Part VII:
Departmentwide Issues

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Note: selected acronyms and abbreviations of terms, titles, organizations, and laws used in the Work Plan are spelled out in Appendix B.

Departmentwide Issues

Certain financial, performance, and investigative issues cut across Department of Health & Human Services (HHS) programs. The Office of Inspector General's (OIG) work in progress and planned work address departmentwide matters, such as financial statement audits; financial accounting; information systems management; and other departmental issues, including discounted airfares and protections for people who have disabilities in residential settings.

Although we have discretion in allocating most of our non-Medicare and non-Medicaid resources, a portion is used for mandatory reviews, including financial statement audits conducted pursuant to the Government Management Reform Act of 1994 (GMRA), § 405(b); the Chief Financial Officers Act of 1990 (CFO Act); and information systems reviews required by the Federal Information Security Management Act of 2002 (FISMA).

The GMRA seeks to ensure that Federal managers have the financial information and flexibility necessary to make sound policy decisions and manage scarce resources. The GMRA broadened the CFO Act by requiring annual audited financial statements for all accounts and associated activities of HHS and other Federal agencies and components of Federal agencies, including the Centers for Medicare & Medicaid Services (CMS).

Descriptions of OIG's reviews of departmentwide matters in fiscal year (FY) 2011 follow.

Financial Statement Audits

Audits of Fiscal Years 2010 and 2011 Financial Statements

We will review the independent auditor's workpapers to determine whether financial statement audits of HHS and its components were conducted in accordance with applicable laws and regulations. The purpose of a financial statement audit is to determine whether the financial statements present fairly, in all material respects, the financial position of the audited entity for the specified time period. The audited consolidated HHS FY 2010 financial statements are due to the Office of Management and Budget (OMB) by November 15, 2010; for FY 2011, they are due by November 15, 2011.

The following FY 2010 financial statement audits will be completed and reports will be issued during FY 2011:

- Consolidated HHS – This audit incorporates all operating divisions, including CMS, which will receive a separate audit report (listed below).
  (*OAS; W-00-10-40009; A-17-10-00001)*

- CMS – *(OAS; W-00-10-40008; A-17-10-02010)*

The following FY 2011 financial statement audits will be completed and reports will be issued during FY 2012:

- Consolidated HHS – This audit will incorporate all operating divisions, including those that will receive separate audit reports (listed below). *(OAS; W-00-11-40009)*

- CMS – *(OAS; W-00-11-40008)*

Fiscal Year 2011 Statement on Auditing Standards Examinations

We will review an independent auditor's workpapers to determine whether examinations of HHS's service organizations were conducted in accordance with applicable laws and regulations. Such examinations are conducted in accordance with Generally Accepted Government Auditing Standards and the American Institute of Certified Public Accountants' *Statement on Auditing Standards (SAS) No. 70, Service Organizations*, commonly referred to as SAS 70 examinations. SAS 70 examinations report on the controls of service organizations that may be relevant to the user organizations' internal control structures. The following SAS 70 examinations of HHS service organizations will support FY 2011 financial statement audits and will be issued during FY 2011:

- Center for Information Technology (NIH Computer Center)
  (OAS; W-00-11-40012; *A-17-11-00010)*

- Payment Management System
  (OAS; W-00-11-40012; A-17-11-00009)

Fiscal Years 2010 and 2011 Financial-Related Reviews

The purpose of the financial-related reviews is to fulfill requirements in OMB Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, §§ 6.11 and 13.

The FY 2010 financial-related reviews that will be issued during FY 2011 are:

- Closing-Package Audit Reports for the Governmentwide Financial Report System. These audit reports are intended to support the preparation of governmentwide financial statements and reports.
  (OAS; W-00-10-40009; A-17-10-00006)

The FY 2011 financial-related reviews that will be issued in FY 2011 are:

- Payroll Agreed-Upon Procedures. These procedures focus on reviewing the official personnel files for selected HHS employees to assist the Department of Defense (DOD)

OIG in performing the OMB Bulletin 07-04, *Audit Requirements for Federal Financial Statements*, Section 11, Agreed-Upon Procedures.
(OAS; W-00-11-40009; A-17-11-00008)

- Department of State Agreed Upon Procedures. These procedures focus on reviewing certain financial information for allocation transfers from the Department of State (DOS) to HHS under the President's Emergency Plan for AIDS Relief (PEPFAR) program. OMB Bulletin 07-04 paragraph 6.05 requires auditors to work together to ensure that allocation transfers receive audit coverage that in the transferring agency auditor's professional judgment is required as part of the annual financial statement audit. The procedures are performed in accordance with the American Institute of Certified Public Accountants' attestation standards.
(OAS; W-00-11-40009; A-17-11-0001)

The FY 2011 financial-related reviews that will be issued during FY 2012 are:

- Closing-Package Audit Reports for the Governmentwide Financial Report System. These audit reports are intended to support the preparation of governmentwide financial statements and reports.
(OAS; W-00-11-40009; A-17-11-00006)

Other Financial Accounting Reviews

The President's Emergency Plan for AIDS Relief Funds

We will review the effectiveness of HHS's accounting for and control of funds received under the PEPFAR program. HHS received PEPFAR funds from both the annual HHS appropriation and the Foreign Operations appropriation. PEPFAR funds support international programs for acquired immunodeficiency syndrome (AIDS) prevention, treatment, and care.
(OAS; W-00-10-52300; W-00-11-52300; expected issue date: FY 2011; work in progress and new start)

Public Welfare Cost Allocation Plan

We will review the cost allocation plan submitted by one State. The State contracted to have its cost allocation plan prepared. ACF has informed us that the plan may be unsupportable and that the State has been required to revise it. The Code of Federal Regulations (CFR) at 45 CFR pt. 95, subpart E, require that cost allocation plans conform to the accounting principles and standards in OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*. We will determine whether State agency costs have been allocated correctly among various Federal programs and whether claims submitted by the State based on the cost allocation plan were supported and claimed in accordance with Federal criteria pertinent to the State agency.
(OAS; W-00-11-52310; expected issue date: FY 2011; new start)

Annual Accounting of Drug Control Funds

We will review HHS agencies' compliance with the requirement at 21 United States Code (U.S.C.) § 1704 that agencies expending funds on National Drug Control Program activities submit to the Office of National Drug Control Policy (ONDCP) an annual accounting of the expenditure of drug control funds. ONDCP policy also requires that an agency submit with its annual accounting an authentication by the agency's OIG, in which the OIG expresses a conclusion on the reliability of the agency's assertions in its accounting. We will submit this authentication with respect to HHS's FY 2010 annual accounting.
(OAS; W-00-11-52312; expected issue date: FY 2011; new start)

Use of Appropriated Funds in Program Support Center Contracting

We will review the appropriateness of the Program Support Center's obligation of appropriated funds for services it obtains through contracts to ensure that appropriated funds were used only during the period of availability in accordance with the Anti-Deficiency Act of 1950 (Anti-Deficiency Act) and, pursuant to 31 U.S.C. § 1502, were used only for a bona fide need arising in the FY for which the appropriation was made. Key provisions of the Anti-Deficiency Act prohibit the Government from obligating or expending funds in advance of an appropriation unless authorized by law as required by 31 U.S.C. § 1341(a)(1). We will review contracts and contract modifications issued by the Program Support Center to determine whether appropriated funds were used in accordance with the Anti-Deficiency Act.
(OAS; W-00-11-52313; expected issue date: FY 2011; new start)

Reasonableness of Prime Contractor Fees

We will review fees negotiated for prime contracts that involve significant subcontractor efforts. Federal acquisition laws and regulations, i.e., 10 U.S.C. 2306(d), 41 U.S.C. 254(b), and Federal Acquisition Regulation (FAR) 15.404-4(b)(4)(i)), impose limits on the amount of fee that can be negotiated with a contractor. Subcontractor fees are typically considered "costs" to the prime contractor and may not be considered during the Government's negotiations with the prime contractor. This "fee on fee" situation may result in fees that exceed the limits established in Federal laws and regulations. We will determine whether the Government negotiated reasonable fees for such prime contracts taking into consideration any fees the prime contractor expected to pay subcontractors.
(OAS; W-00-11-52320; expected issue date: FY 2011; new start)

Contracting Procedures

We will review HHS's contracting procedures by performing a risk assessment. HHS's contracting procedures are subject to the FAR and the HHS Acquisition Regulation (HHSAR). We will determine the scope of HHS contracting for goods and services and determine whether there are risks in this process that would require reviews by OIG.
(OAS; W-00-11-52314; various reviews; expected issue date: FY 2011; new start)

Non-Federal Audits

We will continue to review the quality of audits conducted by non-Federal auditors, such as public accounting firms and State auditors, in accordance with OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations.* State, local, and Indian tribal governments; colleges and universities; and nonprofit organizations receiving Federal awards are required to have annual organizationwide audits of all Federal funds that they receive. Our reviews ensure that the audits and reports meet applicable standards, identify any followup work needed, and identify issues that may require management attention. As part of our reviews of A-133 audits, we will ensure that the auditors have audited and reported in compliance with provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act). OIG also provides upfront technical assistance to non-Federal auditors to ensure that they understand Federal audit requirements and to promote effective audit work. We analyze and record electronically the audit findings that are reported by non-Federal auditors for use by HHS managers. Our reviews provide HHS managers assurance about the management of Federal programs and identify significant areas of internal control weaknesses, noncompliance with laws and regulations, and questioned costs that require formal resolution by Federal officials.

Reimbursable Audits

We will conduct a series of audits as part of HHS's cognizant responsibility under OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. To ensure a coordinated Federal approach to audits of colleges, universities, and States, OMB establishes audit cognizance, that is, it designates which Federal agency has primary responsibility for audit of all Federal funds the entity receives. Accordingly, HHS OIG has audit cognizance over all State governments and most major research colleges and universities. Agreements are reached with other Federal audit organizations or other Federal agencies to reimburse the HHS OIG as the cognizant audit organization for audits that HHS OIG performs of non-HHS funds. *(OAS; W-00-11-50012; various reviews; expected issue date: FY 2011; new start)*

Requested Audit Services

Throughout the year, Congress, HHS, and other Federal organizations request that we perform a variety of audit services. Such services include

- recipient capability audits,
- contract and grant closeouts,
- indirect cost audits,
- bid proposal audits, and
- other reviews designed to provide specific information requested by management.

We evaluate requests as we receive them, considering such factors as why the audit is being requested, how the results will be used, when the results are needed, and whether the work is cost beneficial.

Compliance with Executive Order 13520: Reducing Improper Payments

We will review certain aspects of CMS's compliance with Executive Order 13520 on reducing improper payments. The Executive Order requires Federal agencies to reduce improper payments by intensifying efforts to eliminate payment errors, waste, fraud, and abuse in major programs administered while continuing to ensure that Federal programs serve and provide access to the intended beneficiaries. Pursuant to the Executive Order, CMS is required to provide to OIG each high priority program's improper payment measurement methodology, plans to meet reductions targets, and plans for ensuring that the initiatives undertaken pursuant to this order do not hinder program access for eligible beneficiaries. We will assess the level of risk associated with the applicable programs, determine the extent of oversight warranted, and provide CMS any recommendations for modifying its methodology, improper payment reduction plans, or program access and participation plans.
(OAS; W-00-10-40047; W-00-11-40047; various reviews; expected issue date: FY 2011; work in progress)

Automated Information Systems

Information System Security Audits

We will review the reliability of the Information System Security Program at several operating divisions. HHS and its components are responsible for administering and implementing this security program in compliance with FISMA and directives issued by OMB and the National Institute of Standards and Technology. To date, several reviews have been conducted to determine compliance with HHS-mandated security program requirements.
(OAS; W-00-10-42000; W-00-10-42020; W-00-11-42000; expected issue date: FY 2011; work in progress and new start)

Federal Information Security Management Act of 2002 and Critical Infrastructure Protection

We will review various HHS operating divisions' compliance with FISMA and critical infrastructure protection requirements. FISMA and OMB Circular A-130, *Management of Federal Information Resources*, Appendix III, require that agencies and their contractors maintain programs that provide adequate security for all information collected, processed, transmitted, stored, or disseminated in general support systems and major applications. As part of our review, we will follow up on the unresolved findings from prior reviews of information systems controls.
(OAS; W-00-10-42001; W-00-11-42001; various reviews; expected issue date: FY 2011; work in progress and new start)

Information Technology Systems' General Controls

We will review the adequacy of information technology security general controls of selected HHS systems using Departmental, OMB, and FISMA guidance and regulations. Recent legislation and OMB directives have focused on safeguards for critical systems' assets and infrastructures.

OAS; W-00-10-42002; W-00-11-42002; various reviews; expected issue date: FY 2011; work in progress and new start)

Other Departmental Issues

Use of Discounted Airfares by Employees

We will review HHS employees' use of discounted airfares. Under a General Services Administration (GSA) agreement negotiated with airlines, Government employees traveling on Government business may be eligible for discounted airfares, known as a City Pair With Capacity Limits. The Federal Travel Regulation (FTR), 41 CFR § 301-10.106, requires Federal travelers to use a GSA contract carrier when available. According to the results of a prior review, capacity-controlled coach-class fare may not be used as often as mandated by the FTR. We will determine the extent to which HHS's travelers obtain discount airfares and whether there are opportunities to increase the use of the discount airfares.

(OAS; W-00-11-58125; expected issue date: FY 2011; new start)

State Protections for People Who have Disabilities in Residential Settings

We will review actions taken by CMS, the Administration for Children & Families (ACF), the Substance Abuse and Mental Health Administration (SAMHSA), and the Food and Drug Administration (FDA) on OIG recommendations to work cooperatively to provide information and technical assistance to States for strengthening State protections for people who have disabilities in residential settings. Several HHS operating divisions fund programs or services that play a role in protecting people who have disabilities from abuse or neglect. For facilities receiving Medicare or Medicaid, CMS has established conditions of participation. For facilities not subject to CMS oversight, there are limited Federal standards, partly because of HHS's limited statutory authority.

(OAS; W-00-11-58126; expected issue date: FY 2011; new start)

Classifications of Federal Pass-Through Funding Recipients

We will review the appropriateness of States' classifications of recipients of Federal pass-through funds. State agencies determine whether they are passing through Federal funds in the form of Federal financial assistance to subgrantees or whether they are contracting with vendors. OMB Circular A-133, subpart B, § 210, provides guidance on distinguishing between subrecipients and vendors. There is an advantage to the recipient of the pass-through funds if the recipient is treated as a vendor. Vendors may enter into fixed-price contracts that allow retention of unused funds, whereas subgrantees must return unspent Federal funds to the State

agency. In one State we will examine why the State awarded funds to a university as a vendor when the State had previously treated this university as a subrecipient.
(OAS; W-00-11-58127; expected issue date: FY 2012; new start)

Pre-Existing Condition Insurance Plans

We will review the controls the Office of Consumer Information and Insurance Oversight (OCIIO) and States have in place to prevent and identify fraudulent health care claims for individuals covered by Pre-Existing Condition Insurance Plans (PCIP). PCIPs are temporary high-risk health insurance pool programs that provide health insurance coverage to uninsured individuals who have pre-existing conditions. The program was mandated by the Patient Protection and Affordable Care Act (Affordable Care Act). § 1101. Funding for PCIPs became available on July 1, 2010 and interim final regulations governing PCIPs went into effect July 1. The program will continue until Health Insurance Exchanges begin operating in 2014. Federal regulations at 45 CFR §152.27(a) require each PCIP to develop, implement, and execute operating procedures to prevent, detect, recover payments (when applicable or allowable), and promptly report to HHS incidences of waste, fraud, and abuse. OCIIO will partner with other Federal agencies and non-profit entities to maintain a network of health care providers and adjudicate claims. We will also examine the effectiveness of Federal agencies in working together to administer the PCIP program.
(OEI; 00-00-00000; expected issue date: FY 2012; new start)