoices challenging and thus directly contributed to the overbilling identified. Email communication occurred between 4-22-21 and 5-21-21. On 5-21-21, the Contractor/Sub-Recipient indicated that if the City insisted on billing changes, the contract may have to end by June 1, 2021. FCS responded the same day, accepting their termination of contract by June 1, 2021, and highlighted next steps to focus on client care and transition as well as court program suspension. As City management became aware of these concerns, the City felt it had a duty to report the concerns regarding the contract and Contractor/Sub-Recipient's billing processes to the Contractor/Sub-Recipient's board of directors. At the board's request, the City provided additional documentation to the board. On 8-11-21, FCS sent a letter to the director of the contractor explaining the need for this audit, based on continued concerns about contractor's continued resistance to providing documentation. These steps were all taken in order to safeguard the public funds that were expended pursuant to the contract.

In the future, FCS will request reimbursement from the Contractor/Sub-Recipient within 30 days. Additionally, the Department requests technical assistance from the Office of the Inspector General's Office to improve FCS process of reviewing program income. The Department will also engage the SAMHSA program manager within the next 30 days to verify whether the billings to Medicaid on behalf of the Sub-Recipient for the AOT program have an effect on the SAMHSA funding.

Contractor/Sub-Recipient Response: HopeWorks strongly disputes this finding and recommendation and unequivocally states that the finding is based on a misunderstanding of the difference between Medicaid and Grant Billing, which we endeavored to explain to the OIG in the Timeline that was provided on 10/29/21:

I would like to state that Medicaid billing and Grant Billing are two very distinct, separate buckets of revenue. Because we are a Certified Mental Health Center (CMHC), we have the ability to bill for Medicaid services. When we bill for Medicaid, we use very specific accounting codes that match the type of service rendered. Specifically for AOT, services billed are for CCSS (Comprehensive Case Management Services)⁵.

Grant Billing is very different, and when we billed the City for AOT, we were not billing for services rendered. We were billing for program staff, cell phones and mileage, supplies, and other costs for the program. As you can see, these are very distinct revenue streams.

In addition, HopeWorks (and formerly St. Martin's) has been billing Medicaid for over 20 years and has never had any allegation of double billing. In fact, our checks and balances, and our procedures for CCSS Medicaid billing, are comprehensive and detailed.⁶⁷

The City was aware of how the grant billing was being executed and had no issue with it until 4/22/21, as reported in the Timeline provided to the OIG on 10/29/21:

- *4/22/21: City (Ellen) sends an email to HW (Jeff) asking HW to change the way we bill the City for AOT (which we do not recall was discussed in the 4/20 ZOOM meeting, as the City indicates).⁸*
 - *This midstream change in billing was disruptive and burdensome to our Finance and Program staff. HW indicated this to the City already. **Midstream, unexpected, and not agreed-upon changes to the way we run programs affect our ability to serve our clients.***
- *5/10/21: The City decides to then retroactively force us to change the way we bill the City for AOT without any notice, and because we are not compliant, terminates our contract effective 6/1/21.⁹*
 - *The City states that “We have an obligation to ensure we receive adequate documentation detailing federal SAMHSA funds are being utilized for services not covered by Medicaid or other commercial health insurances. This is not a change in any contract or billing requirement, but rather is consistent with grant requirements, and the Agreement that HopeWorks signed.” However, prior to May 2021, the City never asked for this documentation. It begs the question—why didn’t the City implement this practice to begin with?*
 - *The City explains this oversight¹⁰, which doesn’t make sense to us. We never stated that “this grant was in the “red” because the program was not fully funded by SAMHSA grant dollars,” which is why the City (Ellen) states that she is asking for the documentation now. We did state that hiring additional staff would put us even further in the red.¹¹*

The AOT contract, as such, does not specifically state that we must reduce our grant billing by the amount HopeWorks collects through Medicaid. Instead, the Contract states, on p.3¹²:

F. Non-Supplant: Federal funds must supplement, not replace (supplant) non-federal funds. The Sub-Recipient must ensure that federal funds do not supplant funds that have been budgeted for

the same purpose through non-federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-federal sources has occurred for reasons other than the receipt of or expected receipt of federal funds.

As indicated to the OIG in the Timeline provided on 10/29/21:

I would like to state that Medicaid billing and Grant Billing are two very distinct, separate buckets of revenue. Because we are a Certified Mental Health Center (CMHC), we have the ability to bill for Medicaid services. When we bill for Medicaid, we use very specific accounting codes that match the type of service rendered. Specifically for AOT, services billed are for CCSS (Comprehensive Case Management Services)¹³.

Grant Billing is very different, and when we billed the City for AOT, we were not billing for services rendered. We were billing for program staff, cell phones and mileage, supplies, and other costs for the program. As you can see, these are very distinct revenue streams.

As explained above, the explicit terms of the Contract and the City's practices with respect to the monitoring and implementation of the contract does not support the OIG's findings or recommendation. The communications between the City and HopeWorks, as discussed above and disclosed to the OIG, do not support the OIG's finding and recommendation. The City's claim that HopeWorks over billed Medicaid was made after the contract had already been in place and discounts current contractual language and the history of this grant.

HopeWorks does not owe the City \$155,586.25 and any attempts to collect this amount will be vigorously defended (and may result in counter-claims based on allegations of retaliation).

5 Services include:

H2015	CCSS - Comprehensive Community Support Services
H2010	Medication Monitoring
H2000	Mental Health Assessment
90791	Psychiatric Diagnostic Evaluation
90832	Individual psychotherapy 30
90834	Individual Therapy 45
90853	Group Psychotherapy
90863	Pharmacologic Management
H2030	Recovery Services

6 HopeWorks Medicaid Billing Documentation/Processes for supporting documentation.

7 HopeWorks Medicaid Billing – Accounting for supporting documentation.

8 Email I for supporting documentation.

9 Email A for supporting documentation.

10 Email H for supporting documentation.

11 Email N for supporting documentation.

12 AOT Contract for documentation.

13 Services include:

H2015	CCSS - Comprehensive Community Support Services
H2010	Medication Monitoring
H2000	Mental Health Assessment
90791	Psychiatric Diagnostic Evaluation
90832	Individual psychotherapy 30
90834	Individual Therapy 45
90853	Group Psychotherapy
90863	Pharmacologic Management
H2030	Recovery Services

SA-2021-5 Questionable Medicaid Billing

Condition: The Contractor/Sub-Recipient submitted Medicaid billings totaling \$15,653.68 for AOT services rendered in June 2021 despite telling the OIG that there was no AOT general ledger detail for June 2021.

Cause: The Contractor/Sub-Recipient continued to bill Medicaid for AOT services in June 2021.

Criteria: Part 200 Uniform Requirements, Cost Principles.

Effect: The Contractor/Sub-Recipient submitted Medicaid billings totaling \$15,653.68 for AOT services rendered in June 2021 that are not supported by the Contractor/Sub-Recipient's general ledger detail which could be considered improper payments under the AOT program.

Recommendation: The Contractor/Sub-Recipient must maintain support for all revenue and expenditures to support Medicaid billings in the event of a federal audit. The City should verify whether the billings to Medicaid for the AOT program have an effect on the SAMHSA funding.

City Department Response: The specifics of this finding do not pertain to the actions or internal controls of the City.

Contractor/Sub-Recipient Response: HopeWorks does maintain support for all revenue and expenditures to support Medicaid billings. This recommendation is false and unsubstantiated.

As provided to the OIG on 10/29/21, HopeWorks maintains strict processes and procedures for our Medicaid billing and is fully compliant with all federal regulations:

*In fact, our checks and balances, and our procedures for CCSS Medicaid billing, are comprehensive and detailed.*¹⁴¹⁵

In addition, there is no AOT general ledger detail because the program ceased to exist June 1, 2021, as was stated to the OIG already in our Timeline submitted 10/29/21:

- *5/10/21: The City decides to then retroactively force us to change the way we bill the City for AOT without any notice, and because we are not compliant, terminates our contract effective 6/1/21.*¹⁶ *The City states that "We have an obligation to ensure we receive adequate documentation detailing federal SAMHSA funds are being utilized for services not covered by Medicaid or other commercial health insurances. This is not a change in any contract or billing requirement, but rather is consistent with grant requirements, and the Agreement that HopeWorks signed." However, prior to May 2021, the City never asked for this documentation. It begs the question—why didn't the City implement this practice to being with?*
- *The City explains this oversight*¹⁷, *which doesn't make sense to us. We never stated that "this grant was in the "red" because the program was not fully funded by SAMHSA grant*

dollars,” which is why the City (Ellen) states that she is asking for the documentation now. We did state that hiring additional staff would put us even further in the red.¹⁸

This is standard Accounting practice, as the OIG states in her Recommendation under SA-2021-3, “The Contractor-Subrecipient should have an accounting system that segregates and accounts for each federal program revenue and expenditures...”

14 HopeWorks Medicaid Billing Documentation/Processes for supporting documentation.

15 HopeWorks Medicaid Billing – Accounting for supporting documentation.

16 Email A for supporting documentation.

17 Email H for supporting documentation.

18 Email N for supporting documentation.

SA-2021-6 Inadequate supporting documentation

Condition: The OIG noted that supporting documentation of paystubs and activity sheets for eight (8) employees payroll totaling \$7,602.97 were missing. Three (3) activity sheets for one (1) employee allocated to the AOT program were signed two (2) months after payment was made to the employee. Ten (10) activity sheets were not signed by the employee.

Cause: The Contractor/Sub-Recipient did not provide adequate supporting documentation with the request for reimbursements.

Criteria: The Contract between the City and the Contractor/Sub-Recipient Section 4. Compensation and Method of Payment B. (2) states “All requisitions for payment submitted by the Sub-Recipient must be supported by documentation of Services provided in the Sub-Recipient’s files.” Additionally, the Administrative Requirements for Contracts Awarded Under the City of Albuquerque Department of Family and Community Services and Part 200 Uniform Requirements.

Section 13. Accounting for DFCS Social Services Contract Funds states:

A. Basic Requirements for Proper Accounting of Funds

(1) Accounting System

The Contractor’s accounting system shall, at minimum, meet the following standards.

- (a) The system shall be designed so that no one person has access to all financial operations, procedures, and records.
- (b) The system shall clearly identify DFCS Social Services contract revenues and expenditures from those of other funding sources in posting to the books of account. The City may require the Contractor to maintain a separate banking account for DFCS Social Services contract funds, if required by state or federal regulations or deemed to be in the best interests of the City.
- (c) The system shall allow individual cost elements, including salaries and wages in their chart of accounts to be reconciled to the cost categories in the approved DFCS Social Services contract budget.
- (d) The system shall identify and segregate unallowable costs.
- (e) There shall be a filing system that is easily accessible which separates contract transactions in a consistent manner.
- (f) The system shall fully document all contract expenditures with invoices, statements, time sheets (i.e. PARS), and other source documentation signed by an authorized official.
- (g) The system shall assure that contract transactions are recorded and posted in the accounting books and records at least every thirty days.

- (h) The system shall provide for the separation of the accounting function from procurement (purchasing) and receiving.
- (i) The system shall be subject to internal controls sufficient to ensure the timeliness, accuracy and validity of the accounting data and that receipts and expenditures of the organization are made only in accordance with authorizations of management and directors of the organization, and with dual signatures as necessary to ensure adequate separation of duty and internal control.
- (j) The system shall require the Contractor to reconcile all bank accounts monthly and in accordance with authorizations of management and directors of the organization.

Effect: The City reimbursed the Contractor/Sub-Recipient without supporting documentation, violating the City’s policies as well as Part 200 Uniform Requirements.

Recommendation: The Contractor/Sub-Recipient should provide the supporting documentation to ensure that the costs can be validated and mitigate the possibility of additional unallowed costs resulting in reimbursement to the City. The City should require this information be provided immediately to verify if additional unallowable contract costs should be recouped from the Contractor/Sub-Recipient.

City Department Response: The specifics of this finding do not pertain to the actions or internal controls of the City.

However, regarding the portion of the finding indicating that “[t]hree (3) activity sheets for one (1) employee allocated to the AOT program were signed two (2) months after payment was made to the employee,” in correspondence between FCS and the Contractor/Sub-Recipient, between 2/9/21 and 2/25/21, the Contractor/Sub-Recipient was requested to provide accurate personnel activity reports, which resulted in the Contractor/Sub-Recipient obtaining signatures after the check was issued, per the City’s request. This is addressed in the attached email.

Contractor/Sub-Recipient Response: HopeWorks was not aware of missing documentation that was requested, other than that the OIG requested “paystubs for Ryan Delaware for 4/24/2020 and all of the paystubs for 6/4/21” in an email dated 11/29/21 at 3:15pm. This information was sent to the OIG on 11/30/2021 at 9:08am. Then the OIG asked for “activity time sheets for these individuals” on 11/30/21 at 9:45am and requested these the same day. Annam responded and told her that the information would not likely be provided on same day¹⁹. The OIG didn’t wait and released her report that same day at 5:09pm, not giving us the opportunity to provide this documentation.

The City would not accept requests for reimbursement without signed activity time sheets under normal circumstances. However, after internal review, it appears that COVID affected our ability to sign the sheets as many folks were working remotely, and the City accommodated this given that we were in the middle of a pandemic.

¹⁹ Email OIG for supporting documentation.

SA-2021-7 Discrepancies in payroll allocations to the AOT program

Condition: The OIG noted fourteen (14) discrepancies in payroll allocations to the AOT program, nine (9) where the Contractor/Sub-Recipient under allocated salaries of \$2,961.78 based on time spent on the AOT program and two (2) where the Contractor/Sub-Recipient over allocated salary of \$4,262.97 based on time spent on the AOT program. Additionally, there are questioned costs of \$2,569.40, related to the three (3) late signed activity sheets identified in Finding 6 for one (1) employee who was out of the office under the Families First Coronavirus Response Act (FFCRA) leave. The Contractor/Subrecipient allocated leave time to the City Contract. There is currently no policy regarding leave allocations to the contract where the leave was not accrued in relation to time spent working on the contract.

Cause: The City's inattention to detail led to the overpayment while a lack of controls over the Contractor/Sub-Recipient's allocation process led to the erroneous request for reimbursement. Additionally, the Contractor/Sub-Recipient allocated payroll expenditures to the contract for an employee who was on FFCRA leave that should have been allocated to their General Fund.

Criteria: The Contract between the City and The Contractor/Sub-Recipient Section 4. Compensation and Method of Payment B. (2) states "All requisitions for payment submitted by the Sub-Recipient must be supported by documentation of Services provided in the Sub-Recipient's files." Additionally, the Administrative Requirements for Contracts Awarded Under the City of Albuquerque Department of Family and Community Services and Part 200 Uniform Requirements.

Section 12. Budgetary Guidelines for Social Services Contracts

5. Compensation for Personnel Services

(c) Fringe Benefits:

- (i) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job such as vacation leave are allowable provided such costs are absorbed proportionately at the same proportion as each employee's salaries and wages in the budget. Accrued leave can be paid out in accordance with Agency standards, if and only if, the accrued leave was accrued while working on the City funded contract as part of regular pay.

- (iv) Charges to a City contract for salaries or wages, independent of appropriate charges for payroll taxes and fringe benefits, are not allowable. All request for salaries under a contact with the City shall also include requests for payroll taxes and fringe benefits required

by law and by organization personnel policies in proportion to the amount requested for salaries.

Section 13. Accounting for DFCS Social Services Contract Funds states:

A. Basic Requirements for Proper Accounting of Funds

(1) Accounting System

The Contractor's accounting system shall, at minimum, meet the following standards.

- (a) The system shall be designed so that no one person has access to all financial operations, procedures, and records.
- (b) The system shall clearly identify DFCS Social Services contract revenues and expenditures from those of other funding sources in posting to the books of account. The City may require the Contractor to maintain a separate banking account for DFCS Social Services contract funds, if required by state or federal regulations or deemed to be in the best interests of the City.
- (c) The system shall allow individual cost elements, including salaries and wages in their chart of accounts to be reconciled to the cost categories in the approved DFCS Social Services contract budget.
- (d) The system shall identify and segregate unallowable costs.
- (e) There shall be a filing system that is easily accessible which separates contract transactions in a consistent manner.
- (f) The system shall fully document all contract expenditures with invoices, statements, time sheets (i.e. PARS), and other source documentation signed by an authorized official.
- (g) The system shall assure that contract transactions are recorded and posted in the accounting books and records at least every thirty days.
- (h) The system shall provide for the separation of the accounting function from procurement (purchasing) and receiving.
- (i) The system shall be subject to internal controls sufficient to ensure the timeliness, accuracy and validity of the accounting data and that receipts and expenditures of the organization are made only in accordance with authorizations of management and directors of the organization, and with dual signatures as necessary to ensure adequate separation of duty and internal control.
- (j) The system shall require the Contractor to reconcile all bank accounts monthly and in accordance with authorizations of management and directors of the organization.

Effect: When combined, the discrepancies result in a \$3,870.59 over allocation to the AOT program that resulted in the City paying requests for reimbursements in excess of actual costs.

Recommendation: The City should retrain the employees to review the supporting documents congruent with the request for reimbursements and to identify discrepancies that are not valid contract expenses. The City should send a demand letter to the Contractor/Sub-Recipient for repayment of identified unallowable contract costs. The Contractor/Sub-Recipient must immediately repay the amount of contract overbilling in order to be compliant with the contract and federal requirements.

City Department Response: Family and Community Services will provide annual training on reviewing request for reimbursements, with the first training to be held February 2022 to allow time for preparation and calendaring. FCS will send a demand letter to the Contractor/Sub-Recipient for repayment of identified unallowable contract costs in the amount of \$3,870.59.

Additionally, the Administrative Requirements are currently under revision; the revisions will include updates to address instances when employees supported by City contracts are unable to sign the personnel activity report. The Administrative Requirements update is expected to be completed by March 30, 2022.

Contractor/Sub-Recipient Response: We do not have enough information provided in the report to respond to this finding. In particular, HopeWorks cannot respond to this request without knowing the following: Which salaries were over allocated? What specifically were the discrepancies? What is the time period? What is the OIG's methodology, and how did she determine this discrepancy?

SA-2021-8 City paid AOT requests for reimbursements despite alleging fraudulent activity with regard to billings

Condition: The City paid the Contractor/Sub-Recipient for requests for reimbursements despite advising them that that would be unable to release further City and grant funds for services already reimbursed by Medicaid.

Cause: The City did not follow through in withholding reimbursements.

Criteria: The Contract between the City and the Contractor/Sub-Recipient Section 4. Compensation and Method of Payment B. (1) states: The City agrees to pay such sum to the Sub-Recipient on a cost reimbursement basis at no more than bi-weekly but no less than quarterly intervals, and subsequent to receipt of a requisition for payment in compliance with the budgetary and fiscal guidelines of the City. Only those costs which are allowable under the terms of this Agreement and Exhibit A shall be reimbursed. The City shall withhold reimbursement to the Sub-Recipient for failure to perform the Services described in this Agreement and for failure to meet any other requirements of this Agreement. Payment will be withheld until such time as the Sub-Recipient is in full compliance with all the terms of this Agreement.

Effect: The City contributed to the overbilling on the contract of \$38,875.03 by not withholding payment for April 2021 and May 2021 until a determination of whether the Contractor/Sub-Recipient engaged in duplicate billings between the City contract and Medicaid.

Recommendation: The City should cease all reimbursements of contracts where there is a question of fraudulent activity until the matter has been satisfactorily resolved.

City Department Response: The Department Administrative Requirements at 13.B.(4)(vi), provide notice that “(vi) Payment of requests for reimbursement by the City does not constitute a judgment by the City as to whether or not the cost is allowable; such payments are subject to later review or audit.” The Department also provided notice to the Contractor/Sub-recipient of this specific provision in its letter dated August 11, 2021: “To clarify, execution of these [previously listed] contracts does not prevent the City from invoking all rights and remedies to ensure that any amounts charged to the contracts are being billed in accordance with City, state and federal requirements..., which includes” section 13.B.(4)(vi) of the Department Administrative Requirements.

The Department made the decision to reimburse the Contractor/Sub-Recipient to ensure continuity of services to our community’s most vulnerable population in the middle of a global pandemic. Specifically, Contractor/Sub-Recipient was providing the services related to the Assisted Outpatient Treatment program. Assisted Outpatient Treatment (AOT) is the practice of providing

community-based mental health treatment under civil court commitment, as a means of motivating an adult with mental illness who struggles with voluntary treatment adherence to engage fully with their treatment plan and focusing the attention of treatment providers on the need to work diligently to keep the person engaged in effective treatment. As the jail was depopulating to accommodate the ongoing COVID crisis, programs like AOT became more pivotal. FCS was not able to identify another provider that could timely provide those services.

FCS also mitigated risk by changing the funding source to City general funds, rather than federal funds, for reimbursement. FCS held a meeting with Contractor/Sub-Recipient executive leadership on 4-20-21 to address the need to have Medicaid program billing transparency. These agreements were confirmed in emails (4-22-21, 4-23-21) however, the Contractor/Sub-Recipient billing was received on 5-10-21 without the agreed upon documentation. Contractor/Sub-Recipient indicated on 5-21-21, they were prepared to end the contract because of the documentation requirements. FCS communicated on 5-21-21 the intent to end the contract and the need to prioritize client transition plans and notify court partners to stop pending AOT court cases. The Contractor/Sub-Recipient contract was terminated by FCS effective June 1, 2021, for cause.

As noted above, on 6-25-21, City Executive Leadership and FCS met with Contractor/Sub-Recipient's Board Members to discuss concerns about inability to receive documentation per the contract. Presumably because the Contractor/Sub-Recipient's board took the City's concerns seriously, on 7-20-21, FCS received Medicaid billing information for February, March, April and May 2021. On 8-11-21, FCS exercised its ability under the FCS Department Administrative Requirements by notifying the agency of intent to conduct a contract audit.

Contractor/Sub-Recipient Response: HopeWorks and the City have had discussions about the AOT contract and program in the normal course of management and monitoring of this contract. During these conversations, the City tried to change its billing practice midstream, as stated to the OIG in the Timeline submitted on 10/29/21:

- *4/22/21: City (Ellen) sends an email to HW (Jeff) asking HW to change the way we bill the City for AOT (which we do not recall was discussed in the 4/20 ZOOM meeting, as the City indicates).²⁰*
 - *This midstream change in billing was disruptive and burdensome to our Finance and Program staff. HW indicated this to the City already. **Midstream, unexpected, and not agreed-upon changes to the way we run programs affect our ability to serve our clients.***

As stated in our Timeline to the OIG, the City never used the word “fraud” or let us know that HopeWorks was under investigation for fraud until after the publication of our editorial criticizing the City and Mayor’s strategy for combatting homelessness:

- *6/14/21 (this date may be off by a day or two): Only a few days after our editorial is published, the Mayor calls HW Board Members (Mark Fidel and Cathy Cavanaugh, a childhood friend, both no longer on our Board) and states that HW is being investigated internally for Medicaid fraud. HW had no prior knowledge of this allegation until the Mayor's call. **It is very clear that the editorial sparked the complaint to the Inspector General's office and a subsequent investigation. The timing causes us to believe the Mayor's threat is retaliatory and a violation of our First Amendment right to speak on a topic of grave importance—the homelessness crisis in Albuquerque. The Mayor also made it clear that the editorial could jeopardize HW's relationship with the City. To be clear, HW's opinion about the Gateway Center, which was perfectly valid and constitutionally protected, should have never factored into the ongoing relationship between HW and the City.***
- *Sarita Nair also calls HW Board Members Marty Mathisen (actual date unknown) and Liz Heaphy (actual date unknown). This is also to discuss allegations of Medicaid fraud committed within the AOT contract.*

The suggestion that HopeWorks may have engaged in “fraudulent activity” is inflammatory and irresponsible. As we’ve already indicated to the OIG in our Timeline, we are concerned the timing of the IG’s investigation supports our belief that the City has initiated this process in retaliation for HopeWorks’ exercise of its First Amendment right to speak out on an issue of significant public importance, including by criticizing the City and Mayor. This is supposed to be an independent investigation, but the facts and circumstances surrounding the initiation of the investigation, the OIG’s refusal to disclose information and details concerning its findings, calls into question and unnecessarily corrupt the integrity of the process.²¹

²⁰ Email I for supporting documentation.

²¹ As further proof of this, HopeWorks made a reasonable request to obtain and review the backup information supporting the OIG’s findings and recommendations and asked for a short extension to provide informed and detailed responses. The OIG responded by denying the request for additional time and only offered a short window (essentially a day) for HopeWorks to meet with the OIG to review the OIG’s file. All of this leads us to believe that the OIG’s findings and recommendations are one-sided, predecisional, and likely the result of pressure from the City’s leadership.

SA-2021-9 Questioned costs related to federal program expenditure and PPP reimbursements

Condition: The OIG noted three (3) AOT employees whose allocated payroll to the AOT program and to the general fund were in excess of the total payroll paid for the PPP period by \$6,564.96.

Cause: The Contractor/Sub-Recipient did not detect deficiencies in allocations posted to its general ledger records.

Criteria: Part 200 Uniform Administrative Requirements Basic Guidelines except where otherwise authorized by statute, cost must meet the following general criteria in order to be allowable under federal awards;

1. Be necessary and reasonable for the performance of the federal award and be allocable thereto under the principles in 2 CFR part 200, subpart E.
2. Conform to any limitations or exclusions set forth in 2 CFR part 200, subpart E or in the federal award as to types or amount of cost items.
3. Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-federal entity.
4. Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.
5. Be determined in accordance with generally accepted accounting principles (GAAP), except for state and local governments and Indian tribes only as otherwise provided for in 2 CFR part 200.
6. Not be included as a cost or used to meet cost-sharing or matching requirements of any other federally financed program in either the current or a prior period.
7. Be adequately documented.

Effect: Questioned costs of at least \$6,564.96 related to the AOT federal program expenditures and PPP reimbursements.

Recommendation: To ensure compliance with federal funds and with PPP loan forgiveness, all wages allocated between federal programs and general funds should be evaluated to determine if the Contractor/Sub-Recipient properly claimed payroll for the purpose of the PPP loan forgiveness. Any amounts allocated to federal programs that were reimbursed under other contracts and PPP should be identified and reimbursed by the Contractor/Sub-Recipient.

City Department Response: This finding does not pertain to the actions or internal controls of the City.

The Department contracts with the Contractor/Sub-Recipient for a multitude of services, with contribution from federal funds in the approximate amount of \$1,922,532. The Department provided notice to the Contractor/Sub-recipient in a letter dated August 11, 2021, that while we intended to begin with the contract reviewed in these Findings and Recommendations, the audit “may include any or all other executed contracts between the City and [contractor].”

Based on the results of this audit and the continued lack of cooperation with the OIG documented in the Condition in Finding SA-2021-6 above, we hereby respectfully request the Office of Inspector General to review ALL federally funded contracts with the Contractor/Sub-Recipient to ensure this faulty practice was not utilized in other contracts.

Contractor/Sub-Recipient Response: We do not have enough information provided in the report to respond to this finding. Where does this discrepancy come from, and how was it calculated? There is no cited evidence in this report.

In addition, the Recommendation states, “Any amounts allocated to federal programs that were reimbursed under other contracts and PPP should be identified and reimbursed to the Contractor-Subrecipient.” So is the OIG suggesting that we pay ourselves?

HopeWorks’ CFO spent hours on 11/19/21 in person providing support and documentation directly from our accounting software and records to demonstrate to the OIG that PPP was not used to pay for salaries already collected under a federal grant. HopeWorks understands that this was a regulation of the PPP and did not violate this regulation.

Also, under Condition, the OIG states that “(3) AOT employees whose allocated payroll to the AOT program and to the general fund were in excess of the total payroll paid for the PPP period by \$6,564.96.” Who are these employees? How was this discrepancy calculated?