

C A M P A I G N F O R

ACCOUNTABILITY

December 17, 2019

By Email: Secretary@HHS.gov
Alex.Azar@HHS.gov

The Honorable Alex M. Azar II
Secretary of Health and Human Services
U.S. Department of Health & Human Services
200 Independence Avenue, SW
Washington, DC 20201

By Email: Diane.Foley@HHS.gov

Dr. Diane Foley
Deputy Assistant Secretary for Population Affairs
Director for the Office of Adolescent Health
U.S. Department of Health & Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: Improprieties in Obria's 2019 Title X Grant Application and Award

Dear Secretary Azar and Deputy Assistant Secretary Foley:

Campaign for Accountability (“CfA”) asks that the Department of Health and Human Services (“HHS”) cease awarding Title X funds to The Obria Group, Inc., and its affiliated Obria Medical Clinics of Southern California (collectively “Obria”). Obria appears to have deliberately provided inaccurate information in its 2019 application for Title X funds and is an inefficient and ineffective administrator and purveyor of Title X services. As a result, not only should Obria not be entrusted with any additional Title X funding, we also urge you to reconsider its initial Title X grant and whether Obria should return any improperly spent or unused funds.

Background

Since its inception in 1970, Title X has operated as a federal grant program dedicated to providing comprehensive family planning and related preventive healthcare services. The program was developed and enacted in recognition of the need for individuals with low incomes to have accessible family planning services. HHS relies on grantees—who have historically been regionally selected via a competitive application process—to implement the program. Over nearly half a century, the Title X program has developed a nationwide network of family planning clinics that, until recently, served over four million people annually. Throughout much of the program, a quarter of Title X patients have lived in California.

Obria is purportedly a network of 48 affiliated crisis pregnancy centers (“CPCs”)¹ based out of southern California and located in seven states.² It consists of both The Obria Group, Inc., a national umbrella organization of affiliate centers, and Obria Medical Clinics of Southern California, Inc., an affiliate network of California CPCs. In 2014, Obria’s founder and CEO, Kathleen Eaton Bravo, undertook a rebranding effort to transform her California CPCs, previously called BirthRight and then Birth Choice, into a national network, pledging to recruit 200 centers by 2019. Until recently, the bulk of Obria funding came from private donations, much of it from the Catholic Church. Obria’s rebranding included an effort to medicalize its centers, while maintaining its staunchly anti-abortion and anti-contraception ethos.

In late July 2017, David Mansdoerfer, Director of Boards and Commissions for HHS’ Office of White House Liaison, introduced Clare Venegas, President of Obria Medical Clinics, and Steven Valentine, then Associate Director for Policy in the Office of the Assistant Secretary of Health (and formerly with the Susan B. Anthony List), stating “Steve works for our Assistant Secretary of Health, and knows all about the programs we were talking about.”³

Over the course of several emails, Ms. Venegas and Mr. Valentine scheduled a phone call to discuss Obria’s programming, as well as the available HHS grants for which the organization might apply.⁴ Notably, Ms. Venegas did not include contraception services in her description of programming provided by Obria, nor did she identify family planning as an area of federal funding for which Obria might qualify.⁵

More than six months later, on March 2, 2018, Ms. Venegas reconnected with Mr. Valentine by forwarding a February 2018 *Breitbart* article that reported on the administration’s announcement of “a new grant program under the Title X family planning program that has \$260

¹ Stephanie Mencimer, *The Trump Administration is Giving Family Planning Funds to a Network of Anti-Abortion Clinics*, MOTHER JONES (Nov. 12, 2019) (“Using California state data, Obria’s website, and documents the group provided to HHS as part of Obria’s three Title X grant applications, *Mother Jones* could identify even fewer—only 18 brick-and-mortar clinics, plus four mobile clinics.”), <https://www.motherjones.com/politics/2019/11/the-trump-administration-is-giving-family-planning-funds-to-a-network-of-anti-abortion-clinics-obria/>.

² *Archives*, OBRIA MEDICAL CLINICS, https://www.obria.org/obria_locations/ (last visited Dec. 9, 2019).

³ See Ex. A at 2 (July 31, 2017 email from David Mansdoerfer introducing Clare Venegas of Obria Medical Clinics and Steven Valentine of HHS), available at <https://www.documentcloud.org/documents/6580216-Ex-a-HHS-Obria-Letter.html>. On July 19, 2019, CfA obtained records from the Department of Health and Human Services in response to a FOIA request filed by CfA on December 20, 2018. Those records contain the relevant communications referenced in this letter.

Mr. Mansdoerfer’s introduction of Ms. Venegas to Mr. Valentine includes a link to the homepage of the Obria Medical Clinics website. At the time of Mr. Mansdoerfer’s introduction, Obria Medical Clinics’ Abortion Pill Reversal page stated, “We know that after some time thinking about it, many women would like to change their minds about a medical abortion. IT MAY NOT BE TOO LATE, IF YOU CALL QUICKLY. Please... Call now.” Obria Medical Clinics, *Abortion Pill Reversal*, INTERNET ARCHIVE WAYBACK MACHINE (Apr. 2017), available at <http://web.archive.org/web/20170417112437/https://www.obria.org/abortion-pill-reversal/> (last visited Dec. 10, 2019).

⁴ See Ex. A at 1. See also Ex. B at 1-2 (Email chain beginning on Aug. 2, 2017 Valentine to Venegas, rescheduling a phone call), available at <https://www.documentcloud.org/documents/6580217-Ex-B-HHS-Obria-Letter.html>.

⁵ See Ex. A at 3-6.

million available to grantees that do not perform abortions,”⁶ observing “[t]his grant opportunity seems right up our alley,” but noting the grant application would “take quite a bit of time/investment to complete,” and so asked Mr. Valentine for his “insight” on the Title X program, and whether Obria had a “good shot” at receiving a grant.⁷ Mr. Valentine forwarded Ms. Venegas’ email to Valerie Huber, then Acting Deputy Assistant Secretary of HHS Office of Population Affairs. Two weeks later, Ms. Venegas emailed Mr. Valentine to thank him for discussing the Title X opportunity with her.⁸

In May 2018, Ms. Venegas and Mr. Valentine emailed about Obria’s apparent technical difficulty preparing to submit the organization’s 2018 Title X application. Again Mr. Valentine forwarded the email communication to Ms. Huber.⁹ Eventually, Obria submitted a Title X application in Fiscal Year 2018, which was denied.

Eight months later, in January 2019, Obria submitted two new Title X applications for Fiscal Year 2019, one for a project based in California and a second proposed a Texas based project. On March 29, 2019 Obria’s California application was approved, awarding the group 1.7 million dollars to provide Title X services in three of the state’s 58 counties.

Deputy Assistant Secretary for Population Affairs Diane Foley emailed Ms. Eaton Bravo, on April 2, 2019 to congratulate her on the grant award and to set up a phone call to discuss Obria’s successful application.¹⁰ On April 4, 2019, Berni Neal, the chair of Obria’s advisory board, emailed Dr. Foley to schedule a call for later that afternoon to discuss Obria’s grant. The call participants included Dr. Foley, Ms. Eaton Bravo, and several other Obria employees and board members.¹¹

Obria’s 2019 Title X grant went into effect on April 1, 2019. In an interview that month with EWTN Pro-Life Weekly Ms. Eaton Bravo identified Obria as a “pro-life faith-based organization.”¹² Ms. Eaton Bravo stated she’d been told by HHS that Obria was selected to be a “trailblazer,” and that HHS was trying to “open up new avenues in Title X,” looking for “holistic care” rather than funding abortion care as the bulk of Title X funds had done previously.¹³ In fact, however, Title X funds are prohibited from covering abortion services.¹⁴

⁶ Susan Berry, *Trump Administration Announces \$260 Million in Family Planning Grants to Programs that Do Not Perform Abortions*, BREITBART (Feb. 23, 2018), <https://www.breitbart.com/politics/2018/02/23/trump-administration-announces-260-million-in-family-planning-grants-to-programs-that-do-not-perform-abortions/>.

⁷ See Ex. B at 1.

⁸ *Id.*

⁹ See Ex. C at 1 (May 15, 2018 emails from Venegas to Valentine and Valentine to Huber requesting assistance with Obria’s application), available at <https://www.documentcloud.org/documents/6580218-Ex-C-HHS-Obria-Letter.html>.

¹⁰ See Ex. D (Apr. 2, 2019 email from Foley to Eaton Bravo), available at <https://www.documentcloud.org/documents/6580219-Ex-D-HHS-Obria-Letter.html>.

¹¹ See Ex. E (Apr. 4, 2019 email from Neal with subsequent responses from Foley and Eaton Bravo setting a call time) available at <https://www.documentcloud.org/documents/6580220-Ex-E-HHS-Obria-Letter-Merged.html>.

¹² EWTN, *Trump Administration Awards Pro-Life Obria Group Millions of Dollars*, at 4:40, YOUTUBE (Apr. 26, 2019), <https://www.youtube.com/watch?v=6oY8V2Xe-fc&app=desktop>.

¹³ *Id.*

¹⁴ 42 U.S.C. §300a-6 (1970).

Obria's Title X Application

Obria's Provision of Care is Inefficient

Obria's approved application for Title X funding committed to serving 12,000 patients a year,¹⁵ however Obria's project received less than a third of the requested funding requested so the number of patients served will likely be much lower. Obria's application calculated a cost per patient served by its project, though this estimate has not been made publicly available.¹⁶ If Obria's projected cost per patient remained relatively constant despite the reduced funding Obria would expect to serve no more than 4,000 individuals.¹⁷

Although Obria's calculated cost per patient has not been disclosed, a rudimentary calculation dividing Obria's requested \$5.9 million budget by the proposed target of serving 12,000 patients equals a rough cost per patient of \$492.¹⁸ This figure is extraordinarily high considering the limited family planning services that Obria offers, and that the only contraception the majority of its participating clinics will provide—recommending a natural family planning app called FEMM¹⁹—should have minimal associated costs.

Obria's cost per patient is particularly egregious when compared to those of other Title X grantees. Essential Access Health ("Essential Access") is the statewide Title X grantee in California and has administered the funding for California's expansive and diverse Title X program since the program was established.²⁰ For several years Essential Access was the state's sole grantee, until Obria's 2019 award. In fiscal year 2017 Essential Access received a \$20.5

¹⁵ See Ex. F at 17 (The Obria Group, Inc.'s 2019 application for Title X funding in California titled, *Improving Sexual and Reproductive Health Outcomes for Vulnerable Youth, Men, and Women Project*), available at <https://www.documentcloud.org/documents/6580221-Ex-F-HHS-Obria-Letter-Merged.html>.

¹⁶ Obria's calculated amount was redacted in the publicly released copy of the application. *Id.* at 17.

¹⁷ In a complaint filed by Obria challenging the requirements of the Title X program under which Obria applied, Obria confirmed that its project committed to serving 4,000 patients, stating that its "grant would have enabled Obria to expand its services to an additional 4,000 patients annually." *Obria Grp. v. HHS*, No. 19-cv-00905, Dkt. 1 ¶4 (May 14, 2019), available at <https://www.politico.com/f/?id=0000016a-d714-dea9-a7ee-d794f2230000>. Obria's complaint appears to further indicate that the organization did not begin its Title X project until the Preliminary Injunctions maintaining the Title X requirements under which Obria applied were lifted, indicating that Obria may fail to meet its annual commitment.

¹⁸ Obria must use the majority of the grant funds to provide direct services to clients. 42 C.F.R. § 59.18 (2019).

¹⁹ Jessica Glenza, *Revealed: Women's Fertility App is Funded by Anti-Abortion Campaigners*, THE GUARDIAN (May 30, 2019), <https://www.theguardian.com/world/2019/may/30/revealed-womens-fertility-app-is-funded-by-anti-abortion-campaigners>; see also Ex. F at 133-34.

²⁰ Complaint for Declaratory and Injunctive Relief at ¶ 17, *Essential Access Health, Inc. v. Azar*, No. 3:19-cv-01195-EMC, Dkt. 1 (N.D. Cal. Mar. 4, 2019), available at <https://ecf.cand.uscourts.gov/doc1/035117724414>; see also *Essential Access Health v. Azar*, ESSENTIAL ACCESS HEALTH (last visited Oct. 24, 2019), <https://www.essentialaccess.org/content/essential-access-health-v-azar>. While Essential Access administered the state's Title X program it also worked in tandem with California's Office of Family Planning, which administers the state's Family Planning, Access, Care, and Treatment program. During this time, "the adolescent birth rate in California declined by 66 percent since 2000 (faster than the national rate)," a fact that Obria's application acknowledges. See Ex. F at 115.

million Title X grant²¹ and served 1,018,978 low-income Title X patients,²² equaling a cost per patient of roughly \$20.

Considering that Obria's \$492 cost per patient is almost twenty-five times Essential Access' \$20 cost, it is unclear how Obria's application could have been selected through the competitive grant process, especially since Obria's application proposed a Title X project covering three counties already served by Essential Access.

Obria's proposed Title X project provides fewer services, to populations already covered by longstanding Title X providers, at an exponentially greater cost per patient. Obria's application was not competitive and should not have been awarded federal funding through the Title X program.

Obria Misrepresents Medical Director's Involvement

Obria lists its key personnel at several points in its Title X application, and each time, after first listing Ms. Eaton Bravo as the Project Officer, Obria lists Dr. Peter Anzaldo—notably the only physician included in the list of key personnel—as the Title X Medical Director.²³ The application states that as Medical Director, Dr. Anzaldo is “responsible for the clinical oversight and leadership for Obria's Family Planning Project,” and will “perform quality control and compliance, review policies and procedures, oversee the implementation of information and education advisory committees, and oversee the training of medical professionals.”²⁴ As would be expected of the individual tasked with leading a multi-million dollar federally-funded project, Obria committed that Dr. Anzaldo would dedicate one-hundred percent of his time at Obria to these tasks.²⁵

Dr. Anzaldo is also a member of Obria's advisory board.²⁶ According to the most recent Form 990s, through at least September 2018 Dr. Anzaldo was not performing any work for Obria Medical Clinics of Southern California.²⁷ Through at least December 2017, Dr. Anzaldo

²¹ Office of Population Affairs, *Fiscal Year 2017 Title X Family Planning Program Grantees*, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (last updated Aug. 2, 2018), available at <https://www.hhs.gov/opa/grants-and-funding/archive/past-grant-awards/2017.html>.

²² Complaint for Declaratory and Injunctive Relief at ¶ 55, *Essential Access Health, Inc. v. Azar*, No. 3:19-cv-01195-EMC, Dkt. 1 (N.D. Cal. Mar. 4, 2019), available at <https://ecf.cand.uscourts.gov/doc1/035117724414>. In fiscal year 2018 Essential Access received \$22.3 million in Title X funds and served nearly a million low-income patients at over 360 clinic sites in 38 counties across the state. Press Release, ESSENTIAL ACCESS HEALTH (Mar. 28, 2019), available at <https://www.essentialaccess.org/programs-and-services/titlex/ca-state-senate-passes-joint-resolution>. This equals a cost per patient of roughly \$22.

²³ See, e.g., Ex. F at 18.

²⁴ See Ex. F at 18-19.

²⁵ See Ex. F at 18.

²⁶ *About Us*, OBRIA MEDICAL CLINICS, <https://omcsocal.org/aboutus> (last visited Oct. 25, 2019).

²⁷ See *2017 Return of Organization Exempt from Income Tax, Form 990*, Obria Medical Clinics of Southern California Inc., filed Aug. 15, 2019, available at <https://projects.propublica.org/nonprofits/organizations/330150193/201942279349303534/full>.

performed an average of one hour of work per week for The Obria Group.²⁸ Dr. Anzaldo was not paid by either organization for his service as a board member. Apart from his minimal time volunteering with Obria, Dr. Anzaldo appears to be employed full time at his private “elite practice” focusing on “Women’s Health along with a state of the art medical spa” called Anzaldo ObGyn | Aesthetics.²⁹ Dr. Anzaldo’s practice includes a combination of gynecologic and cosmetic services, including Botox and laser hair removal.³⁰

Obria included a copy of Dr. Anzaldo’s *curriculum vitae* as part of its Title X application, but the CV does not list Dr. Anzaldo’s current, primary employment.³¹ In fact, the most recent professional experiences listed for Dr. Anzaldo are staff physician positions with St. Joseph Hospital and University of California Irvine Medical Center, which he purportedly started in 1982 and has continued to the present.³² The inexplicable omission of Dr. Anzaldo’s current employment suggests Obria may have deliberately withheld from HHS the fact that it lacks an actual medical director. It seems self-evident that federally funded healthcare projects should have medical professionals who have sufficient time to dedicate to the projects’ oversight.

Obria Lied to HHS Regarding Project Participants’ Refusal to Refer for Birth Control

As you know, to receive Title X funds, an entity must “provide a broad range of acceptable and effective family planning methods . . . and services.”³³ According to Obria’s application, certain of its subrecipients provide a “broad range of contraceptive methods, including barrier methods, LARCs, implants, [and] pills.”³⁴ At the same time, Obria’s application also states that while the Obria Medical Clinics’ subrecipients and other subrecipient Community Health Clinics do not provide hormonal contraception, patients seeking hormonal birth control “will be referred to a nearby participating FQHC.”³⁵

Nevertheless, in other public forums, Obria has indicated it will not, in fact, provide referrals for hormonal birth control or condoms, and that the Title X funds will not be spent on a broad range of family planning services. In April 2019, after Obria’s Title X grant was announced, Obria founder and CEO Eaton Bravo, stated in an interview with *EWTN Pro Life Weekly* that Title X money would “absolutely not” be spent on contraception, but instead would go toward

²⁸ See *2017 Return of Organization Exempt From Income Tax, Form 990*, The Obria Group, Inc., filed Nov. 13, 2018, available at https://projects.propublica.org/nonprofits/display_990/593804603/03_2019_prefixes_58-62%2F593804603_201712_990_2019030916163001.

²⁹ Home, ANZALDO OBGYN | AESTHETICS, <http://dranzaldo.com/> (last visited Oct. 25, 2019).

³⁰ *Id.*

³¹ See Ex. F at 90-91.

³² *Id.*

³³ 42 C.F.R. § 59.5(a)(1) (2019).

³⁴ See Ex. F at 63-67.

³⁵ See *Id.* at 151. Obria’s application uses the acronym “FQHC” to refer to certain project subrecipients, Share Our Selves clinics and Hurtt Family Clinics, without defining the acronym. We understand “FQHC” to stand for “Federally Qualified Health Center” based upon common usage. See *Federally Qualified Health Centers*, Health Resources & Service Administration (last updated May 2018), <https://www.hrsa.gov/opa/eligibility-and-registration/health-centers/fqhc/index.html>.

abstinence only education, natural family planning, and fertility education.³⁶ She continued stating, “if you really study contraception, it is the flood gates [*sic*] to abortion.”³⁷ Similarly, the following month, Ms. Eaton Bravo told *LifeSite News* “Obria clinics have never distributed or referred for contraceptives and have no plans to do so.”³⁸

Obviously, these statements contradict assertions in Obria’s Title X application. If Obria’s Title X funding is not used for contraception, it is unclear how the project will include the required “broad range of acceptable and effective family planning methods,” and it raises questions as to how it will selectively allocate funding to its subrecipient FQHCs. These clear inconsistencies suggest Obria willfully misled HHS and the public about how it would spend its Title X funds.

Therefore, HHS should investigate to ensure Obria either spends its federal funds as required by the terms of the grant program or require the organization to return its public funding and ban it from submitting further grant applications.

Obria Medical Clinics Do Not Provide Acceptable, Effective, and Voluntary Family Planning

Title X requires projects to offer a “broad range” of contraception and family planning options, including hormonal birth control.³⁹ Further, every participating entity is required to provide at least one “acceptable and effective family planning method[.]”⁴⁰ Yet Obria Medical Clinics do not offer standard birth control such as pills, condoms, and IUDs. The only family planning method Obria Medical Clinics do provide is a natural family planning method and app

³⁶ EWTN, *Trump Administration Awards Pro-Life Obria Group Millions of Dollars*, at 5:56, YOUTUBE (Apr. 26, 2019), <https://www.youtube.com/watch?v=6oY8V2Xe-fc&app=desktop>.

³⁷ *Id.* at 6:24.

³⁸ Victoria Colliver, *Anti-Abortion Clinics Caught in Tumult Over Trump Family Planning Rules*, POLITICO (May 3, 2019), <https://www.politico.com/story/2019/05/03/anti-abortion-clinics-family-planning-1402415>; see also Dorothy McLean, *Pro-Life Catholic Medical Group’s Title X Application Included Contraceptive Promise*, LIFESITE NEWS (Apr. 18, 2019), <https://www.lifesitenews.com/news/pro-life-catholic-medical-groups-title-x-application-included-contraceptive-promise>.

³⁹ 42 C.F.R. § 59.5(a)(1) (2019).

⁴⁰ 42 C.F.R. § 59.5(a)(1) (2019).

called FEMM.⁴¹ No evidence demonstrates that FEMM is “acceptable and effective family planning.”⁴² In fact, FEMM is not approved by the FDA.⁴³

Notably, neither of the medical advisers of the FEMM app are licensed to practice medicine in the United States.⁴⁴ Rather, they appear to be professionally based in Chile and are closely affiliated with Catholic medical institutions.⁴⁵ The FEMM app’s literature also contains misinformation regarding the inflated risks of hormonal birth control, such as inaccurately stating that IUD use increases a woman’s risk of mental illness.⁴⁶

Title X also requires grantees “[p]rovide services without subjecting individuals to any coercion to accept services or to employ or not to employ any particular methods of family planning.”⁴⁷ However, Obria Medical Clinics’ limited provision of a single family planning service, and refusal to provide referrals to those seeking an alternative, could coerce the use of FEMM. To the extent that individuals’ “[a]cceptance of [Obria Medical Clinics’] services” are not based “solely on a voluntary basis,”⁴⁸ those services violate Title X requirements.

Because Obria Medical Clinics fail to provide any acceptable, effective, and voluntary family planning methods, while offering inaccurate medical information through the one non-FDA-approved Title X service it does offer,⁴⁹ HHS should require Obria to comply with the mandates of Title X or demand the return of its federal funding.

⁴¹ See Ex. F at 133-134.

⁴² According to the CDC, natural family planning, also referred to as fertility-awareness based methods, has a failure rate of approximately 24 unintended pregnancies per hundred women. *Effectiveness of Family Planning Methods*, HHS CENTERS FOR DISEASE CONTROL AND PREVENTION (2011), <https://www.cdc.gov/reproductivehealth/contraception/index.htm#Contraceptive-Effectiveness>. There are no scientific studies regarding FEMM’s failure rate. A FEMM informational white page cites scientific studies into the effectiveness of various natural family planning methods as proof of FEMM’s effectiveness, though none are studies specific to FEMM. Meghan Grizzle Fischer and Dr. Pilar Vigil, M.D., Ph.D., *The Case for FEMM* at 18-24, FEMM: FERTILITY EDUCATION & MEDICAL MANAGEMENT (Oct. 2013), https://secureservercdn.net/184.168.47.225/569.4f4.myftpupload.com/wp-content/uploads/2016/02/FEMM-white-paper_2015.pdf?time=1575961391.

⁴³ Jessica Glenza, *Anti-Abortion Groups Uses U.S. Federal Grants to Push Controversial Fertility App*, THE GUARDIAN (Jul. 29, 2019), <https://www.theguardian.com/society/2019/jul/29/us-federal-grants-femm-app-natural-birth-control>.

⁴⁴ Jessica Glenza, *Revealed: Women’s Fertility App is Funded by Anti-Abortion Campaigners*, THE GUARDIAN (May 30, 2019), <https://www.theguardian.com/world/2019/may/30/revealed-womens-fertility-app-is-funded-by-anti-abortion-campaigners>.

⁴⁵ *Id.*

⁴⁶ *5 Facts Should Women Know About IUD Implants*, FEMM (Jan. 20, 2017), <https://femmhealth.org/5-facts-women-know-iud-implants/>.

⁴⁷ 42 C.F.R. § 59.5(a)(2) (2019).

⁴⁸ *Id.*

⁴⁹ Obria’s application states that its “[p]roject participants who are interested in including [fertility awareness-based methods] in their family planning will be offered these services through Fertility Education & Medical Management (FEMM) services.” See Ex. F at 133-134.

*Obria Improperly Presents Its Abstinence-Only
Curriculum for Duplicative Funding*

Other than the FEMM app, the only other service Obria offers to avoid unplanned pregnancy is abstinence education, for which the organization already has received funding under two other separate programs. All three grants fund Obria's implementation of abstinence-based curricula: the REAL Essentials Health curriculum and the REAL Essentials Advance curriculum.⁵⁰

Obria states that it will "leverage a federal Family and Youth Services Bureau Title V grant to provide Sexual Risk Avoidance Education (SRAE) for adolescents enrolled in its Title X FPS program. The SRAE program employs the adolescent version of REAL: REAL Essentials Advance."⁵¹ Obria describes the REAL Essentials Advance curriculum as being an "evidence-based approach. . . [d]esigned specifically for medical centers and health clinics."⁵² In fact, however, even Obria provides no "evidence" that the program, which was created for use in classrooms, has been successful in clinics.⁵³ Obria cannot call a program evidence-based that it has repurposed to apply in a setting for which it wasn't developed and studied.

Obria does not clarify how its implementation of the REAL Essentials Advance curriculum within the Title X program will differ from its preexisting Title V program implementing the same curriculum. Despite the overlap between Obria's Title V and Title X projects, in August 2019 Obria was awarded a third federal grant for administration of the REAL Essentials curriculum through the Teen Pregnancy Prevention ("TPP") Program.⁵⁴ Obria has failed to properly differentiate its Title V, Title X, and TPP projects, all of which purport to administer the same programming in overlapping service areas.

Obria's sexual risk avoidance programming appears to already be covered by the organization's Title V and now TPP funding, and Obria's presentation of it as part of the project's Title X services appears to be an attempt by the organization to double or even triple dip on federal funding.⁵⁵

⁵⁰ See Ex. F at 135.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Curriculum & Certification*, THE CENTER FOR RELATIONSHIP EDUCATION, <https://www.myrelationshipcenter.org/curriculum> (last visited Oct. 25, 2019).

⁵⁴ Office of Population Affairs, *The Obria Group, Inc.*, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, <https://www.hhs.gov/ash/oah/grant-programs/teen-pregnancy-prevention-program-tpp/current-grantees/the-obria-group-inc/index.html> (last visited Oct. 25, 2019).

⁵⁵ It appears that a predecessor of Obria, Toby's House, may have similarly applied for and received three separate federal grants meant to cover the same basic operational services of the organization. Between 2005 and 2012 Toby's House received overlapping Department of Justice, Department of Housing and Urban Development, and HHS grants aimed at providing transitional housing for homeless populations. Despite these separate federal funding streams, Toby's House did not appear to expand the services it provided, though Ms. Eaton Bravo's Toby House salary grew steadily. The organization appears to have stopped operation in 2013. See *Trolling for Title X Funds*, at 14-17, CAMPAIGN FOR ACCOUNTABILITY (May 10, 2019), <https://campaignforaccountability.org/work/trolling-for-title-x-funds/>.

Obria May Have Misrepresented Which Obria Entity is Receiving Federal Funding

Obria's Title X application is in The Obria Group, Inc.'s name, but bears the Employment Identification Number ("EIN") for Obria Medical Clinics of Southern California, one of several subrecipients included in the grant and a fully separate legal entity.⁵⁶

It is impossible to know whether the Obria Group provided the EIN of its subrecipient deliberately or in error. At best, this is a sloppy mistake that could result in funds being improperly distributed.

Previously, Obria improperly intermingled funds intended for its various organizations. For example, in 2009 when Obria received public funding from the Orange County Board of Supervisors for Teen Integrity, one of Obria's related groups formed to provide abstinence-only education, it appears the money actually was directed to Obria's clinics.⁵⁷ Obria should not be permitted to similarly misdirect Title X funding granted to Obria Group. Therefore, the use of the wrong EIN, as well as how the funds have been distributed to, and between, these groups should be investigated.

Violations

Obria May Have Lied in its Title X Grant Application

By law, applications submitted to the federal government for funds must be truthful. Nevertheless, it appears Obria lied to HHS about its subrecipients' plans to refer patients for birth control.⁵⁸ It also appears that Obria's commitment to use Title X funding to cover the provision of family planning services, including a broad range of birth control, was untrue given Ms. Eaton Bravo's later comments that the funding Obria received would "absolutely not" go toward contraception.⁵⁹ Finally, Obria provided an incorrect EIN number.

Therefore, HHS should investigate whether Obria knowingly provided false information in its Title X application for federal funding.

Obria Has Not Shown that Materials are Suitable

Title X applicants are required to provide "satisfactory" assurances that "information or educational materials developed or made available under the grant or contract will be suitable" for Title X purposes and "for the population or community to which they are to be made available."⁶⁰ Title X projects must "provide for the review and approval of informational and educational

⁵⁶ See Ex. F at 12.

⁵⁷ See *Trolling for Title X Funds*, CAMPAIGN FOR ACCOUNTABILITY (May 10, 2019), <https://campaignforaccountability.org/work/trolling-for-title-x-funds/>.

⁵⁸ EWTN, *Trump Administration Awards Pro-Life Obria Group Millions of Dollars*, at 6:24, YOUTUBE (Apr. 26, 2019), available at <https://www.youtube.com/watch?v=6oY8V2Xe-fc&app=desktop>.

⁵⁹ *Id.* at 5:56.

⁶⁰ 42 U.S.C. §§ 300a-4(d)(1) (2019).

materials developed or made available under the project by an Advisory Committee prior to their distribution, to assure that the materials are suitable for the population or community to which they are to be made available.”⁶¹

In its application, Obria stated that it would rely on the REAL Essentials Advance curriculum, which it inaccurately claimed was designed for medical centers and health clinics. In fact, the curriculum was developed for a student population to be administered in a classroom setting. Obria should be required to provide evidence that the materials are suitable for clinics⁶² and, if unable to do so, required to return the grant funds distributed for this purpose.

Obria is Neither Efficient nor Effective

Once a Title X grant is awarded, “[t]he non-Federal entity is responsible for the efficient and effective administration of the Federal award.”⁶³ Obria’s projected cost per patient is exponentially higher than other Title X participants, demonstrating that even if it meets its targets, it cannot efficiently administer its project. In addition, as a Title X grantee, Obria also “assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.”⁶⁴ By including as subrecipients Obria clinics that do not provide the requisite “acceptable or effective” form of family planning,⁶⁵ Obria is failing to meet a critical condition of its grant award. Further, as a part of its administrative responsibilities, a Title X grant recipient “in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal-award.”⁶⁶ By failing to have a proper medical director, Obria is not engaging in sound organization and management.

HHS Must Be an Efficient Steward

As you know, the Title X program requires HHS to “take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance.”⁶⁷

Given these mandated considerations, it appears Obria was improperly awarded a Title X grant. Obria sought upwards of \$6 million to serve only 12,000 patients annually,⁶⁸ whereas the other California grantee could have served 300,000 patients for the same money. Obria’s limited capacity to serve exponentially fewer patients than a grant recipient covering the same regions and

⁶¹ 42 C.F.R. § 59.6(a) (2019).

⁶² *Id.*

⁶³ 45 C.F.R. § 75.400(a) (2014).

⁶⁴ 45 C.F.R. § 75.400(b) (2014).

⁶⁵ *See, supra* pp. 7-8.

⁶⁶ 45 C.F.R. § 75.400(c) (2014).

⁶⁷ 42 U.S.C. §§ 300 – 300a-6 (2019).

⁶⁸ *See* Ex. F at 17.

populations should have been disqualifying according to the relevant considerations laid out by Congress.

Obria Promotes Misleading Abortion Reversal Technique

Obria's website prominently lists "Abortion Pill Reversal" as one of the services offered at its clinics, stating that it "is a medical procedure available to reverse the effects of the abortion pill."⁶⁹ In reality, the practice has not been clinically tested; its safety is unknown, and its effectiveness has never been demonstrated. A recent study of the technique's effectiveness was forced to stop early because of safety concerns after three of the twelve women enrolled in the study were rushed to the hospital with heavy vaginal bleeding.⁷⁰ Healthcare organizations have roundly discouraged the practice.⁷¹ Far from a sound medical procedure, abortion pill reversal is more akin to medical experimentation, but Obria nevertheless strongly promotes it.

Obria understands that abortion reversal is "not reimbursable in the Title X program,"⁷² and such funding must be "expended solely for the purpose for which the funds were granted in accordance with the approved application."⁷³ Obria has not, however, outlined how it ensures that federal funds do not go toward abortion pill reversal. It appears that when Obria similarly received public funding intended for abstinence-only education between 2009 and 2015⁷⁴ the funding was instead used to cover administrative clinic costs at a separate legal entity.⁷⁵ HHS should investigate to ensure Obria's Title X funds are not being used to promote or administer abortion reversal. If any federal funds are being misapplied, HHS should terminate Obria's grant and demand repayment of the misspent funding.

⁶⁹ *Abortion Pill Reversal*, OBRIA MEDICAL CLINICS, available at <https://www.obria.org/services/abortion-pill-reversal/> (last visited on Oct. 25, 2019).

⁷⁰ Mara Gordon, *Safety Problems Lead to Early End for Study of 'Abortion Pill Reversal'*, NPR (Dec. 5, 2019), <https://www.npr.org/sections/health-shots/2019/12/05/785262221/safety-problems-lead-to-early-end-for-study-of-abortion-pill-reversal>.

⁷¹ *Facts are Important: Medication Abortion "Reversal" is Not Supported by Science*, AMERICAN CONGRESS OF OBSTETRICIANS AND GYNECOLOGISTS (Aug. 2017), available at <https://www.acog.org/-/media/Departments/Government-Relations-and-Outreach/FactsAreImportantMedicationAbortionReversal.pdf?dmc=1&ts=20180206T1955451745>; Julie Rovner, *American Medical Association Wades Into Abortion Debate With Lawsuit*, NPR (Jul. 2 2019), <https://www.npr.org/sections/health-shots/2019/07/02/738100166/american-medical-association-wades-into-abortion-debate-with-lawsuit>.

⁷² Jessica Glenza, *Doctor Claiming to "Reverse" Abortion Was Told to Stop Using Medical School's Name*, THE GUARDIAN (Jul. 25, 2019), <https://www.theguardian.com/world/2019/jul/25/revealed-doctor-reverse-abortion-trump-administration>.

⁷³ 42 C.F.R. § 59.9 (2019).

⁷⁴ Tami Abdollah, *Orange County Official Considers Shifting Planned Parenthood Funds to an Antiabortion Group*, LOS ANGELES TIMES (Mar. 14, 2009), <https://www.latimes.com/archives/la-xpm-2009-mar-14-me-planned-parenthood14-story.html>.

⁷⁵ See *Trolling for Title X Funds*, at 19, CAMPAIGN FOR ACCOUNTABILITY (May 10, 2019), <https://campaignforaccountability.org/work/trolling-for-title-x-funds/>.

Obria Should Not be Granted Any Subsequent Title X Continuation Awards

When issuing notice of Title X grant awards, HHS specifies an intended project period for which the agency intends to support the project, usually for three to five years.⁷⁶ The grant itself is generally for the first year of the project, with subsequent continuation awards issued for the following years of the intended project period.⁷⁷ Under this policy, a grantee “must submit a separate application to have the support continued for each subsequent year.”⁷⁸ HHS is to make “[d]ecisions regarding continuation awards and the funding level of such awards . . . after consideration of such factors as the grantee’s progress and management practices.”⁷⁹

On March 29, 2019 HHS announced Obria’s receipt of a \$1.7 million Title X grant award.⁸⁰ The project period for the award is three years, allowing Obria to submit separate applications to receive an additional \$1.7 million to continue the project in years two and three.⁸¹

For the reasons discussed above, Obria has shown itself to be inappropriate Title X grant recipient. In summary, Obria appears to have:

- proposed a Title X project providing fewer services, to populations already covered by established Title X providers, at an exponentially greater cost per patient;
- withheld from HHS that it lacks a medical director dedicated to overseeing Obria’s Title X project;
- willfully misled HHS and the public regarding whether it intended to spend its Title X funds on the broad range of contraceptive options that the project is required to provide;
- failed to provide acceptable, effective, and voluntary family planning methods at the majority of its project sites, and instead offering inaccurate medical information;
- attempted to double or even triple dip on federal funding for Obria’s sexual risk avoidance programming;
- used the wrong EIN on its Title X application, obfuscating how the funds have been distributed to, and between, the grantee and subrecipients.

HHS should investigate whether Obria deliberately lied in its grant application and whether it is effectively administering the grant it already has received. There is no reason HHS should

⁷⁶ 42 C.F.R. §59.8(a) (2019).

⁷⁷ 42 C.F.R. §59.8(b) (2019).

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Office of Population Affairs, *Recent Grant Awards*, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (last updated Oct. 2, 2019), <https://www.hhs.gov/opa/grants-and-funding/recent-grant-awards/index.html>.

⁸¹ *Id.*

Secretary Azar
Deputy Assistant Secretary Foley
December 17, 2019
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compound the mistake of awarding Obria Title X grants by giving this clearly unqualified organization any further federal funding. Americans deserve better.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alice C.C. Huling". The signature is fluid and cursive, with a prominent loop at the end.

Alice C.C. Huling
Counsel

CC: Sen. Lamar Alexander (R-TN)
Sen. Patty Murray (D-WA)
Rep. Frank Pallone, Jr. (D-NJ)
Rep. Greg Walden (R-OR)
Rep. Diana DeGette (D-CO)
Rep. Brett Guthrie (R-KY)
Rep. Carolyn Maloney (D-NY)
Rep. Jim Jordan (R-OH)