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Report of Investigation

FILE NO: 23-0005-N

SUBJECT MATTER: Alleged improper use of the Child Care Stabilization Grant funds by inappropriately compensating City employees through bonuses.

STATUS: FINAL

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10/24/2024

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11/14/2024

Date of Review

DISTRIBUTION:

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Members, Accountability and Government Oversight Committee
File

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EXECUTIVE SUMMARY

The City of Albuquerque Office of Inspector General conducts investigations, inspections, evaluations, and reviews following the Association of Inspectors General (AIG) standards.

According 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.

The Office of Inspector General (OIG) received an anonymous tip alleging improper use of Child Care Stabilization Grant funds by inappropriately compensating City employees through bonuses. The grant outlines specific criteria on what and how the funds can be utilized.

The OIG determined that the allegations contained elements of potential fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation to determine whether there were any violations of the Grant Agreement and City Resolution R-22-17.

The following summarizes the findings, recommendations, and subsequent matters.

FINDINGS

1. The evidence obtained by the OIG substantiates that employees, including high-ranking department personnel, received several premium pay disbursements in violation of NM ECECD ARPA Child Stabilization grant allowable personnel costs which states: "Wages and benefits for child care program personnel, including increases in compensation for any staff in a child care center or family child care providers and their employees..... costs include ongoing professional development or training, premium or hazard pay, staff bonuses....", and CCDF-ACF-IM-2021-02 from the U.S. Department of Health and Human Services, Office of Child Care resulting in questionable expenditure of grant funds totaling an amount of \$287,972.77.

RECOMMENDATIONS

1. The City should determine if the premium pay disbursements given to the twenty-seven (27) employees in question should be recouped or if the expenditures should be reallocated to the City's General Fund and repaid to the Granting Authority.
2. The term "one-time premium pay" can be misleading. The City should define "one-time premium pay" for future documents.
3. The department should provide grant information and training to approvers to ensure they are aware of what expenditures are authorized by each grant and that approvers ensure that they review the entire document before expending funds.

4. The City should implement written procedures for future premium pay considering who is eligible and how the monetary amounts will be determined for future premium pay disbursements.
5. The City should ensure that only authorized personnel complete applications and that the authorized person filling out the application should be the actual signatory on the form.
6. The City should ensure that electronic signatures of employees are controlled and monitored to mitigate unauthorized use.

SUBSEQUENT MATTERS

1. Each of the twenty-one (21) grant applications submitted, included dates and electronic signatures of each site manager (Head Teacher) despite being completed by the Division Manager, E1. Completing and signing the application forms for the site managers (Head Teachers) was intentional and misleading and transferred risk to each Head Teacher.
2. One application included the electronic signature of an employee no longer actively employed with the City.
3. The “Total Capacity” on several of the grant applications did not match the CDC Operator’s License “Total Capacity” which may have contributed to a greater dollar amount received for the grants.

RECOMMENDATIONS

1. The City should implement written procedures for determining who is eligible and how the monetary amounts of future premium pay disbursements.
2. The City should ensure that only authorized personnel complete applications with accurate information and that electronic signatures are controlled to mitigate unauthorized use.
3. The City should work with NM ECECD to determine the actual total capacity for each CDC to ensure future grants have the correct information when determining grant amounts.

ABBREVIATIONS

CAO:	Former Chief Administration Officer
CDC:	Child Development Center
CITY:	City of Albuquerque
CREC:	Central Regional Educational Cooperative
D1:	Former Director
DD1:	Deputy Director
E1:	Division Manager
FCS:	Family and Community Services Department
HR1:	HR Employee
HT1:	Head Teacher
NM ECECD:	New Mexico Early Childhood Education and Care Department
OIG:	Office of Inspector General

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 (City) to safeguard and preserve public trust.

Allegation

The OIG received an anonymous tip alleging the improper use of Child Care Stabilization Grant funds by inappropriately compensating City employees through bonuses. The grant outlines specific criteria on what and how the funds can be utilized.

Background

The American Rescue Plan Act of 2021 signed on March 11, 2021, included funding for Child Care Stabilization grants to be allocated to states, territories, and tribes.

The goal of the Child Care Stabilization grants was to provide financial relief to childcare providers to help defray unexpected business costs associated with the pandemic and to help stabilize their operations so that they may continue to provide care. Childcare providers may use subgrants to cover a range of expenses such as personnel costs; rent or mortgage payments; insurance; facility maintenance and improvements; personal protective equipment (PPE) and COVID-related supplies; training and professional development related to health and safety practices; goods and services needed to resume providing care; mental health supports for children and early educators; and reimbursement of costs associated with the current public health emergency.¹

¹ <https://childcareta.acf.hhs.gov/child-care-stabilization-grants>

The State of New Mexico through the Federal American Rescue Plan (ARP) Act, Child Care Stabilization Grant approved funding to the City as a subrecipient.

An Inter-Office Memorandum dated May 2, 2022, was sent from Mayor Timothy Keller to City Council President Isaac Benton through Council Bill No. R-22-17 requesting approval and authorization for the Mayor to execute a grant agreement with NM ECECD for the period 09/21/2021 to 09/30/2023.

On April 18, 2022, the Albuquerque City Council approved R-22-17 (**See Exhibit 1**) which stated:

Approving And Authorizing The Mayor To Execute A One-Time Grant Agreement With The New Mexico Early Childhood And Care Department Via American Rescue Plan Federal Funds, And Providing An Appropriation To The Department Of Family And Community Services For Fiscal Year 2022 For The Grant Term Of 9/21/2021 Through 9/30/2023

The City's Department of Family and Community Services² (FCS) applied for twenty-one (21) Child Care Stabilization Grants from the NM ECECD totaling \$8,855,600.00. Each grant was for a facility that offered early childhood education.

SCOPE AND METHODOLOGY

Scope: Grant information and data regarding payments from the grant to NMECED City employees. The OIG reviewed the premium payments.³ for the two (2) disbursements posted to the general ledger in July and December 2022.

The methodology consisted of:

- Research Grant Documentation
- Research City Data
- Conduct information-gathering interviews
- Review City policies and procedures
- Review Resolution R-22-17
- Research the web for grant information
- Review of federal and state documentation
- Interviews

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

² During the investigative process the Department of Family of Community Services was split into two (2) departments, the Department of Health, Housing & Homelessness and the Department of Youth & Family Services.

³ During the course of the investigation grant disbursements were called, one-time premium payments, premium payments, retention incentives, incentives, stipends, staff bonuses, and one-time differential pay. To be consistent in the report the OIG used premium pay throughout the report.

INVESTIGATION

Allegation: Improper use of Child Care Stabilization Grant funding by inappropriately using these funds to compensate City employees through bonuses contrary to the terms of the Granting authority.

Evidence:

PeopleSoft Data
 Information received from the Department of Finance and Administration
 Interviews
 Personnel Rules and Regulations
 Resolution R-22-17
 Federal and State information regarding grant
 Grant Agreements

Interviews:

E1 Interview:

E1 was asked if E1 was familiar with the NM ECECD Child Stabilization grant and how the City applied for and was granted the funding and how the funding was to be used. E1 replied yes. E1 was asked to define premium pay as referred to in R-22-17. E1 stated they did not know the definition of premium pay, but that R-22-17 did address retention incentives and recruitment. E1 stated that there was a presentation-type meeting where NM ECECD talked about the grant where they explicitly stated funds would be used for retention and recruitment. This was also addressed in R-22-17. The OIG asked whether NM ECECD provided examples. E1 stated they did not. E1 stated that under allowable cost, the presentation referred to ongoing professional training, premium or hazard pay, staff bonuses, and transportation costs.

When asked how it was determined who would receive premium pay from the grant, E1 stated all employees who conducted work on behalf of the division. E1 stated there was a meeting between the Deputy Director (DD1), Former Director (D1), and HR (HR1) to discuss the premium pay. E1 stated that the amounts were determined using E1's vision and what E1 wanted to give E1's employees. It was up to the D1 and DD1 to approve the amounts. HR1 also reviewed a list of employees and amounts to see if they were okay. The amounts were also based on the funding awarded to each center. The former Chief Administration Officer (CAO) also had to sign off on an approval memo. E1 stated that there were also other grants used for retention incentives so that no employees were left out. This was done using another funding stream.

Regarding the language in R-22-17, E1 was asked to explain "one-time premium pay" and how it was to be disbursed. E1 replied, "one-time" meaning not part of their salary, E1 stated that it does not mean once and never again. The OIG asked who determined the definition of "one-time premium pay"? E1 stated that at the time, E1, D1, and DD1 knew it was going to be multiple disbursements. E1 stated that the Fiscal Manager and the Grant Administrator also assisted with administering the grant.

The OIG asked E1 to explain how upper-level staff, including E1, received the premium pay disbursement and how the dollar amounts were chosen. E1 stated it was pretty much the same across the board. It was determined that anyone who does work for the department/division could be a recipient of the one-time premium pay. E1 stated that for other providers outside of the City, all their personnel are under one roof, and for the City, it looks different. E1 stated, “including ancillary staff or support staff wasn’t like in violation because all people who did work on behalf.” (The OIG took this statement to mean work was done on behalf of the division.) “The amounts were the same, consistent same amounts.” E1 stated that there was one instance for E1 when E1 was made an Associate Director and E1 could no longer be a premium pay recipient. E1 stated that E1 never included their name on the list of premium pay grant recipients when E1 submitted it to DD1. DD1 decided to give E1 the premium pay disbursement. E1 said the pay period came and there was \$9,000 in E1’s account. E1 asked DD1, and DD1 stated that E1 was not overpaid. OIG asked if E1’s grant bonus was a percentage or how it was determined. E1 did not know how DD1 determined the amount. E1 stated that for the longest time, E1 did not touch the money in case someone wanted it back. E1 stated that it did not feel right that DD1 “bumped” up the premium pay disbursement to more than the other employees were receiving. The OIG asked if DD1 received a bonus. E1 stated that E1 did include DD1 on the list to receive premium pay. E1 stated that the scope of DD1’s work made DD1 an eligible person. Later, it was determined that DD1 should not have received the one-time premium pay based on DD1’s role as a department deputy director. When E1 initially made the one-time premium pay list, E1 had included D1. E1 later removed D1 from the list. The OIG pointed out to E1 that earlier E1 stated that D1 had determined DD1 should not have received the one-time premium pay. The OIG asked if the bonus received by DD1 was repaid. E1 did not know and stated that DD1 did not know DD1’s name was on the list.

The OIG asked E1 how they could justify these premium pay disbursements when E1 was earning a salary of approximately \$88,000 and DD1 was earning approximately \$123,000. E1 stated this money was for retention. E1 stated the retention was for teachers, trying to maintain the teachers and the staff. The others were for incentivizing employees for the work they did on behalf of the division, grant, or the work put in. E1 gave examples of directors, administrative staff, bus drivers, facility staff, human resources, and maintenance staff, stating they all worked on behalf of the Division. The OIG asked if E1 or anyone considered that maybe teachers and direct support staff for the centers should have received more than the other support staff. E1 stated no, it did not come up, and that they wanted to be consistent across the board. E1 stated that all payments went through D1 and DD1 and then got signed off by the CAO.

In R-22-17, The Mayor states that the funding will solely be expended for E-Pre-K, Pre-K, and Pre-school staff, classrooms, and centers. The OIG asked how E1 determined that E1 and the others should receive the one-time premium pay from the grant. E1 replied that E1 did not see that part. E1 stated that the list submitted always included ancillary staff providing direct support to centers. OIG asked if fiscal staff worked on other items besides the work for E1’s division. E1 stated that 100 percent of their efforts were not for E1’s division.

The OIG asked how E1 could justify giving the one-time premium pay to an employee in the payroll division. E1 stated they processed the payroll for the division. E1 stated that they explained that in their mind a stand-alone center has all these components of people. If we were a stand-alone those roles would be in place. The OIG asked if the payroll person was performing

their job duties. E1 replied, “We can say that for everyone.” E1 thought E1 was doing the right thing. The OIG asked E1 if they could see how this might be perceived. E1 stated yes. The OIG asked if anyone else raised any concerns or questions about the one-time premium payments such as how they were determined, and to whom they were issued. E1 stated no. E1 stated that E1 thought it was a good opportunity to do something good for E1’s “folks”. This opportunity was pretty amazing, we upgraded classrooms, playgrounds, and got new furniture for the kids. With the pandemic, there were a lot of unknowns. E1 stated that they did not think doing something good for E1’s people was wrong. E1 stated E1 thought they were protected with the guidance on allowable expenses and having key City Management overseeing and approving the disbursements.

DD1 Interview:

The OIG asked if DD1 was aware of the grant requirements and how it was to be used. DD1 stated, “for the most part”. The OIG asked DD1 who made the decisions on how the money for the twenty-one (21) NM ECECD grants would be spent. DD1 replied that E1 would submit the information for approval to DD1 for review and then D1 would review.

DD1 was asked to define premium pay as stated in R-22-17 and DD1 replied that they could not. DD1 was asked how it was determined who would receive premium pay. DD1 stated they believed that “it is in the grant itself on who could receive premium pay”. DD1 was asked how the premium pay amounts were determined. DD1 stated no mathematical formula was utilized. There were conversations on what would be distributed based on a number that was fair and what each employee deserved.

The OIG pointed out that in R-22-17 the Mayor stated that the disbursement would be a one-time premium pay disbursement. The OIG asked why there were multiple premium pay disbursements. DD1 stated the grant allowed for that. DD1 stated they did not know who put together the resolution, did not know the thought process and DD1 did not review the legislation.

The OIG advised DD1 that finance and upper administration including DD1 were given up to two (2) premium pay disbursements, one in July and one in December of 2022. DD1 was asked to explain how those amounts were determined. DD1 stated that without seeing who received the premium pay disbursements they could not answer.

The OIG stated to DD1 that the grant states premium pay disbursement could be used for retention incentives and recruitment. DD1 was asked what the justification for premium pay grant disbursements to the finance and upper administrative staff was. DD1 stated that the grant guidelines stated that anyone who is directly involved with the direct services in the child development area could receive it. It says in the grant itself that there were specific ways to spend it. Whoever received it had to be directly involved in the Child Development division. The OIG asked if all the finance and administrative staff were directly involved. DD1 stated in one way,

shape, or form. DD1 stated that without seeing names, DD1 would not know how they were disbursed.

The OIG asked how it was determined and justified that DD1 should receive a premium pay bonus of \$10,861 when DD1's annual salary was approximately \$123,000. DD1 stated it was not. DD1 did receive one disbursement and it was an oversight on DD1's part in reviewing the spreadsheet. The OIG asked since it was an oversight, was the money returned? DD1 stated it was not. The OIG asked if should it have been. DD1 replied in "hindsight, possibly".

The OIG asked if there were others in the management chain who approved the list of disbursements. DD1 stated they would review and then D1 would review the spreadsheet and then it would go to the "11th floor"⁴. OIG asked if the "11th floor" signed anything. DD1 did not recall.

The OIG pointed out that a premium pay bonus was given to employees in the Finance and Administrative Services Department, Payroll Division. DD1 stated they were directly involved in the disbursement process and it created more work than their normal payroll process. There were checks and they had to work outside their normal payroll process. The payroll division employees had to make sure these things were taken care of. The thought process was that whoever directly worked on the grant itself was eligible to receive a premium pay bonus. DD1 stated they do not remember whose idea it was.

The OIG asked if the premium pay bonuses were the same for each employee. DD1 stated that they would think each level had different responsibilities, DD1 did not know how it was tiered. Payments were grossed up to include taxes. There was a conversation between E1 and DD1 about what premium pay would be for the staff and what was fair.

The OIG asked when DD1 became aware of the oversight of payment to DD1. DD1 replied after the fact. The OIG asked if DD1 made any effort to return it or notify management. DD1 thinks they had a conversation with D1. DD1 does not recall the specific conversation or what was said. DD1 stated they would pay it back, but that is where the conversation ended.

The OIG asked if DD1 knew DD1 was going to receive premium pay. DD1 stated they did not. DD1 stated that in review of the spreadsheet, there were multiple tabs and DD1 did not review one tab. DD1 did not review the entire document.

The OIG asked DD1 why E1 received higher grant bonuses than anyone else, \$22,498. DD1 stated they did not know, this was grossed up. DD1 does not recall who determined E1's grant bonuses. DD1 would assume that they would have because they were E1's direct supervisor at the time.

⁴ "11th floor" is the location for the City's Executive Staff.

Analysis:**U.S. Administration for Children and Families, Office of Child Care (OCC)**

The OIG reviewed the OCC website for information regarding the use of funds provided by the American Rescue Plan (ARP) Act Child Care Stabilization Fund.

The ARP Act section 2202(e)(1) specifies that subgrant funds can only be used for the following operating expenses by qualified child care providers:

- Personnel costs, including payroll and salaries or similar compensation for an employee (including any sole proprietor or independent contractor), employee benefits, premium pay, or costs for employee recruitment and retention.
- Rent (including rent under a lease agreement) or payment on any mortgage obligation, utilities, facility maintenance or improvements, or insurance.
- Personal protective equipment, cleaning and sanitization supplies and services, or training and professional development related to health and safety practices.
- Purchases of or updates to equipment and supplies to respond to the COVID-19 public health emergency.
- Goods and services necessary to maintain or resume child care services.
- Mental health support for children and employees.

The OIG reviewed CCDF-ACF-IM-2021-02 from the U.S. Department of Health and Human Services, Office of Child Care. The Publication was regarding the ARP Act Child Care Stabilization Grants. The purpose of the publication was to provide an overview and guidance on the Child Care Stabilization Grants made available through the ARP ACT.

In Review of the publication the OIG notes the following:

Qualified and Eligible Child Care Providers (Pg. 8)

Qualifying Criteria for Existing Providers

These subgrants are designed to stabilize existing child care businesses, not fund the start-up of a new child care provider that is not yet an operating business. Qualifying providers include child care providers that are open and available to provide child care services on the date they apply for a subgrant. It also includes existing child care providers who, on the date they apply for a subgrant, are temporarily closed due to public health, financial hardship, or other reasons relating to the COVID-19 public health emergency.

Process for Awarding Subgrants (Pg. 17)

1. Providing bonuses or supplemental funding for *providers*⁵ (emphasis added) meeting certain needs of family...

Personnel costs (Pg. 18)

Wages and benefits for child care program personnel, including increases in compensation for any staff in a child care center or family child care providers and their employees; health, dental, and vision insurance; scholarships; paid sick or family leave; and retirement contributions. Raising the wages of child care staff is a central part of stabilizing the industry, and lead agencies are strongly encouraged to prioritize this use of funds. Other examples of allowable personnel costs include ongoing professional development or training, premium or hazard pay, staff bonuses, and employee transportation costs to or from work.

Child care providers may also use resources to support staff in accessing COVID-19 vaccines, including paid time off for vaccine appointments and to manage side effects, as well as transportation costs to vaccine appointments.

Approximately 1 in 6 child care jobs has been lost since the start of the pandemic.³ Lead agencies are strongly encouraged to use funds to support child care providers in recruiting and retaining existing and former child care workers and strengthening the diversity of the workforce to meet children and families' needs.

State of New Mexico Early Childhood Education & Care Department (NM ECECD)

Through email communication, the OIG contacted NM ECECD and requested the Grant Approval Letters for the twenty-one (21) applications sent by FCS for the NM ECECD Child Care Stabilization Grant.

The NM ECECD replied with a response and documentation. After the OIG reviewed the documents, it was noted that the twenty-one (21) documents provided were the same grant application forms provided by FCS. The OIG contacted NM ECECD to verify if the applications they provided the OIG represented the grant approval letters. The NM ECECD replied; "Please note that due to the automated nature of the grant, traditional award letters were never issued."

NM ECECD also provided the OIG with an eleven (11) page presentation for the Child Care Stabilization Grants which contained information including how to apply, payment disbursement, eligible expenses, and reporting requirements.

The following is taken from the NM ECECD presentation regarding applicant grant requirements.

Certification and Attestation

The Applicant must:

⁵ Provider: Each of the twenty-one (21) applications required the applicant to provide a Provider name and Twenty-one (21) different City Child Development Centers were entered.

- Agree to use the funds only for the categories and purposes indicated in their application.
- Maintain records and other documentation to support the use of funds and document compliance with the requirements described in A, B, C, and D.
 - a. Implement policies in line with guidance and orders from corresponding state, tribal, and local authorities and to the greatest extent possible, implement policies in line with guidance from the CDC.
 - b. For each staff position (including lead teachers, aides, and any other staff who are employed by the child care provider to work in transportation, food preparation, or other types of service) the applicant must continue paying at least the same amount of weekly wages and maintain the same benefits for the duration of the subgrant. Employees may not be furloughed from the date of application submission through the duration of the subgrant period.
 - c. Provide relief from copayments and tuition payments for the families enrolled in the child care program to the extent possible, and prioritize such relief for families struggling to make either type of payment.
 - d. I will agree to keep my child care center/home operational through September 30, 2023, and understand that if I close my child care center/home prior to September 30, 2023, I will return all awarded funds to ECECD.

The documentation provided by FCS from NM ECECD states the following for expenditures for allowable “Personnel Costs”. **(See Exhibit 2)**

Wages and benefits for child care program personnel, including increases in compensation for any staff in a child care center or family child care providers and their employees; health, dental, and vision insurance; scholarships; paid sick or family leave; and retirement contributions. Raising the wages of childcare staff is a central part of stabilizing the industry, and providers are strongly encouraged to prioritize this use of funds. Other examples of allowable personnel costs include ongoing professional development or training, premium or hazard pay, staff bonuses, and employee transportation costs to or from work. Childcare providers may also use resources to support staff in accessing COVID-19 vaccines, including paid time off for vaccine appointments and to manage side effects, as well as transportation costs to vaccine appointments.

The OIG wanted clarification regarding the first sentence above, specifically, can a governmental entity provide premium pay to personnel who are not staff of the Childcare Division/Program or not working at a childcare center.

The OIG contacted the Central Regional Educational Cooperative (CREC) who was overseeing the grant. The CREC followed up and stated that they were forwarding our request to the NM ECECD.

The NM ECECD replied with the following:

“These funds cannot be used to provide pay to personnel who are not staff of a licensed child care program or are not working at a licensed child care center.”

Also provided by NM ECECD was federal guidance, CCDF-ACF-IM-2021-02 from the U.S. Department of Health and Human Services, Office of Child Care.

City of Albuquerque

The OIG reviewed all twenty-one (21) Child Care Stabilization Grants forms from the NM ECECD totaling \$8,855,600.00. Each grant was for a facility that offered early childhood education.

Funding Designated for each center:

Alamosa	\$153,000
Barelas	\$616,875
Carlos Rey	\$462,825
Duranes	\$641,550
Emerson	\$481,950
Governor Bent	\$135,000
Hawthorne	\$377,175
Herman Sanchez	\$848,700
La Luz	\$77,550
La Mesa	\$111,100
Longfellow	\$478,125
Los Volcanes	\$692,325
Lowell	\$528,750
MacArthur	\$905,925
Manzano Mesa	\$423,000
McKinley	\$425,250
Plaza Feliz	\$157,000
Singing Arrow	\$141,000
Tomasita	\$186,825
Tres Manos	\$870,675
Vincent Griego	\$141,000

Resolution R-22-17 contained an Inter-Office Memorandum dated March 2, 2022, from Mayor, Tim Keller to former City Council President, Isaac Benton stating the following.

SUBJECT: Approving and Authorizing the Mayor to Execute a Grant Agreement with the New Mexico Early Childhood Education and Care Department, Child Care Stabilization Grant, via the American Rescue Plan Act providing an Appropriation to the Department of Family and Community Services Division of Child & Family Development Fiscal Year 2022 for the grant term 9/21/2021 to 9/30/23.

The City of Albuquerque Child Development Centers (CDCs) are supported through General Funds, federal funds through the Office of Head Start of the Administration of Children and Families within the Department of Health and Human Services in Washington, DC, and state funds through the New Mexico Early Childhood Education and Care Department (NM ECECD). This one-time funding will offset cost-related personnel costs and benefits, provide **one-time premium pay**, or costs for employee recruitment and retention and facility maintenance or improvements, including outdoor learning spaces and playgrounds, and will **solely** be expended for E Pre-K, Pre-K, and Preschool staff, classrooms and centers.

The OIG contacted the former director (D1) of FCS and requested copies of the Grant Award letters for the New Mexico Early Childhood Education and Care Department Services via the American Rescue Plan Federal Funds. FCS followed up with copies of twenty-one (21) NM ECECD Child Care Subsidy Grant applications for the City CDCs.

After review of the documents provided, the OIG contacted FCS stating the documents provided by FSC appeared to be the Grant applications. The OIG asked FCS if the NM ECECD provided grant award letters or any documentation stating FCS received the Grants. FSC stated that the documents sent to the OIG were received after entering information electronically through the NM ECECD Grant portal. FSC replied that no award letters were provided.

The OIG requested data for the Operating Grants Fund 265 from the City's Department of Finance and Administrative Services which was used by FCS to distribute payroll funds from the NM ECECD grant. The purpose of the request was to determine what positions received the premium pay from the grant.

The following positions received payments from the grant:

<u>Job Position</u>		
Deputy Director	Fiscal Analyst II	Head Teacher
Fiscal Manager	Child Dev & Ed Prog Mgr	Teacher
Building Maint Mgr	Sr Administrative Asst	Teacher Asst
Child & Family Dev Div Mgr	Program Specialist	General Svcs Worker
Sr Personnel/Labor Rel Officer	Payroll Specialist II	Office Asst
Fiscal Officer	Child Dev & Ed Prog Spec	Accounting Asst
Facilities Operations Coord	Child Dev & Prog Spec	Accountant I
Payroll Supervisor	General Maint Worker	Accountant II
Personnel Officer	Family Engagement & Enrol Spec	Sr Principal Accountant

In a review of premium pay paid for by the grant in calendar year 2022, the OIG found that FCS employees received premium pay on two separate dates. The first payment was on July 1, 2022, and the second was on December 16, 2022. The premium pay payments ranged from \$3,878.99 to \$22,498.03. Some employees received one (1) payment and several received two (2) payments. Yearly salaries for these employees who received the premium pay ranged from \$32,469 per year to \$123,490 per year. It should be noted that the OIG only reviewed one year of the three year grant period.

In reviewing the data, the OIG noted that the premium pay was not limited to staff of the CDCs, but also included FCS employees and Finance and Administrative Service Department employees. The OIG noted that twenty-seven employees who received premium pay were not employees of a qualified provider or CDC. The grant guidance provided a list of allowable expenses for qualified providers as defined in the American Rescue Plan (ARP) Act Child Care Stabilization Fund, resulting in questioned costs under the grant provisions CCDF-ACF-IM-2021-02 from the U.S. Department of Health and Human Services as authorized by Council Bill R-22-17.

Position	Houly Wage	Yearly Wage	July 1, 2022 Premium Pay	December 16, 2022 Premium Pay	Total Premium Pay
Deputy Director	\$ 59.37	\$ 123,489.60		\$ 10,861.14	\$ 10,861.14
Fiscal Manager	\$ 46.67	\$ 97,073.60	\$ 8,533.73	\$ 10,861.14	\$ 19,394.87
Building Maintenance Manager	\$ 44.45	\$ 92,456.00	\$ 8,533.74	\$ 10,861.13	\$ 19,394.87
Child & Family Development Division Mgr	\$ 42.34	\$ 88,067.20	\$ 8,533.74	\$ 13,964.29	\$ 22,498.03
Sr. Principal Accountant	\$ 41.12	\$ 85,529.60	\$ 8,533.74		\$ 8,533.74
Sr. Personnel/Labor Relation Officer	\$ 40.32	\$ 83,865.60	\$ 8,533.76	\$ 10,861.13	\$ 19,394.89
Fiscal Officer	\$ 33.94	\$ 70,595.20	\$ 3,878.97		\$ 3,878.97
Fiscal Officer	\$ 33.94	\$ 70,595.20	\$ 8,533.74		\$ 8,533.74
Facilities Operations Coordinator	\$ 33.94	\$ 70,595.20	\$ 8,533.74	\$ 10,861.14	\$ 19,394.88
Payroll Supervisor	\$ 33.94	\$ 70,595.20		\$ 5,430.55	\$ 5,430.55
Personnel Officer	\$ 30.85	\$ 64,168.00	\$ 8,533.74	\$ 10,861.14	\$ 19,394.88
Fiscal Analyst II	\$ 30.08	\$ 62,566.40	\$ 3,878.99		\$ 3,878.99
Fiscal Analyst II	\$ 30.08	\$ 62,566.40	\$ 3,879.99		\$ 3,879.99
Fiscal Analyst II	\$ 30.08	\$ 62,566.40	\$ 8,533.74	\$ 10,861.14	\$ 19,394.88
Fiscal Analyst II	\$ 30.08	\$ 62,566.40	\$ 3,878.97		\$ 3,878.97
Fiscal Analyst II	\$ 30.08	\$ 62,566.40	\$ 3,878.96		\$ 3,878.96
Fiscal Analyst II	\$ 30.08	\$ 62,566.40	\$ 3,878.97		\$ 3,878.97
Fiscal Analyst II	\$ 30.08	\$ 62,566.40	\$ 3,878.96		\$ 3,878.96
Child Development and Education Program MGR	\$ 29.31	\$ 60,964.80	\$ 8,533.74		\$ 8,533.74
Sr. Administrative Assistant	\$ 29.25	\$ 60,840.00	\$ 8,233.74	\$ 10,861.14	\$ 19,094.88
Accountant II	\$ 27.30	\$ 56,784.00	\$ 3,878.99		\$ 3,878.99
Payroll Specialist II	\$ 27.17	\$ 56,513.60		\$ 5,430.58	\$ 5,430.58
Payroll Specialist II	\$ 27.17	\$ 56,513.60		\$ 5,430.58	\$ 5,430.58
Accountant I	\$ 20.27	\$ 42,161.60	\$ 3,878.96		\$ 3,878.96
Accounting Assistant	\$ 16.25	\$ 33,800.00	\$ 3,878.99		\$ 3,878.99
Office Assistant	\$ 15.61	\$ 32,468.80	\$ 8,541.91	\$ 10,861.14	\$ 19,403.05
Office Assistant	\$ 15.61	\$ 32,468.80	\$ 8,038.07	\$ 11,024.65	\$ 19,062.72
				TOTAL	\$ 287,972.77

The salaries of the Preschool staff ranged from \$32,469 to \$42,162 annually. Twenty-three (23) out of the twenty-seven (27) employees who received premium pay had annual salaries greater than Preschool staff. Five (5) of those salaries were more than double the Preschool staff's highest-paid salary with one (1) almost tripling the salary of the highest-paid Preschool staff.

The list reflects that the majority of the twenty-seven (27) employees worked outside this division within the FCS department. E1 provided the rationale that a stand-alone center has each of these positions, so if the City were a stand-alone, premium payments would be permitted. While this assessment may be true for the private sector, it may be inappropriate for a governmental entity using taxpayer dollars. The absence of established criteria for determining the beneficiaries and a formula for the premium pay could lead to inaccurate perceptions about the division, department, and City as a whole.

The premium pay payments to beneficiaries not employed at the CDC's were coded to the Operating Grant Fund 265 and assigned to six (6) of twenty-one (21) CDC's that received the grant funding. There was no explanation for how these allocations were determined.

The OIG reviewed payment data for the twenty-seven (27) employees who received premium pay and found that the City's General Fund 265 was not the normal fund used for by-weekly regular pay. The review did not find any other payments besides the premium payments assigned to the CDC's.

E1 provided approvals from the City's CAO and Deputy CAO for premium pay disbursements in 2023 and 2024; however, the OIG did not receive approval documentation for the two (2) premium pay disbursements in 2022.

The OIG would like to note that all the individuals making the decision on the premium pay to include, D1, DD1, E1 and HR1 all received premium pay, except for D1 who communicated with E1 to remove D1 from the premium pay list.

The OIG would also like to note that after the OIG began requesting information four (4) other premium pay disbursements were issued in 2023. None of the twenty-seven (27) FCS employees identified above received the additional disbursements.

Subsequent disbursements appeared to be provided to employees directly related to child care.

Each of the Twenty-one (21) applications required a "Provider's Name" and a different City Child Development Center was entered by E1. The twenty-seven (27) FSC employees in question did not work at any of the twenty-one (21) CDC centers nor were they staff of a child care program or CDC.

Conclusion:

The OIG's investigation revealed that twenty-seven (27) FCS employees did not meet the criteria to receive premium pay disbursement (bonus) according to CCDF-ACF-IM-2021-02 from the U.S. Department of Health and Human Services, Office of Child Care and the response from NM EDCED, thus substantiating the allegation of improper use of Child Care Stabilization Grant funds by inappropriately compensating City employees through bonuses.

The OIG would like to note that Resolution R-22-17 stated "will solely be expended for EPre-K and Pre-K and Preschool staff, classrooms and centers". However, this was not used as the basis of our finding due to the statement being in the "Whereas" section of the resolution.

FINDINGS

1. The evidence obtained by the OIG substantiates that employees including high-ranking department personnel received several premium pay disbursements in violation of NM ECECD ARPA Child Stabilization grant allowable personnel costs which states; "Wages and benefits for child care program personnel, including increases in compensation for any

staff in a child care center or family child care providers and their employees..... costs include ongoing professional development or training, premium or hazard pay, staff bonuses....”, and CCDF-ACF-IM-2021-02 from the U.S. Department of Health and Human Services, Office of Child Care resulting in questionable expenditure of grant funds totaling an amount of \$287,972.77.

RECOMMENDATIONS

1. The City should determine if the premium pay disbursements given to the twenty-seven (27) employees in question should be recouped or if the expenditures should be reallocated to the City’s General Fund and repaid to the Granting Authority.

Management Response:

Faced with a public health emergency, everyone, including the federal government, was reacting to a rare and complex situation, which was constantly evolving. The determination of premium pay disbursements was based on Early Childhood Education and Care Department (ECECD) guidance given during the statewide meetings and the Grant Office Hours meetings, which occurred in September 2021. See attached ECECD fliers. ECECD guidance defined eligible employees for premium pay, stipends, bonuses, and retention incentives as all essential employees who conducted ongoing and continuous work on behalf of the program, organization or agency receiving the Child Care Stabilization Grant. Please see attached ECECD’s Allowable Expenses chart which includes staff bonuses under Personnel Costs as acceptable. It was further defined that eligibility included direct service personnel, administrative personnel (department leadership, HR and fiscal), janitorial and maintenance staff, bus drivers and cooks as applicable. Based on the recommendation of OIG, the DCFD will review its determinations and take appropriate action, if necessary.

(See Exhibit 2 and 3)

2. The term “one-time premium pay” can be misleading. The City should define “one-time premium pay” for future documents.

Management Response:

“One-time premium pay” is defined by the federal government as additional compensation that an employee receives for working certain hours or under certain conditions. Premium pay is also known as hazard pay or hero pay. For this specific grant, it was intended to compensate employees performing essential work during the COVID-19 public health emergency. The DCFD will include a “one-time premium pay” definition in future documents, as applicable.

3. The department should provide grant information and training to approvers to ensure they are aware of what expenditures are authorized by each grant and that approvers ensure that they review the entire document before expending funds.

Management Response:

For this specific grant, the DCFD staff with approval authority attended a grant training via Zoom and reviewed the guidance documents provided by ECECD. Additionally, pursuant to AI-No. 2-26 Procedures for Applying and Implementing Federal/State Grants, the Division of

Child & Family Development (DCFD) has a standing practice and will continue to convene Pre-Conference meetings with the City Grants Manager, Department Director and Department Fiscal Manager prior to applying for all grant opportunities. Pre-Conference meetings are designed to review a specific grant opportunity, discuss requirements, allowable expenditures, and to ultimately gain approval or disapproval to apply for the funding opportunity. A Pre-Conference meeting was held prior to applying for the twenty-one (21) grants on behalf of the City, Department and Division. Additionally, Fiscal and Executive level staff who oversee all DCFD grants are scheduled to complete OMB Uniform Guidance training or have previously completed this training and will be scheduled for refresher training.

4. The City should implement written procedures for future premium pay considering who is eligible and how the monetary amounts will be determined for future premium pay disbursements.

Management Response:

The DCFD will incorporate written procedures for premium pay in either the established Retention Incentive Policy or will draft a standalone Premium Pay Policy for implementation in the event of any future premium pay disbursements. Written premium pay policy and procedures will be developed and will receive HR, Department Director, Grants Management and YFS Legal approval prior to any future premium pay incentives are issued.

5. The City should ensure that only authorized personnel complete applications and that the authorized person filling out the application should be the actual signatory on the form.

Management Response:

All future grant applications will be completed and signed by the authorized Executive level personnel with Division oversight, or the individual as required per the grant. The Division complied with State guidance requiring each site to apply individually, and the “facility director or home provider” to complete the application.

6. The City should ensure that electronic signatures of employees are controlled and monitored to mitigate unauthorized use.

Management Response:

The City oversees electronic signatures through its implementation of Docusign and CLM, ensuring that electronic signatures are controlled and monitored.

SUBSEQUENT MATTER

During the investigation, the OIG identified that E1 applied for the twenty-one (21) grants, but each of the twenty-one (21) grant applications had electronic signatures and dates with twenty-one different employees’ names.

Authority:

Article 17: Inspector General Ordinance

301.3 Standards of Conduct

Employees shall in all instances maintain their conduct at the highest personal and professional standards in order to promote public confidence and trust in the City and public institutions and in a manner that merits the respect and cooperation of co-workers and the community.

Interviews

E1 Interview:

E1 stated that on behalf of the City Division of Child and Family Development E1 submitted and filled out the twenty-one (21) applications. The OIG stated that all twenty-one (21) applications list the Head Teacher as the facility director along with a signature affirmation and date from the Head Teacher. The OIG asked if the Head Teachers filled out the applications. E1 stated no, E1 filled them out on behalf of all the centers. Head Teachers do not have the authority to apply for grants. E1 stated that E1 spoke with the NM ECECD telling them that E1 would be completing the applications on behalf of the centers along with the follow-up reporting and communication. E1 stated that the Head Teachers were aware of the division applying for the funds. E1 oversaw how funds were expended. E1 stated the Head Teachers were made aware that their names were going to be on the applications. E1 needed their date of birth and the information that they provided to E1. They were aware. The NM ECECD would reach out to E1 regarding the grants, updates, and not any of the names on the applications. Head Teachers had authority regarding specific center needs such as classroom materials, playground needs, and any modifications to classrooms needed, but would submit a list to E1.

The OIG asked about one of the center's applications and the Head Teacher's name on the application. According to City records the Head Teacher (HT1) who electronically signed one of the applications retired approximately nine (9) months prior. E1 stated that E1 was given an operating license for each center and that is how E1 knew who was at each center to include HT1 who was the licensed person for that center. E1 did not have any knowledge that HT1 was gone. E1 was asked who provided the information then. E1 replied that the education specialist provided it from personnel records. The education specialist also provided center licenses. If E1 had known HT1 was gone HT1 would not have been on the application. E1 was not told this. E1 was asked if actual individuals gave E1 any information. E1 replied that for someone whose date of birth was not accepted, the education specialist reached out directly to the employee to confirm the date of birth. The Head Teachers did not provide the information that was required for the applications. The majority of the information for the Head Teachers came through personnel records.

The OIG asked if the Head Teacher whose signature was on the grant application would be held responsible by NM ECECD for potential misuse or non-compliance of the grant funds. E1 stated no. Although not 100 percent certain, E1 believed E1 would be held accountable. E1 stated that E1 did a pre-conference hearing to apply for the grant? E1 also received approval from D1, the FCS fiscal person, and the grants manager. Additionally, City Council approved the acceptance of the grant award.

E1 stated there were no award letters. When E1 electronically submitted the application, the system would automatically generate what the center would be eligible for. The grant awards were specific to each center.

DD1 Interview:

DD1 was asked what their role was in the application process. DD1 stated they did not have a role in the application process. DD1 was asked about their role with the grant. DD1 stated that the division manager at the time, E1, requested approval to apply for the grant. That is as far as DD1 went.

The OIG asked DD1 if the Head teachers were the employees who applied and signed the grant applications. DD1 was unaware.

The OIG asked DD1 if the head teachers were made aware that they were responsible for the grants by electronic signature. DD1 stated no. DD1 stated the City was unique in the sense that they have a multitude of child development centers in their purview. The rest of the state does not work that way and so the City is the largest provider of childcare in the State of New Mexico. If a private sector child care center applied for the grant DD1 could see the head teacher signing for it knowingly. DD1 stated they did not know if each head teacher knew. DD1 stated that they believed that E1 signed each grant application. According to DD1, E1 submitted the application. E1 requested and we had the opportunity to apply for grant funding, it was a good opportunity. At that point, DD1 would assume E1 applied for the funds. DD1 stated that DD1 did not know who filled out the applications.

Analysis:

In a review of the twenty-one (21) applications sent electronically to NM ECECD, all twenty-one (21) required Provider Affirmation which states the following.

The following signature affirms that I will adhere to the items noted in A, B, C, and D within the Certification section. It also affirms I will only use the funds in the areas noted in section 4 (Options for Use of Funds) of this application.

This was followed by the electronic signature of the CDC Head Teacher and the date for the specific CDC provider site.

The OIG reviewed the twenty-one (21) grant applications and found that one of the applications was electronically signed and dated 9/30/2021. However, the provider signature was for an employee who retired from the City on 1/2/2021. The signature on the application was approximately nine (9) months after the City employee retired. The selection of a retired employee as the affirming provider who did not have access to the system reflects that someone other than the affirming provider submitted the application using the retired employee's name and electronic signature.

In a review of emails, E1 began the application process on September 21, 2021. E1 requested the dates of birth for each Head Teacher for the ECECD Stabilization Grants from an FCS employee. The FCS employee provided the birthdates for the twenty-one (21) applications. The birthdates were needed to fill out the applications. The review showed that the majority of the applications were completed that same day.

The OIG also reviewed an email communication that same day with the following communication, “Please email all EPre-K, Pre-K, and Preschool Head Teachers to let them know that I have applied for a Child Care Stabilization Grant for their sites.”

However, the OIG did not receive any documentation or communication, as of the date of this report, stating that the employees whose names were on the twenty-one (21) applications were aware their names were on the grant applications.

The OIG reviewed the grant applications and found several applications had total capacity numbers on the grant application forms that did not agree with the total capacity on the City Child Development Centers Operator’s License. The OIG conducted site visits to 6 of the 21 CDC’s who received grants to verify the total capacity for the children enrolled at each of the CDC’s. The OIG verified that five (5) of the CDC’s visited actual total capacity limits were lower than the total capacity numbers on the grant applications and City Child Development Centers Operator’s Licenses and that one CDC was closed.

The difference in the total capacity may have contributed to a greater dollar amount received. Further inquiry revealed that the total capacity noted in each application was prefilled and could not be edited.

FINDINGS

1. Each of the twenty-one (21) grant applications submitted, included dates and electronic signatures of each site manager (Head Teacher) despite being completed by the Division Manager, E1. Completing and signing the application forms for the site managers (Head Teachers) was intentional and misleading and transferred risk to each Head Teacher.
2. One application included the electronic signature of an employee no longer actively employed with the City.
3. The “Total Capacity” on several of the grant applications did not match the CDC Operator’s License “Total Capacity” which may have contributed to a greater dollar amount received for the grants.

RECOMMENDATIONS

1. The City should implement written procedures for determining who is eligible and how the monetary amounts of future premium pay disbursements.

Management Response:

The DCFD will incorporate written procedures for premium pay in the established Retention Incentive Policy or will draft a standalone Premium Pay Policy for implementation in the event of any future premium pay disbursements. Written premium pay policy and procedures will be developed and will receive HR, Department Director, Grants Management and YFS Legal approval prior to the issuance of any future premium pay incentives.

2. The City should ensure that only authorized personnel complete applications with accurate information and that electronic signatures are controlled to mitigate unauthorized use.

Management Response:

The Division Manager of Child & Family Development holds responsibility for the completion of grant applications on behalf of the DCFD, and as such completed the twenty-one (21) Child Care Stabilization Grant applications. While ECECD was made aware that the twenty-one (21) grant applications were being completed by the Division Manager during the application period and provided support in the successful submission of the applications, there is minimal documentation to support this claim. Unfortunately, most of the communications and support received from ECECD during the application process was either via telephone or Zoom. Please see attached ECECD fliers. The ECECD staff involved included Shana Runck, ECECD Deputy Director, Sandy Medina-Trujillo, ECECD Department Director, and various ECECD grant support staff. (See Exhibit 2 and 3)

In applying for future grants, the DCFD will ensure that grant applications are completed and signed by the responsible Executive level personnel with Division oversight (in addition to complying with specific grant requirements) so it is clear that the appropriate individual holds accountability for managing and overseeing the grant. During the chaotic period of pandemic closures and newly created grant fund sources with new and ever-changing rules, DCFD made every effort to comply with all requirements and communicate to ensure steps were taken with the State's approval. The DCFD disagrees with OIG's characterization of the employee's conduct being "intentional and misleading." The DCFD made no intentionally misleading statements, but rather understood at the time that it was complying with State guidance requiring each site to apply individually, and the "facility director or home provider" to complete the application. Faced with a complicated and unusual situation, DCFD complied with the guidance provided by ECECD.

3. The City should work with NM ECECD to determine the actual total capacity for each CDC to ensure future grants have the correct information when determining grant amounts.

Management Response:

At the time of the grant applications, which was during the COVID-19 public health emergency, the Community Recreation Educational Initiatives Division (CREI) through the Department of Family and Community Services worked directly with ECECD for Community Centers to piggyback on the Child Development Center Licenses for full-day services to school-aged children. This factor is what attributed to the increased capacity on the DCFD early childhood center licenses. ECECD was aware and understood the numbers could fluctuate under these circumstances in our attempts to provide services to as many children as possible. The City endeavored to ensure its childcare programs remained open during the pandemic to provide a safety net to our community.



City of Albuquerque
Accountability in Government Oversight Committee
P.O. Box 1293 Albuquerque, New Mexico 87103

Cautionary Statement of the Inspector General's Report, File No. 23-0005-N

Upon the Accountability in Government Oversight Committee (Committee) review and vote to not approve the Report prepared by the Office of the Inspector General (OIG), titled "Alleged improper use of the Child Care Stabilization Grant funds by inappropriately compensating City employees through bonuses.", File No. 23-0005-N, dated October 24, 2024 ("Report"), the Committee provides this cautionary statement as inclusion with the published Report. This cautionary statement is issued and included in the published Report, pursuant to City of Albuquerque Ordinance § 2-10-5(L).

The Committee met on November 14, 2024 to review and consider the Report. In its review of the Report, the Committee found the OIG lacked sufficient jurisdiction under the Inspector General Ordinance § 2-17-1 et seq. to investigate one or more of the allegations contained in the report. For this reason, by vote of 5-0, the Committee did not provide approval of the Report. Readers are advised to review this published Report and its content with the understanding that the Committee did not approve this Report.

Sincerely,

Victor Griego, CPA
Chair, Accountability in Government Oversight Committee
City of Albuquerque

Johnny I. Mangu, CPA
Lia Armstrong
Robert Aragon
Esteban A. Aguilar, Jr., Esq.

cc: Brook Bassan, City Council Member
Kevin Sourisseau, Chief Financial Officer