

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**THE MUNICIPALITY OF MANATI DID NOT  
ALWAYS MANAGE ITS HEAD START  
DISASTER ASSISTANCE AWARDS IN  
ACCORDANCE WITH FEDERAL AND  
COMMONWEALTH REQUIREMENTS**

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**Amy J. Frontz**  
Deputy Inspector General  
for Audit Services

December 2022  
A-04-20-02032

# ***Office of Inspector General***

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The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

## Report in Brief

Date: December 2022

Report No. A-04-20-02032

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**



### Why OIG Did This Audit

The Disaster Relief Act, part of the Bipartisan Budget Act of 2018, provided \$650 million to the Administration for Children and Families (ACF) for the Head Start program. The law requires OIG to provide oversight to ensure that funds expended for recovery and response efforts related to hurricanes Harvey, Irma, and Maria achieved their intended purposes. This audit is one of OIG's Disaster Relief Act oversight products. Based on a risk assessment of Head Start disaster assistance awards, we audited the Municipality of Manati (the Municipality), Puerto Rico.

The objective of this audit was to determine whether the Municipality managed its Head Start disaster assistance awards in accordance with Federal and Commonwealth requirements.

### How OIG Did This Audit

Our audit covered 629 expenditure transactions totaling \$3.1 million related to the Municipality's disaster assistance awards for the period April 2019, through September 2020. We reviewed accounting records and supporting documentation related to nonstatistical samples of 209 expenditure transactions for compliance with Federal and Commonwealth requirements.

## The Municipality of Manati Did Not Always Manage Its Head Start Disaster Assistance Awards in Accordance With Federal and Commonwealth Requirements

### What OIG Found

The Municipality did not always manage its Head Start disaster assistance awards in accordance with Federal and Commonwealth requirements. Specifically, the Municipality claimed unallowable costs totaling \$153,052 related to the purchase of four vehicles that were not necessary or reasonable for the performance of the award. In addition, the Municipality did not comply with all requirements related to criminal background checks for 25 employees hired with award funds.

These deficiencies occurred because the Municipality did not have written procurement policies and procedures that included factors to consider when making purchases to avoid unnecessary or duplicative items and that it performed an analysis of vehicle leasing versus purchasing, or any other appropriate analysis to determine the most reasonable approach. In addition, the Municipality did not have policies and procedures that ensured criminal background checks were obtained within the required time frames. As a result, the Municipality did not show that the purchase of the four vehicles was necessary or reasonable and potentially jeopardized the safety of children by not complying with background check requirements.

### What OIG Recommends and Municipality Comments

We recommended that the Municipality: (1) work with ACF to develop a viable plan for refunding \$153,052 in unallowable costs to the Federal Government; (2) develop and implement procurement policies and procedures—including a requirement to perform analyses to determine the most reasonable approach for vehicle acquisitions; and (3) develop and implement written policies and procedures to ensure that criminal background checks are completed within required time frames.

In written comments on our draft, the Municipality did not indicate concurrence or nonconcurrence with our recommendations. However, the Municipality stated it did not concur with our findings. We maintain that our findings and recommendations are valid.

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## INTRODUCTION

### WHY WE DID THIS AUDIT

The Disaster Relief Act, part of the Bipartisan Budget Act of 2018, provided \$1 billion in disaster assistance funds to the Department of Health and Human Services (HHS) for discretionary programs, including \$650 million to the Administration for Children and Families (ACF) for the Head Start program. The law requires HHS, Office of Inspector General (OIG) to provide oversight to ensure that disaster assistance funds expended for recovery and response efforts related to hurricanes Harvey, Irma, and Maria achieved their intended purposes. This audit is one of OIG's Disaster Relief Act oversight products.<sup>1</sup> Based on a risk assessment of Head Start disaster assistance awards, we audited the Municipality of Manati, Puerto Rico (the Municipality).

### OBJECTIVE

Our objective was to determine whether the Municipality managed its Head Start disaster assistance awards in accordance with Federal and Commonwealth requirements.

### BACKGROUND

#### Head Start Program

The Head Start program supports the comprehensive development of children from birth to age 5 to promote school readiness by enhancing children's cognitive, physical, behavioral, and social-emotional development through the provision of educational, health, nutritional, social, and other services to enrolled children and families.<sup>2</sup> Within HHS, ACF's Office of Head Start administers the Head Start program.

Head Start award recipients are required to adhere to the cost principles contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (Uniform Guidance).<sup>3</sup> To be allowable, the Uniform Guidance requires award expenditures submitted for Federal reimbursement to be reasonable, allocable, and adequately documented.<sup>4</sup> Head Start award recipients draw down funds and file Federal Financial Reports using the HHS Payment Management System. Award recipients are also required to maintain a

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<sup>1</sup> Appendix B contains a list of related OIG reports.

<sup>2</sup> The Head Start Program was established by Title VI of the Omnibus Budget Reconciliation Act of 1981, as amended. In 1994, the Head Start Program was expanded to establish Early Head Start. We collectively refer to these programs as "Head Start."

<sup>3</sup> 45 CFR Part 75.

<sup>4</sup> 45 CFR § 75.403(a) and (g).

system of internal control that provides reasonable assurance of compliance with Federal and Commonwealth requirements.<sup>5</sup>

## **The Municipality**

The Municipality performs various government operations, including providing Head Start services at 24 centers in Puerto Rico. For the period December 1, 2018, through August 31, 2021, ACF awarded the Municipality disaster assistance funding totaling \$7.1 million.<sup>6</sup> The funding was designated to cover Head Start services, materials, supplies, equipment, program operations, and construction and renovation projects.

## **HOW WE CONDUCTED THIS AUDIT**

Expenditures related to the Municipality's disaster assistance awards for the period April 1, 2019, through September 30, 2020 (audit period) consisted of 629 expenditure transactions totaling \$3,122,879.<sup>7</sup> We reviewed three separate nonstatistical samples totaling 209 expenditure transactions and personnel records for compliance with Federal and Commonwealth requirements. For the first nonstatistical sample, we reviewed accounting records and supporting documentation related to 105 expenditure transactions for supplies, equipment, professional services, and construction totaling \$1,453,082. For the second nonstatistical sample, we reviewed 30 expenditure transactions from payroll totaling \$31,581. For the third nonstatistical sample, we reviewed 74 transactions totaling \$317,571.

In addition, we reviewed personnel records for all 25 Municipality employees to determine whether the Municipality complied with criminal background check requirements.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

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<sup>5</sup> 45 CFR § 75.303(a).

<sup>6</sup> Specifically, ACF awarded the Municipality: (1) \$6.1 million for the period Dec. 1, 2018 to Nov. 30, 2020; (2) \$90,600 for the period Feb. 1, 2019 to Jan. 31, 2021; and (3) \$916,242 for construction and renovation for the period Sept. 1, 2019 to Aug. 31, 2021.

<sup>7</sup> Of the \$7.1 million awarded to the Municipality, we reviewed \$3.1 million for two of the three awards that the Municipality claimed during our audit period.

## FINDINGS

The Municipality did not always manage its Head Start disaster assistance awards in accordance with Federal and Commonwealth requirements. Of the 209 expenditure transactions in our non-statistical samples, 205 met Federal requirements. For the remaining four expenditure transactions, the Municipality claimed unallowable costs totaling \$153,052 related to four vehicles that were not necessary or reasonable for the performance of the award. These deficiencies occurred because the Municipality did not have written procurement policies and procedures that included factors to consider when making purchases to avoid unnecessary or duplicative items and that it performed an analysis of vehicle leasing versus purchasing, or any other appropriate analysis to determine the most reasonable approach. As a result, the Municipality did not show that the purchase of four vehicles totaling \$153,052 was reasonable, necessary and the most economical approach. Funds used for the vehicles could have been used for Head Start program activities or returned to ACF.

Additionally, the Municipality did not comply with all requirements related to criminal background checks for 25 employees hired with award funds. The Municipality did not have policies to ensure that criminal background checks were obtained within required time frames. In addition, by not ensuring that all employees who had contact with children had passed all required criminal background checks, the Municipality potentially jeopardized the safety of children.

### THE MUNICIPALITY CLAIMED UNALLOWABLE COSTS

In order for a cost to be allowable, it must be necessary and reasonable for the performance of the Federal award.<sup>8</sup> A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.<sup>9</sup> Further, HHS award recipients must avoid acquisition of unnecessary or duplicative items and, where appropriate, awardees should conduct an analysis of lease versus purchase alternatives or any other appropriate analysis to determine the most economical approach.<sup>10</sup>

The Municipality incurred unallowable costs, totaling \$153,052, for the purchase of four new vehicles that were not necessary for the performance of its disaster assistance awards. Prior to these purchases, the Municipality operated a transportation unit with four other vehicles that did not incur hurricane damages: two 2018 pickup trucks, one 2019 minivan, and one 2018 sport utility vehicle. In addition, in its application for award funds to acquire the four new vehicles, the Municipality did not inform ACF that it already owned four vehicles, which were in good working condition, at its disposal. Nevertheless, the Municipality used award funds to

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<sup>8</sup> 45 CFR §75.403.

<sup>9</sup>45 CFR § 75.404.

<sup>10</sup> 45 CFR § 75.327(d).



purchase the four additional vehicles—two 2020 Jeep Wranglers, one 2019 Ram pickup truck, and a 14-foot moving truck. To justify the request for the purchase of the vehicles and truck, the Municipality stated in the award application that they needed a truck with adequate torque to move equipment and furniture and operate an appropriate and reliable transportation unit due to the devastation of the roads by hurricane Maria and the travel distance between the 24 centers.

Mileage logs for the new vehicles indicated that they were used sparingly during the audit period. Specifically, the mileage logs from the four new vehicles show that they were driven for 8,556 miles combined during calendar year 2020 while the mileage logs for the four existing vehicles show they were driven for 16,786 miles combined for the same period.

This occurred because the Municipality did not have written procurement policies and procedures that included factors to consider when making purchases to avoid unnecessary or duplicative items. Although the awardee stated that the roads were difficult to traverse after Hurricane Maria, the awardee did not explain why adding four additional vehicles to the fleet of vehicles that the recipient already owned was necessary.

In addition, the Municipality did not perform an analysis of leasing versus purchasing alternatives, or any other appropriate analysis to determine the most economical approach. As a result, the Municipality purchased vehicles totaling \$153,052 that were not reasonable, necessary and, in the case of the 14-foot moving van, the most economical approach. The funds used to purchase the vehicles could have been used for Head Start program activities or returned to ACF.

## **THE MUNICIPALITY DID NOT ALWAYS COMPLY WITH EMPLOYMENT REQUIREMENTS RELATED TO CRIMINAL BACKGROUND CHECKS**

All Head Start staff must be eligible for employment under applicable Federal or State criminal background check and state or local licensing requirements.<sup>11,12</sup> In Puerto Rico, childcare providers may not contract or employ anyone unless they have submitted criminal background checks prior to employment and presented a certificate indicating that they are not registered in the Puerto Rico registry of persons convicted of sex crimes and child abuse during the past 5 years.<sup>13</sup> Further, no individual may function as a care service provider for children or provide such services unless having previously applied for and received said certification.<sup>14</sup> In addition,

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<sup>11</sup> Head Start Act § 648A(g).

<sup>12</sup> When State requirements vary from Head Start requirements, the most stringent provisions—in this case, the Commonwealth’s provisions—take precedence. 45 CFR §1302.21(d).

<sup>13</sup> P.R. Laws Ann. Title 8 §§ 483 and 1432i (b).

<sup>14</sup> P.R. Laws Ann. Title 8 § 482.

childcare center workers are required to present a Certificate of No Penal Record at least every 6 months.<sup>15</sup>

The Municipality did not always comply with all pre- and post-employment requirements related to criminal background checks for all 25 employees hired with award funds.

Specifically:

Regarding pre-employment:

- For 16 of the 25 employees, the Municipality did not obtain certificates indicating that they were not registered sex offenders before the employment date. For the 16 employees, the documents were received between 7 to 714 days after they were employed.
- For 2 of the 25 employees, the Municipality provided certificates indicating that these individuals were not registered sex offenders before the employment date; however, the certificates only covered the year before the individual was employed not the past 5 years as required.<sup>16</sup>

Regarding post-employment:

For all 25 employees, the Municipality did not require these individuals to provide Certificates of No Penal Record every 6 months after they were hired; however, they did provide a Certificate of No Penal Record prior to employment.

The Municipality did not comply with these requirements because it did not have written policies and procedures that required (1) background check results to be obtained prior to individuals being hired, (2) Sex Abuse registry certificates cover 5 years prior to employment date, and (3) Certificates of No Penal records be obtained every 6 months. The Municipality generally attempted to complete all background checks within 90 days after hiring an individual.<sup>17</sup> However, applicable Commonwealth requirements called for having background check procedures completed prior to employment.

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<sup>15</sup> P.R. Laws Ann. Title 8 §§ 69 and 1432i.

<sup>16</sup> 8 LPRR §1432i (b) requires that prior to employment, the employee shall submit a certification that the individual is not included in the Sex Abuse registry for the past 5 years. The Municipality provided certificates that were dated 282 to 310 days prior to when the individuals were employed.

<sup>17</sup> The 90-day timeframe is established in 45 CFR § 1302.90(b) which requires fingerprint background checks, abuse and neglect registry checks, and sex offender registry checks to be conducted prior to employment and completed within 90 days of hire and every 5 years thereafter. However, these requirements were delayed until Sept. 30, 2021. During our audit period, awardees were required to meet applicable State or local background check requirements and, when they vary from Head Start requirements, the most stringent provisions—in this case, the Commonwealth's provisions—take precedence (45 CFR §1302.21(d)).

The Municipality believed that it was exempt from the Commonwealth requirements that required them to obtain certificates of No Penal records every 6 months. The Municipality added that, beginning in March 2020, its process for obtaining background checks was impacted by COVID-19 lockdown restrictions and that it followed Federal requirements for conducting criminal background checks on employees every 5 years.<sup>18</sup> By not ensuring that all employees, including those who had contact with children, had passed all required criminal background checks, the Municipality used Federal awards to pay individuals who were not eligible to provide services under the Federal award and potentially jeopardized the safety of children.

## **RECOMMENDATIONS**

We recommend that the Municipality:

- work with ACF to develop a viable plan for refunding \$153,052 in unallowable costs to the Federal Government;<sup>19</sup>
- develop and implement procurement policies and procedures to avoid acquiring unnecessary items and to perform analyses to determine the most reasonable approach for future vehicle purchases; and
- develop and implement written policies and procedures to ensure that criminal background checks on employees are completed within required time frames.

## **THE MUNICIPALITY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

### **The Municipality's Comments**

In written comments on our draft report, the Municipality did not indicate concurrence or nonconcurrence with our recommendations. However, the Municipality stated that it did not concur with our findings.

Regarding our first finding, the Municipality stated that the four additional vehicles were reasonable and necessary for the performance of the award and that ACF approved the purchases. The Municipality further indicated that it was not necessary to disclose the four other vehicles it already owned because ACF had approved the purchase of those vehicles

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<sup>18</sup> ACF regulation, 45 CFR §1302.90, which requires comprehensive fingerprint background checks to be conducted before a job candidate's hiring and every 5 years thereafter, was not in effect during our audit period. The applicable Commonwealth provisions require the Municipality to obtain a Certificate of No Penal Record for all employees every 6 months.

<sup>19</sup> OIG generally recommends recovery of unallowable costs. However, because of recent weather-related events, we believe the Municipality should be given viable options for refunding these costs.

when it funded the Municipality as a new recipient and that the vehicles were listed in the Municipality's inventory list. In addition, the Municipality asserted that the low mileage on the new vehicles was because they were intended to be used for the limited purpose of recovery activities. Lastly, the Municipality said the logs showed less mileage than the vehicles it already owned because the new vehicles were received 8 months into the audit period.

With respect to our second finding, the Municipality said that the Head Start or Early Head Start programs in Puerto Rico are not childcare providers but instead are considered educational centers for nurseries, infants, and preschoolers. For this reason, the Municipality said Puerto Rico's Law No.173-2016 and Title 8 do not apply to its Head Start or Early Head Start programs; rather, it claimed those programs are regulated by less restrictive Federal laws and regulations.

The Municipality, however, said that it implemented a preventive measure in 2022 asking all employees to provide their Certificate of No Penal Record every six months. It stressed that the safety of children was never jeopardized because the employees waiting to complete their background checks were never left alone with children at any time.

### **Office of Inspector General Response**

We maintain that our findings and recommendations are valid. In its response to our first finding, the Municipality distinguished the four vehicles purchased with disaster assistance award funds as "recovery vehicles" designated to transport staff, renovation materials and equipment and furniture to hard-to-reach centers via roads that were difficult to traverse after Hurricane Maria. The four vehicles that the Municipality already owned were for "ongoing services" and designated to transport families and personnel to training and official program activities.

However, the Municipality did not provide any evidence that the new vehicles were used for recovery operations or that it had to use a specific vehicle to access hard-to-reach centers. All eight vehicles in its fleet were used by the Municipality interchangeably on the same routes. For example, mileage records for September 2020 show the Municipality used both its Toyota 4Runner—designated for use in "ongoing operations" and one of its newly purchased Jeep Wranglers—designated for use in "recovery operations" to travel to the same four destinations: Cantera, Cantito, La Fuente, and Monaco.

We also note that the Municipality did not provide additional evidence that its procurement policies included factors to consider when making purchases to avoid unnecessary items. Regarding our second finding, we disagree with the Municipality's assertion that the 25 staff members identified in our report do not need to comply with background check requirements because they work at educational centers rather than childcare providers. Head Start regulations state that (1) facilities used by Head Start programs must meet state or local licensing requirements, "even if exempted by the licensing entity" and (2) when state or local requirements vary from Head Start requirements, the most stringent provision—in this case,

the Commonwealth’s provisions—take precedence.<sup>20</sup> All 24 centers operated by the Municipality are subject to requirements under Puerto Rico’s Law No.173-2016 and Title 8 which apply to all facilities that provide childcare and development and learning services. Puerto Rico Title 8 § 1431c clarifies that an establishment that serves infants and nurseries, and at the same time, offers services to children between the ages of three (3) to four (4) years with eleven (11) months...must apply the most restrictive legislation and regulations. As such, all staff working at the centers, including Head Start staff that provide educational services, must comply with pre- and post-employment requirements related to criminal background checks. In its response, the Municipality acknowledged that it was coming into compliance with background check requirements as a new procedure.

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<sup>20</sup> 45 CFR §1302.21(d).

## **APPENDIX A: AUDIT SCOPE AND METHODOLOGY**

### **SCOPE**

Expenditures related to the Municipality's disaster assistance awards for the period April 1, 2019, through September 30, 2020 (audit period) consisted of 629 expenditure transactions totaling \$3,122,879. We reviewed three separate nonstatistical samples totaling 209 expenditure transactions and personnel records for compliance with Federal and Commonwealth requirements. For the first nonstatistical sample, we reviewed accounting records and supporting documentation related to 105 expenditure transactions for supplies, equipment, professional services, and construction totaling \$1,453,082. For the second nonstatistical sample, we reviewed 30 expenditure transactions from payroll totaling \$31,581. For the third nonstatistical sample, we reviewed 74 transactions totaling \$317,571. In addition, we reviewed personnel records for all 25 Municipality employees to determine whether the Municipality complied with criminal background check requirements.

During our audit, we did not assess the Municipality's overall internal control structure. Rather, we limited our review of internal controls to those related to the Municipality's management of its disaster assistance award funds.

We conducted our audit work from October 2020 through July 2022.

### **METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal and Commonwealth laws, regulations, and guidance;
- discussed disaster assistance grant licensing requirements with ACF officials;
- obtained from OIG's Division of Data Analytics total drawdowns of disaster assistance awards by the Municipality during our audit period;
- interviewed Municipality officials to gain an understanding of the Municipality's accounting system, time and attendance policies, and internal controls over the management of award funds;
- reviewed the Municipality's policies and procedures and internal controls over Federal expenditures;
- reconciled award expenditures claimed by the Municipality to accounting records for the two disaster assistance awards included in our audit and reviewed three separate nonstatistical samples of expenditures as shown in the table on the following page:

**Table: Nonstatistical Samples of Expenditures**

<b>Expenditure Type</b>	<b>Frame Size</b>	<b>Value of Frame</b>	<b>Sample Size</b>	<b>Value of Sample</b>
Equipment >\$20,000 Supplies >\$1500 Contracted Professional Services Construction	105	\$1,453,082	105	\$1,453,082
Payroll	356	1,326,757	30	31,581
Other – Equipment <\$20,000 Supplies <\$1,500 Training Travel Miscellaneous	168	343,040	74	317,571
<b>Total</b>	<b>629</b>	<b>\$3,122,879</b>	<b>209</b>	<b>\$1,802,234</b>

- reviewed personnel files for all 25 Municipality employees hired with award funds to determine the Municipality’s compliance with Federal and Commonwealth background check requirements; and
- discussed the results of our audit with the Municipality officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>
<i>The Municipality of Barceloneta Did Not Always Manage Its Head Start Disaster Assistance Awards in Accordance With Federal and Commonwealth Requirements</i>	<a href="#"><u>A-02-20-02003</u></a>	8/30/2022
<i>The Puerto Rico Department of Health's Implementation of Its Emergency Preparedness and Response Activities Before and After Hurricane Maria Was Not Effective</i>	<a href="#"><u>A-02-18-02002</u></a>	7/7/2021
<i>The Health Resources Services Administration Has Controls and Strategies To Mitigate Hurricane Preparedness and Response Risk</i>	<a href="#"><u>A-04-18-02015</u></a>	12/18/2018
<i>The Administration for Children and Families Has Controls and Strategies To Mitigate Hurricane Preparedness and Response Risk</i>	<a href="#"><u>A-04-18-02013</u></a>	12/18/2018
<i>The Centers for Disease Control and Prevention Has Controls and Strategies To Mitigate Hurricane Preparedness and Response Risk</i>	<a href="#"><u>A-04-18-02014</u></a>	11/7/2018





November 1, 2022

Lori Pilcher  
Regional Inspector General  
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Ref: A-04-20-02032

Dear Ms. Pilcher:

This is in response to the above draft audit report enclosed with your correspondence of October 4, 2022, The Municipality of Manatí Did Not Always Manage Its Head Start Disaster Assistance Awards in Accordance with Federal and Commonwealth Requirements.

**Finding A:**

*“The Municipality did not always manage its Head Start disaster assistance awards in accordance with Federal and Commonwealth requirements. Of the 209 expenditure transactions in our non-statistical samples, 205 met Federal requirements. For the remaining four expenditures transactions, the Municipality claimed unallowable costs totaling \$153,052 related to four vehicles that were not necessary or reasonable for the performance of the award. These deficiencies occurred because the Municipality did not have written procurement policies and procedures that included factors to consider when making purchases to avoid unnecessary or duplicative items and that it performed an analysis of vehicle leasing versus purchasing, or any other appropriate analysis to determine the most reasonable approach. As a result, the Municipality did not show that the purchase of four vehicles totaling \$153,052 was reasonable, necessary and the most economical approach. Funds used for the vehicles could have been used for Head Start program activities or returned to ACF”.*

**We do not concur with the finding.**

1. The auditor concluded that the purchase of the vehicles was not necessary for the performance of the award.

**Response:** The vehicles were necessary for the performance of the award. To understand the need for the vehicles in question, we must first consider the facts that justified their purchase.

The Municipality of Manatí was granted funds to operate the Head Start/Early Head Start program as a grantee on July of 2017. We have a funded enrollment of 452 preschoolers, 80 infants and toddlers and 10 pregnant women for a total of 542 participants. Our geographic area consists of the municipalities of: Manatí, Florida and Ciales, Puerto Rico. The services are provided in 24 centers with 24 Head Start classrooms and 11 Early Head Start classrooms. Our staff is composed of 172 employees. Two months later, in September 2017, Puerto Rico suffered the greatest natural impact of its history with the passage of Hurricanes Irma and Maria. The Municipality of Manatí, located in a mountainous region and costal area of Puerto Rico was severely affected in all aspects, from loss of homes, educational facilities, access to roads, electric power, and potable water; to flooding, landslides, fallen trees and electric posts, all of which made access very difficult, not only to the Head Start centers, but also to many of the families served by our Program. Many homes were isolated and difficult to reach.

Once the Municipality completed emergency actions, the Head Start & Early Head Start (HS&EHS) program immediately developed a comprehensive plan for recovery with a commitment to completing a full resilient recovery, focused on support to families in their homes and the renovation of facilities to renew center-based services as soon as possible. The data resulting from the assessment, reflected the serious damage to all our facilities and was submitted to ACF.

Officials from the Office of Disaster Recovery, as well as Head Start Central and Regional Offices visited Puerto Rico. They saw firsthand the catastrophic effects of the hurricane and the urgent need for recovery efforts. Various meetings were held with all Puerto Rico recipients, to provide instructions on how to proceed to request recovery funds. Regional Head Start Office Program and Fiscal Specialists maintained continuous communication with all recipients, including our Program, for updates on our needs and progress.

Subsequently, once ACF had complete information on the damages to all grantees impacted by Hurricanes Harvey, Irma, and Maria, ACF issued Program Instruction ACF-PI-HS-18-02 dated 04/09/2018, outlining the process to be used to request Disaster Assistance funds to restore Head Start and Early Head Start services.

In consultation with ACF, our Program requested approval, among others, to purchase of the vehicles needed to implement its recovery plan. The instructions for submission of applications to ACF, detailed in ACF-PI-HS-18-02 were carefully followed.

The request was based on ACF-PI-HS-18-02, *item 2. Materials, Supplies, Equipment- ...* “Programs may also request vehicles, equipment, materials, furnishings, and supplies needed to support the delivery of temporary services until program services can be fully restored. Refer to ACF-IM-HS-17-02 Disaster Recovery from 2017 Hurricanes to ensure that needed approval is

*obtained prior to purchase of equipment exceeding \$25,000 through May 31, 2018, and subsequently for purchasing equipment exceeding \$5,000.*

In grant 02TD000006-01-00, ACF approved 26 staff positions to carry out specific recovery activities, such as Project Manager, Property Clerk, Warehouse staff, Engineer, and Health Services staff, among others. To support the recovery activities, including renovations, our Program requested funds to purchase four vehicles with the appropriate specifications needed to work under the extreme conditions of terrain and roads. Upon consideration and review of the application, ACF approved the purchase of the three vehicles requested, in grant action 02TD000006-01-00. In subsequent grant action 02TD000006-01-02, ACF approved the purchase of an additional vehicle.

2. The auditor concluded that the purchase of the vehicles was not reasonable.

**Response:** The purchase of the vehicles was reasonable. The Municipality of Manatí is the Head Start/Early Head Start recipient. Its Fiscal and procurement policies are followed per the Commonwealth and Federal regulation. The Program transactions are processed accordingly Page 8, part 2 and page 9, section VIII of the Municipality's Financial and Procurement Policies and procedures provides the process for unit purchases under \$100,000. As did all the other 205 expenditure transactions reviewed and accepted by the auditor, the purchase of the vehicles met Federal, Commonwealth, and Municipal requirements. **Attached** is a copy of the Municipal written Policy for the procurement of non-personal purchases and services, approved on July 22, 2016. The Municipality Procurement Policy does not provide for leasing versus purchase.

3. The auditor concluded that the purchases of the vehicles were not the most economical.

**Response:** Due to the specific purpose of the vehicles, the purchase most beneficial to the Program was considered in addition to the cost. Still, of the total estimated amount by the Puerto Rico General Services listing used to request the funds, the Program was able to obtain the vehicles for \$153,052, an economy of \$21,898. Attached are copies of the Payment vouchers, quotes received, and the analysis report for each.

4. The auditor concluded that the Municipality did not inform ACF that it operated a transportation unit with four other vehicles that did not incur in hurricane damages and were in good working conditions at its disposal when applying for the recovery vehicles.

**Response:** It was not necessary to explain in the application that the Municipality owned four vehicles. ACF was aware of this because ACF awarded the funds for the purchase of these vehicles when ACF funded the Municipality as a new recipient. Further, these vehicles are on the Program's

inventory, which is periodically reported to ACF. The vehicles were used by the Program during the aftermath of the hurricanes, supported by other Municipal and Commonwealth emergency vehicles. Eventually, these vehicles would be needed for their original purpose, supporting operational program activities, as approved.

5. The auditor concluded that the purchases were duplicative.

**Response:** The new vehicles were not duplicative based on the specifications. These vehicles are used for recovery activities. Due to the nature of the damages to the centers, the need to reach isolated areas, and the terrain in the mountainous region within our service area, they have specifications based on the experience learned with the impact of catastrophic events.

The purchases were not duplicative based on the use assigned to each. as detailed below.

The Disaster Assistance funds were specified for **resilient** activities that would withstand future disasters. Puerto Rico not only suffered Hurricanes Irma and Maria, but has since suffered multiple earthquakes and, most recently, the passing of Hurricane Fiona in 2022. The appropriateness of the vehicles was evident in the recovery efforts of these events.

Please see the description of the vehicle use below:

<b>Operational Vehicles For Ongoing Service</b>	<b>Use in compliance with ACF Approval per grant 02CH010492</b>
2019 Toyota Sienna minivan	Transportation of families and personnel to trainings, appointments, as well as official program-related activities.
2018 Toyota 4Runner utility vehicle	For use by Education, Health, Social Workers, and other programmatic staff to visit the centers.
(2) 2018 Toyota Tacoma pick-up trucks	Move supplies and equipment to the now 31 classrooms and to transport staff and materials for minor ongoing repairs.
<b>Recovery Vehicles For Recovery Activities</b>	<b>Use in compliance with Grants Terms of 02TD000006-01-00 and 02TD000006-01-02</b>
2019 Ram pickup 1500, Double Cabin	Prepared for the conditions of terrain to transport staff and materials for minor

	renovations of the facilities, larger than minor repairs.
(2) 2020 Four Wheel Drive vehicles	Transportation of programmatic staff, and health and safety staff to hard-to-reach centers, impacted by landslides and damaged roads, difficult to reach. Also, staff to perform minor repairs.
2019 Ford Super Duty F550 Truck-6 Passenger, enclosed body	An appropriate and reliable transportation to take equipment and furniture to and from the locations with torque ( <b>capability to produce change in the rotational motion of the body</b> ). A closed truck, single cabin (3 passengers), 102 inches wide, 14 feet long, 2,500 pounds capacity and included loading platform.

- The auditor concluded that the funds used to purchase the vehicles could have been used for Head Start program activities or returned to ACF.

**Response:** The funds used to purchase the vehicles were expended in accordance with the terms and conditions of the two grant actions specifically awarded for disaster recovery activities. Funds for the program activities are awarded in grant 02CH010492-01-00 and are used for program activities in accordance with the terms and conditions of the operational award. Had the recovery funds been used for Head Start program activities, or any other activities unrelated to the terms of the recovery award, they would have been unallowable.

- The auditor stated in the report that mileage logs for the new vehicles show that they were driven 8,556 miles during the audit period, while the mileage logs for the four existing vehicles show they were driven for 16,786 miles combined for the same period.

**Response:** Less mileage is understandable due to the purpose for which they are used. The number of miles driven does not imply that the vehicles purchased are unnecessary. As described above, the use of the existing vehicles is for ongoing program activities, and they are continuously driven during the day, each day. On the contrary, vehicles used for recovery activities, such as transportation of work crews for renovations and transportation of equipment and furniture to and from hard-to-reach centers may not be used continuously all day. Therefore, they will log much less mileage.

Further, the audit was performed from April 1, 2019 to September 30, 2020. The vehicles were received on November 20, 2019, almost eight months into the audit, or eight months less mileage

to log than the existing vehicles. Also, when the vehicles arrived, they needed to be registered with the Department of Transportation, entered in the Municipal and Program inventory, assigned to drivers and work crews, and labeled as Head Start vehicles for control prior to their use. This also counts for time not logged.

**Note: Also, please see the attached Single Audit report on Compliance for Each Major Program and on Internal Control Over Compliance Required by the Uniform Guidance dated September 24, 2021, which reflects no Findings or non-compliances.**

**Enclosures:**

**Attached 1:** Attached is a copy of the Municipal written Policy for the procurement of non-personal purchases and services, approved on July 22, 2016.

**Attached 2:** Attached are copies of the Payment vouchers, quotes received, and the analysis report for each.

**Attached 3:** Attached Single Audit report on Compliance for Each Major Program and on Internal Control Over Compliance Required by the Uniform Guidance dated September 24, 2021, which reflects no Findings or non-compliances.

**Finding B:**

*“Additionally, the Municipality did not comply with all requirements related to criminal background checks for 25 employees hired with awards funds. The Municipality did not have policies to ensure that criminal background checks were obtained within required time frames. In addition, by not ensuring that all employees who had contact with children had passes all required criminal backgrounds checks, the Municipality potentially jeopardized the safety of children”.*

**We do not concur with the finding.**

1. The auditor concluded that the Municipality did not always comply with all pre-and post-employment requirements related to criminal background checks for all 25 employees hired with grant funds.

**Response:**

The Head Start/Early Head Start Program of the Autonomous Municipality of Manatí began as a Region II of New York Grantee on July 1, 2017.

The Head Start/Early Head Start Program Grantee of the Autonomous Municipality of Manatí is governed by the Head Start Act, the Performance Standards for Head Start Programs, Law No. 107-2020, as amended, "Municipal Code of Puerto Rico" (formerly known as Law No. 81 Law of Autonomous Municipalities) and municipal ordinances and state laws that apply to municipalities.

Head Start/Early Head Start Programs in Puerto Rico are considered as educational centers for nurseries, infants, and preschoolers. They are not childcare.

- 1) The Grantee has Recruitment and Selection policies (**Attached**) that include background checks. We clarified that the safety of the children was never in danger since the employees who were waiting to complete the background check were not left alone with the children at any time. These employees were supportive of the existing staff in the center (3rd person). The service to children was offered in virtual mode from March 16, 2020, to January 10, 2021, in compliance with the executive orders issued due to the COVID 19 pandemic, by the Governor of Puerto Rico. In addition, once the background checks of these employees were completed, the results obtained showed that none of them had any criminal history of any kind.
- 2) As established in Article 1.05 of Law No. 173-2016, as amended, "Law for the Licensing of Care, Development and Learning Establishments for Children in Puerto Rico," **this Law applies to care service providers participating in the Child Care Program under the Administration for the Care and Integral Development of Children (ACUDEN)**, who will be required to have a license issued by the Department of the Family and, in addition, meet the requirements imposed by federal legislation. **However, institutions that manage and operate an establishment under the Head Start or Early Head Start Program shall be regulated by applicable federal law and regulation.** (Page 22 of that Act) **Attached**
- 3) As established in Article 1.05 of Law No. 173-2016, as amended, "Law for the Licensing of Care, Development and Learning Establishments for Children in Puerto Rico", Head Start or Early Head Start programs under the Municipalities are not regulated by Law 173, supra, so it does not require us to ask our employees for a criminal record certification is, every 6 months. On the other hand, Act No. 300-1999, as amended "*Law on the Verification of Credentials and Criminal History of Providers for Children, Persons with Disabilities and Health Professionals*", does not contain a term for requesting a certificate of criminal records for sexual offences.
- 4) The certification of records for sexual crimes issued by the Puerto Rico Police Department (Law 300) indicates that, at the time of the search, the person does not appear with a sexual crime. Nowhere does it establish the history or number of years in which such a search is performed. In this regard, the Grantee is governed by the Head Start/Early Head Start Program Performance Standards,

Subpart I 1302.90 (b), since title 8 of the Laws of Puerto Rico only applies to agencies delegated to ACUDEN.

- 5) **2020 Laws of Puerto Rico Title 8 - Public Welfare and Charitable Institutions Chapter 47 - Child Care, Development, and Learning Facility Licensing Act Subchapter I - Preliminary Provisions § 1431c. Application of the law establishes:** Similarly, this chapter applies to care providers participating in the Child Care Program under the Administration for the Care and Integral Development of Children (ACUDEN), who will be required to have the license issued by the Department of the Family and, in addition, comply with the requirements imposed by federal legislation. However, institutions that manage and operate an establishment under the Head Start or Early Head Start Program shall be regulated by applicable federal law and regulation.

By exception, the Department of the Family shall have the authority to require the applicability of this chapter and its regulations when the requirements thereof are stricter or more comprehensive than federal law or when the best welfare of participating minors so requires.

**We must point out that Title 8 1431 c, refers to the Child Care Program that is governed by the requirements of federal and state law, whichever is more restrictive. We emphasize that it relates to Child Care Programs, since Head Start/Early Head Start Program Grantees in Puerto Rico are not required to get a license from the Department of the Family.**

- 6) The Head Start/Early Head Start Program Grantee is governed by the Performance Standards applicable to the program and the Head Start Act. These state that we have 90 days after we have hired an employee to complete the background check process (1302.90) (b)(1)(i)(ii)(2)(i)(ii).
- 7) The certifications of sex offenders (Law 300) do not establish anywhere the period they cover. They only state that, at the time of the search, the person does not appear in the Puerto Rico Sex Offender Registration System. The Regulations for the Verification of Criminal History of Providers of Care Services for Children and the Elderly of Puerto Rico (Law 300 of September 2, 1999) establishes in Article 9: Issuance of Certificate (E), the following: *A negative certificate will be issued when the applicant does not appear as a convicted person in the system. (F) The certificate with a criminal history shall contain the following information: application number, full name of the person, date and place of birth, social security number, sentencing court, date of sentencing, crime for which he or she was convicted, penalty imposed, date of issuance of the certificate, and signature of the Superintendent and Assistant Superintendent of Field Operations.*



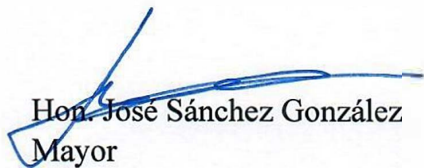
- 8) The Head Start/Early Head Start Program of the Municipality of Manatí **does not apply title 8 of the laws of Puerto Rico. the concessionaires in Puerto Rico of the Head Start/Early Head Start program are not licensed by the Department of the Family, so the certificate of criminal record is requested in the hiring process of the employee and after hiring is requested annually.**
- 9) In March 2020, the government declared a "lockdown" due to the COVID 19 pandemic. Given this situation, the fingerprinting process for background checks was carried out after 90 days, but once we had the opportunity to return in person to our work areas, we began to carry out the process, for which it was very difficult to contact the service provider because of the pandemic. However, as of September 3, 2020, the results of the background check began to be obtained by fingerprinting. The provisions of the audit brief that the Program invoked the federal requirements to carry out the process every 5 years is erroneous. What the Program indicated was that once the employee's first background check is obtained, the next verification is done at 5 years, as established by the federal standard. It is very important to mention that these employees were never alone with the children since they were support staff for the regular staff of the Program (3rd person). The service to the children was offered in virtual mode from March 16, 2020, to January 10, 2021, in compliance with the executive orders of the Governor of Puerto Rico back then. These employees were eligible to provide services since they met the minimum requirements of the position, only lacked fingerprinting to complete the background check process and were not in person with the children, so there was no direct contact. For us the safety of children is of paramount importance. For this reason these employees were always accompanied by regular employees of the Program, even though they did not have children in person in the centers. In compliance with the Head Start Program Performance Standards Subpart I – Human Resources Management, 1302.90 Personnel Policies, (b) 4, *A program must ensure that an employee or newly hired consultant does not have unsupervised access to children until the criminal background check process, described in paragraphs (b)(1) through (3), inclusive, of this section has been completed.* Therefore, there was always supervision of these employees. In addition, all the results of the background checks for these employees showed that none of them had a criminal history. We ask that you understand and understand that the delay occurred for reasons beyond our control due to the COVID 19 pandemic.
- 10) We are sure that Law No. 173-2016 and Title 8 of the Laws of Puerto Rico are not applicable to our dealership, however, this year 2022, we ask all employees, the certificate of criminal record in the month of February and in the month of August. As a preventive measure, we will continue this practice every year.

**Enclosures:**

**Attached 1:** Attached is a copy of the Recruitment and Selection Policies approved on December 4, 2017.

**Attached 2:** Attached is a copy of Page 22 of the Law No. 173-2016, as amended, "Law for the Licensing of Care, Development and Learning Establishments for Children in Puerto Rico.

Sincerely,

  
Hon. José Sánchez González  
Mayor

