



Office of the Inspector General
U.S. Department of Justice



Audit of the National Institute of Justice's Management and Oversight of DNA Backlog Reduction Grantees' Reporting and Use of Program Income

AUDIT OF THE NATIONAL INSTITUTE OF JUSTICE'S MANAGEMENT AND OVERSIGHT OF DNA BACKLOG REDUCTION GRANTEES' REPORTING AND USE OF PROGRAM INCOME

EXECUTIVE SUMMARY

The National Institute of Justice (NIJ), a component of the Department of Justice (DOJ) Office of Justice Programs (OJP), awarded over \$302 million in grants to state and local governments during fiscal years (FY) 2010 through 2013 to increase the capability for public DNA laboratories to process more DNA cases. The purpose of the NIJ's DNA Capacity Enhancement and Backlog Reduction Program (DNA Backlog Reduction Program) is to reduce the number of DNA cases awaiting analysis. Grants are awarded on an annual basis and grantees are allowed to generate income for services such as: (1) fees charged to other agencies for performing DNA analyses, (2) subpoena services, and (3) court testimony. The NIJ states that grantees must place a prorated amount of such program income back into their grant award budget and can only use this income for costs allowable under the grant.

Our objectives for this audit were to determine how NIJ managed DNA Backlog Reduction Program grantees' accounting and use of program income and whether grantees were accurately reporting and appropriately using those funds during FYs 2010 through 2013. We determined that the NIJ's process for identifying grantees with the potential for generating program income needs improvement. We further found that NIJ's current method should be strengthened to determine whether grantees' potential for generating program income has changed throughout the grant award period. NIJ requires grantees to report program income on financial reports and its goal is to perform 6 annual site visits. Beyond those practices, however, the NIJ lacks a process for following up with grantees to verify the amount of program income that grantees generate. Consequently, the NIJ cannot ensure that grantees appropriately apply program income to further reduce the number of DNA cases awaiting analysis.

We reviewed OJP and NIJ guidance and requirements for program income, and visited four grantees that received DNA Backlog Reduction Program grants. Although some improvements have been made to the guidance for grantees regarding program income, NIJ grantees stated, and we agree, that OJP and NIJ guidance on program income requirements has been unclear. For instance, grantees have been unsure as to which services the program income requirements apply. This has resulted in grantee confusion about how to identify and allocate program income. We further found that for the services for which grantees calculated program income, the calculations were often incorrect because the grantees had not received proper training on the calculation tool provided by the NIJ. As a result, grantees we reviewed did not apply all of the calculator's features as intended by the NIJ, resulting in inaccurate program income calculations and reporting.

Appropriately utilizing program income is an important part of the NIJ's efforts to reduce the number of DNA cases awaiting analysis nationwide. Without proper guidance and controls over income generated through grants provided by the DNA Backlog Reduction Program, the NIJ cannot ensure that these funds are being used by the grantees to reduce the backlog of DNA cases. Consequently, we make four recommendations to improve the NIJ's policies and practices and to strengthen its oversight of the reporting and use of program income by DNA Backlog Reduction Program grant recipients.

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INTRODUCTION

The U.S. Department of Justice Office of the Inspector General (OIG) has completed an audit of the National Institute of Justice's (NIJ) management and oversight of DNA Capacity Enhancement and Backlog Reduction Program (DNA Backlog Reduction Program) grantees' accounting for, reporting, and use of program income for fiscal years (FY) 2010 through 2013.¹ During that time, the National Institute of Justice (NIJ), an Office of Justice Programs (OJP) component, awarded more than \$302 million in grants to states and units of local government to increase the capability of public DNA laboratories to process DNA cases. The grants' purpose was to help reduce the number of backlogged DNA cases awaiting analysis.²

To this end, the NIJ's annual DNA Backlog Reduction Program grants are provided to state and local laboratories to process more DNA cases in-house or to outsource the cases to another laboratory.³ The program's long-term goal is to increase public laboratories' capacity to work more cases by hiring more personnel, purchasing and installing additional equipment, improving software to interpret test results, and enhancing the overall efficiency of DNA laboratory operations.

Program income may be used to supplement a grant recipient's existing budget to work more cases or expand the capacity of its DNA laboratory. Grant recipients may generate program income from fees charged to other agencies for performing a variety of work, such as DNA analyses, subpoena services, and providing court testimony.⁴ According to the NIJ, grantees must place a prorated amount of program income back into their award program to be used for allowable program costs. Any program income earned during the award period that is not obligated and expended within 90 days of the end of the award period must be returned to OJP.

¹ In fiscal year 2014, the NIJ renamed its DNA Backlog Reduction Program to the DNA Capacity Enhancement and Backlog Reduction Program.

² The NIJ defines a backlogged DNA case as one that has not been completed within 30 days of receipt in the laboratory.

³ All DNA analyses must be conducted by an accredited government-owned laboratory or through accredited fee-for-service vendors.

⁴ The OJP Financial Guide defines "program income" as the amount of gross income earned by the recipient during the funding period as a direct result of the award. "Direct result" is a specific act or set of activities that are directly attributable to grant funds and directly relate to the goals and objectives of the project.

DNA Backlog Reduction Program Award Methodology

Each year, OJP has an aggregate amount of grant funding available to all states through the DNA Backlog Reduction Program. Grants are awarded to states and units of local government based on the number of violent crimes reported in the FBI's Uniform Crime Report. Each state uses the NIJ established criteria to determine which of its accredited laboratories are eligible to receive grant funds. Once the state has established the allocation of funds, the state provides its proposed allocation of funds to the NIJ. Based on NIJ approval, the laboratories submit a grant application to the NIJ for program funding. Although DNA Backlog Reduction grantees may apply for and receive an award each year, the number of grantees varies from year to year based on: (1) a laboratory's remaining funds from a prior award, (2) the addition of newly eligible laboratories, (3) the closure of laboratories, (4) the consolidation of laboratories, (5) an eligible laboratory not requesting funds, and (6) loss of laboratory accreditation.

OIG Audit Approach

The OIG conducted this audit to assess the NIJ's management and oversight of DNA Capacity Enhancement and Backlog Reduction Program grantees' accounting for, reporting, and use of program income. The audit scope covered grants awarded to 133 grantees during FYs 2010 through 2013. We selected the following grantees for our site visits: (1) Georgia Bureau of Investigations, Decatur, Georgia; (2) Dallas County, Texas; (3) Tarrant County, Texas; and (4) Bexar County, Texas.⁵ Our site visits involved interviewing grantee officials and reviewing accounting records for program income reported to OJP. We also conducted interviews at OJP headquarters to obtain an understanding of the concerns regarding grantees accounting and use of program income.

⁵ Our methodology in selecting these sites is described in Appendix 1.

FINDINGS AND RECOMMENDATIONS

The NIJ's process for identifying grantees that generate program income needs improvement. The current method should be strengthened to provide the NIJ with the ability to assess whether a grantee's potential for generating program income has changed. In addition, the NIJ lacks procedures for following up with grantees that have the potential to generate program income. This inability to identify and follow up with grantees leaves the NIJ unable to determine whether grantees are generating, accounting for, reporting, and using program income. We also found that grantees were inaccurately calculating and reporting program income due to unclear guidance provided by OJP and the NIJ. As a result, the NIJ cannot ensure that grantees appropriately apply program income to further reduce the number of DNA cases awaiting analysis.

The NIJ's Management and Oversight of DNA Backlog Reduction Grantees

To accept a DNA Backlog Reduction Program grant award, recipients must attest that they understand and agree that the income from fees charged for DNA testing services constitutes program income (in whole or in part), and that program income must be handled in accordance with the provisions of 28 C.F.R. Section 66.25 and the OJP Financial Guide. Recipients must also state that they understand and agree that:

- both program income earned and expended must be reported on the quarterly Federal Financial Report (FFR);
- program income may be expended for any allowable purpose listed in the solicitation for the NIJ DNA Backlog Reduction Program;
- any program income earned during the award period that is not obligated and expended within 90 days of the end of the award period must be returned to OJP; and
- the federal portion of program income must be accounted for up to the same ratio of federal participation as funded in the project or program, and reported, by the recipient, as program income on the FFR.

During FYs 2010 through 2013, OJP made 473 separate awards totaling more than \$302 million to a total of 133 grantees. Table 1 reflects the program income reported by grantees as of December 29, 2015, for grants awarded during FYs 2010 through 2013.

Table 1
Total Awards and Program Income Reported
as of December 29, 2015

Fiscal Year	Number of Grant Awards	Total Award Amount	Total Program Income Reported as of December 29, 2015
2010	115	\$64,811,981	\$281,436
2011	116	\$88,707,086	\$1,056,319
2012	117	\$74,347,305	\$721,338
2013	125	\$74,495,175	\$618,885
Total	473	\$302,361,547	\$2,677,978

Note: Absent an extension, FY 2013 grantees have until December 31, 2015, to draw down funds.

Source: National Institute of Justice and FFRs

However, as we discuss in the following section of this report, we are not confident in the program income reported by grantees. In fact, according to the NIJ, it believes many grantees are not properly recognizing and accounting for program income generated from DNA Backlog Reduction Program grant funds. While the NIJ has attempted to address this issue by providing grantees newsletters and supplemental guidance on an ad-hoc basis, we determined that inconsistencies in guidance provided by the NIJ led to misunderstanding and confusion among grant recipients.

In addition, despite the numerous attestations required by the NIJ of the grantees, the NIJ lacks an effective process of accounting for its DNA Backlog Reduction Program grant recipients with the potential for generating program income. For example, in response to our request for a list of grantees that generated program income during our audit scope, the NIJ had to perform a manual review of each grant application. However, the NIJ was only able to provide information for FY 2013. The NIJ determined that 22 of the 125 grantees in FY 2013 had the potential to generate program income. In order for the NIJ to provide information on the number of grantees with program income potential for fiscal years prior to FY 2013, it would have to perform a manual review of the FFRs. Both of these methods involve arduous and time-consuming tasks to identify information that the NIJ should be routinely managing and tracking.

The number of grantees with the potential to generate program income does not automatically result in the same number of grantees actually producing program income. Therefore, we reviewed the FFRs for FY 2013 to determine how many of the 22 grantees identified by the NIJ actually reported program income. We found that 8 of the 22 grantees reported program income but we were unable to ascertain whether the remaining 14 grantees should have done so, because the NIJ does not follow up with such grantees to ensure that there are no variations in grantees' program income reporting status throughout the grant period. The NIJ maintains a spreadsheet to record all FFR data, but this method does not account for changes in grantees' program income reporting status throughout the grant award. In addition, the NIJ told us that annual site visit locations are selected

based on a risk-based analysis performed by OJP of its DNA Backlog Reduction grantees. NIJ's goal is to perform 6 annual site visits, however, these visits are not performed exclusively on grantees that generate program income.

Without procedures in place to effectively follow up with grantees that have the potential to generate program income, the NIJ cannot provide effective oversight of these grant recipients. We recommend that the NIJ strengthen and enhance the current process to ensure clear and consistent procedures to identify and follow up with DNA Backlog Reduction Program grantees with the potential for generating program income.

Grantee Reporting of Program Income

NIJ officials informed us that there is some confusion among DNA Backlog Reduction Program grantees as to what constitutes program income, which, in turn, affects the grantees' reporting of program income to OJP. After receiving contradictory information from OJP and NIJ officials regarding program income policies and the implementation of those policies by grantees, we believe that the grantees' confusion stems, at least in part, from inconsistent and unclear guidance provided by OJP and the NIJ although, as noted below, the NIJ has made efforts to improve the guidance.

For example, the NIJ issued three versions of a tool that it called the program income calculator. The purpose of the tool was to assist grantees in determining how much program income they earned and how much of that income should be placed back into the award program. After two versions of the calculator proved to be unsuccessful due to a feature error in the first and inconsistent application by the grantees for both versions, a third calculator was created. The third attempt, issued in August of 2012, included a Guide for Fee for Service Laboratories, which was not incorporated into the OJP Financial Guide for over a year thereafter.⁶ The guidance states that a laboratory receiving federal funding for equipment or personnel to expand the capacity of the DNA laboratory, and that charges fees for providing DNA laboratory services, must allocate a portion of those fees to the active federal award.⁷

Upon review of the revised guidance and the third program income calculator, we found that the calculator was easier to follow when compared to the first and second iterations. However, we determined that the grantees we visited were not consistently applying all of its features. Two of the four grantees we spoke with told us that they were not always certain about how to calculate

⁶ The guidance for the allocation of program income provides the definition of program income, an attachment with the program income calculator, guidance on how to track program income, program income uses, and what happens if program income is not expended before the grant closes.

⁷ In the 2014 OJP Financial Guide and the 2015 DOJ Grants Financial Guide, specific guidance has been included for the DNA Backlog Reduction Program, which includes both the Guide for Fee for Service Laboratories and the third program income calculator.

program income. For instance, one grantee calculated program income solely based on the grant extension period, while another grantee calculated the percentage based on the award amount and the county's operational budget, not taking into consideration the grant period. By not considering all of the calculator's features, the program income calculations may be inaccurate. We spoke with NIJ officials regarding grantee use of the program income calculator and they initially told us that using the calculator was not required, but could be used as a model for calculating program income. An official from OJP's Office of the Chief Financial Officer later stated that the grantees were required to use the program income calculator and, regardless of how program income is calculated, grantees must maintain documentation for the calculation.⁸ Although the program income calculator could be an appropriate tool for calculating program income, we believe that it should be accompanied by comprehensive guidance and instructions. Therefore, we recommend that the NIJ ensures that its staff are fully conversant with these procedures, and provide formal instructions and training to DNA Backlog Reduction grantees regarding the required and proper use of the procedures and the program income calculator.

To assess how grant recipients identified, reported, and used program income, we performed site visits at: (1) the Georgia Bureau of Investigation, Decatur, Georgia; (2) Dallas County, Texas; (3) Tarrant County, Texas; and (4) Bexar County, Texas. We determined that three of the four locations we visited charged a fee for DNA services, while the Georgia Bureau of Investigation (GBI) did not. Although the GBI received \$9,336,693 in DNA Backlog Reduction Program awards between FYs 2010 and 2013 to purchase equipment and supplies and maintain staffing levels, GBI officials told us that they do not charge fees for services due to a state legislative mandate prohibiting such fees. We reviewed the GBI processes by which other agencies submit evidence for analyses, as well as its expenditures and revenue accounts, and found no indication that the GBI charged service fees or otherwise generated program income.

Generated and Reported Program Income

Of the three locations we visited that charged service fees, Tarrant County and Dallas County reported program income, while Bexar County did not. Tarrant County received \$595,771 in DNA Backlog Reduction Program awards during FYs 2010 through 2011 to provide training for forensic biologists and purchase supplies and equipment. Tarrant County reported \$135,361 for its FY 2010 grant, but was later told by NIJ that it was not responsible for identifying or reporting the program income for that grant. For its FY 2011 grant, the county generated and reported \$22,075. Tarrant County officials informed us that they did not apply for the 2012 and 2013 grants because the NIJ program income guidance was confusing and they did not want to risk non-compliance with the terms of the grant. Between FYs 2011 and 2013, Dallas County received \$2,230,398 in DNA Backlog Reduction

⁸ This supporting documentation is only reviewed by NIJ during annual site visits to grantees. Grantees that generate program income are not automatically selected for the site visit and review, which further supports our concerns that the NIJ is not sufficiently monitoring these grantees.

Program awards to hire employees in an effort to increase its testing capacity in both evidence screening and DNA analysis, and it reported \$1,830,767 in program income.

For Tarrant County's 2011 grant, we reviewed the latest three FFRs to assess whether the program income reported on the county's FFRs matched the program income amounts generated and recorded in the county's records.⁹ We determined that the amount of program income had been miscalculated for two of the three FFRs reviewed and therefore, the amount reported to the NIJ was incorrect. However, we determined that the miscalculated amount was immaterial when compared to the overall program income reported.

We also tested whether Tarrant County followed the steps provided by the NIJ when calculating its percentage of program income. We were able to verify that the amounts calculated as program income matched the amounts reported on the corresponding FFRs. We also determined that Tarrant County correctly calculated its amount of program income to include its 12-month grant extension rather than the NIJ's recommended six quarters.¹⁰ Because the NIJ did not provide a feature to account for grant extensions in its calculator; Tarrant County altered the formula for its calculation in order to take into consideration the grant extension. Despite the inadequate guidance, however, Tarrant County officials stated that the process for calculating program income has improved since October 2013 when the new guidance was issued, and it no longer receives conflicting information on this topic. We recommend that the NIJ improve and enhance formal written procedures for accurately reporting program income, including for any extension periods.

We reviewed the summary reports of service fees generated from DNA analyses for Dallas County and determined that it tracked service fees according to cases worked by laboratory staff. Dallas County officials told us that they received several e-mails in August 2012 about program income from the NIJ, but Dallas County officials told us that those messages did not provide clear and comprehensive guidance for calculating and reporting program income. In reviewing Dallas County's internal summary reports, we found several quarters for which no grant-funded staff reportedly worked on any of the cases that Dallas County reported had generated program income. Consequently, we were concerned that Dallas County may have over reported its program income. When we initially brought this to the attention of OJP and NIJ officials, they did not agree amongst themselves about what should have been included in the calculation. One NIJ official told us that program income had been over reported, while OJP's staff attorney disagreed, stating that the program income calculation is based on the operational budget and not on the number of DNA cases analyzed by grant-funded

⁹ We reviewed the FFRs from September 2013 through March 2014 because Tarrant County was told by the NIJ that it was not responsible for reporting program income for the closed FY 2010 DNA Backlog Reduction award and the FY 2011 program income generated through June 2013.

¹⁰ The six quarters calculation is based on the 18-month grant award period.

personnel. Subsequently, the NIJ officials with whom we discussed this matter appeared to agree with the staff attorney.

We were later informed by OJP's staff attorney that grantees should include the program income calculation for all revenue it generates, regardless of the source. But both Dallas and Tarrant County officials described how the conflicting guidance they received from the NIJ led to inaccurate program income reporting. In fact, due to the NIJ's inaccurate guidance, Tarrant County was instructed by an NIJ program manager to repay program income it had received for its FYs 2010 and 2011 awards, after being told by NIJ that the county did not generate program income. As we discuss later in the report, Tarrant County was eventually told by NIJ that it was not responsible for identifying or reporting program income generated prior to July 2013, as a result of the confusing guidance received by the county. We recommend that the NIJ ensure that its staff and all grantees under the DNA Backlog Reduction Program receive training on the reporting of program income.

Program Income Not Reported

Bexar County charged service fees but did not report program income. Bexar County received \$570,430 in DNA Backlog Reduction Program awards for FYs 2010, 2011, and 2013 to hire part-time temporary forensic serologists; provide training to analysts; and purchase, validate, and evaluate equipment and software. As of October 22, 2015, Bexar County had only drawn down funds from the FY 2010 grant because the county refused to use the federal funds awarded for FYs 2011 and 2013 until the issue of program income was resolved. OJP deobligated the FYs 2011 and 2013 funds.

Bexar County officials told us that the county has a reimbursable interagency agreement with the San Antonio Police Department, as well as agreements with other agencies, to perform laboratory services that those departments lack the capacity to perform. Under these agreements, agencies pay the laboratory based on a service fee schedule. According to NIJ officials, Bexar County should be reporting the funds received from the San Antonio Police Department and other agencies as program income. However, Bexar County officials believe that they are not required to report program income because they did not use grant funds to perform laboratory services for these agencies. They further explained to the OIG that funds derived from the interagency agreement are deposited into their general fund and, in their view, are not considered revenue. Instead, they consider the funds to be reimbursements for costs funded through the county's operational budget.

Bexar County officials further told the OIG that they believe that the program income calculator provided by the NIJ does not take into consideration its county lump sum budget structure. Officials further explained that the lump sum structure does not contain budget item identification, making it difficult to discern what was specifically allocated for DNA analysis service. Therefore, they indicated that resources allocated for DNA analysis could not be determined.

In addition, the Bexar County program manager told us that the county did not generate program income for the FY 2010 grant. The grant's purpose was to validate and examine new equipment purchased with the grant funds, and this activity did not result in program income. The goals for the grant were to reduce DNA backlog cases through the purchase of kits and supplies, set-up validation of the kits and supplies, and incorporate validated kits into the regular workflow of the laboratory. Although the laboratory is a fee-for-service laboratory, they indicated that this grant program was not designed to and did not generate program income. In addition, as we discuss in further detail below, the NIJ relieved Bexar County of its accountability for the program income that the NIJ assumed to be generated under the FYs 2010 and 2011 grants. When we spoke with OJP and NIJ officials about Bexar County's responsibility to report program income for its FY 2010 grant, they acknowledged that Bexar County should not be responsible for reporting program income because grant funds were used for the purchase, validation, and testing of equipment. However, in a later conversation with us, OJP officials stated that once a grantee accepts a federal award, regardless of whether program income is generated from a grant award, they are required to report on program income. They further stated that regardless of whether the grantee has drawn down federal funds; they are required to report program income generated from laboratory services.

NIJ Provides Limited Exceptions to Tarrant and Bexar Counties, Texas from Reporting Program Income Due to NIJ's Confusing Guidance

At the onset of our audit, the NIJ identified Tarrant County and Bexar County as grantees it believed were not properly reporting program income. NIJ officials explained that Tarrant County and Bexar County did not fully understand how program income should be reported and may have misinterpreted or misunderstood existing guidance regarding program income. As a result, the two counties and the NIJ communicated regularly about the agencies' procedures for generating and reporting program income. This resulted in U.S. Senator Cornyn contacting the NIJ on behalf of the counties in November 2012 to attempt to resolve the disagreement over the use of and accounting for program income.

Bexar and Tarrant County officials provided us a letter dated March 2013, to the Senator from the Acting NIJ Director at the time. The letter explained that the NIJ had performed a review of Tarrant and Bexar counties available financial records and determined that the counties may have been confused about how to report program income.¹¹ In the March 2013 letter, the Acting Director stated that revisions had been made to the OJP Financial Guide in July 2012 to provide more clarity and guidance to grant recipients regarding the reporting of program income. The Acting Director further stated that because the previously published guidance was not sufficiently clear regarding program income, the NIJ determined that Tarrant County and Bexar County would not be responsible for identifying or

¹¹ OJP officials told us that the March 2013 letter, which was dated and signed by an NIJ official, was not sent to the Senator. Instead, a separate letter dated April 2013 and signed by the Principal Deputy Assistant Attorney General was sent to the Senator regarding this matter.

reporting program income related to closed DNA Backlog Reduction awards. The response also stated that although all DNA Backlog Reduction grant recipients, including Tarrant County and Bexar County, would not be accountable for reporting program income prior to June 30, 2013, they would be held accountable for all program income requirements beginning July 1, 2013. NIJ officials informed us that the other grantees were not provided this information because they did not garner the same level of concern and did not receive the limited exception regarding program income generated. We believe that the NIJ should have been transparent about its decision not to hold Bexar and Tarrant counties responsible for the identification and reporting of program income related to its closed awards and that this decision reflected disparity of treatment among its grantees. Therefore, we recommend that the NIJ inform all of its DNA Backlog Reduction grantees of decisions that may impact grantees' reporting of program income.

Grantees' Use of Program Income

Grantees may use program income to further program objectives and for allowable program costs. If a grant recipient receives any revenue for DNA testing and has a DNA Backlog Reduction award, a prorated amount of program income must be placed back into the award program.¹²

We assessed whether the program income reported by Dallas and Tarrant Counties was used for allowable program costs. As of December 2015, Dallas County reported program income totaling \$1,830,767, collected from service fees for its FYs 2011, 2012, and 2013 grants. According to Dallas County officials, payments received for laboratory services are placed into the general fund and are later transferred to specific program income accounts to provide training to DNA forensic analysts and for other allowable purposes.

Tarrant County reported program income totaling \$157,436 for its FYs 2010 and 2011 grants. However, Tarrant County was not responsible for identifying and reporting program income for its FY 2010 grant award, which was closed. Tarrant County officials told us that the \$135,361 reported for FY 2010 was not program income. It was a calculation provided by OJP and that Tarrant County was instructed to include in its final FFR. An amended FFR was not prepared to reflect the change of program income reported because the FY 2010 grant was closed out by the time the letter providing a limited exception was received. For FY 2011, program income totaling \$22,075 was generated after July 1, 2013, and therefore was reported.

To verify whether Dallas County and Tarrant County used program income for the stated purposes in the grant, we judgmentally selected 53 of the 339 program income-related expenditures for all grants reviewed, totaling \$662,219. We compared the respective county's accounting records to the laboratory's

¹² As previously mentioned, the Georgia Bureau of Investigation and Bexar County did not generate or report program income from any DNA Backlog Reduction grants included in our audit scope (Bexar County did not draw on the 2011 or 2013 grants as described above).

receipts and invoices, and we determined that all of the expenditures were being used for allowable grant activities and adequately supported.

Conclusion

Inconsistent guidance provided by the NIJ regarding program income resulted in confusion and inaccurate reporting by DNA Backlog Reduction Program grantees. For example, grantees did not always understand the NIJ's guidance for generating, calculating, accounting, and reporting program income. In addition, grantees did not always calculate program income percentages as intended by the NIJ. Further, the NIJ does not have a sufficient process in place to monitor grantees that generate program income. Based on these issues, we believe the NIJ is not adequately managing the program income generated by DNA Backlog Reduction grantees. As a result, the NIJ cannot ensure that grantees appropriately apply program income to further reduce backlogged DNA cases.

Recommendations

We recommend that the NIJ:

1. Strengthen and enhance the current process to ensure clear and consistent procedures to identify and monitor all grantees with the potential to generate program income.
2. Ensure that its staff and all grantees receive training on the reporting of program income, including on the required and proper use of the program income calculator.
3. Improve and enhance formal written procedures for accurately reporting and verifying program income, including for any extension periods.
4. Establish policies and procedures to inform all grantees of decisions that may impact grantees' reporting of program income.

STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards*, we tested, as appropriate, internal controls significant within the context of our audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to timely prevent or detect: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. Our assessment of the NIJ's internal controls was not made to provide assurance on its internal control structure as a whole. NIJ's management is responsible for the establishment and maintenance of internal controls.

As noted in the Findings and Recommendations section of this report, we identified deficiencies in the NIJ's internal controls that are significant within the context of the audit objectives and based upon the audit work performed we believe adversely affect the NIJ's ability to manage the accounting for and use of program income generated by DNA Backlog Reduction grantees. For example, the NIJ does not effectively monitor grantees with the potential for generating program income. In addition, the NIJ needs to implement clear and consistent procedures for its management of the accounting for and use of program income generated by DNA Backlog Reduction grantees.

Because we are not expressing an opinion on the NIJ's internal control structure as a whole, this statement is intended solely for the information and use of the NIJ. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards*, we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices, to obtain reasonable assurance that NIJ's management complied with federal laws and regulations, for which non-compliance, in our judgment, could have a material effect on the results of our audit. NIJ's management is responsible for ensuring compliance with applicable federal laws and regulations. In planning our audit, we identified the following regulation that concerned the operation of the auditee and that was significant within the context of the audit objectives: 28 C.F.R. § 66.25, *Program Income*.

Our audit included examining, on a test basis, the NIJ's compliance with the aforementioned regulation that could have a material effect on the NIJ's operations, through interviewing auditee personnel, analyzing data, and assessing internal control procedures. As noted in the Findings and Recommendations section of this report, we found that the NIJ did not properly maintain the internal controls related to the administration of program income generated and reported.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The objectives of this audit were to: (1) determine how the NIJ managed DNA Backlog Reduction grantees' accounting for and use of program income, and (2) determine if grantees were accurately reporting and appropriately using program income during FYs 2010 through 2013.

Scope and Methodology

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 the audit objectives.

OJP requested that the OIG conduct a program-wide audit of DNA Backlog Reduction grantees. In the course of our analysis of grantees, we identified programmatic issues concerning NIJ's requirements and guidance for reporting program income. Our audit involved an assessment of NIJ's management of DNA Backlog Reduction grantees use, accounting, and reporting of program income.. The audit scope covered grants awarded to 133 grantees during FYs 2010 through 2013. To assess NIJ's management of DNA Backlog Reduction grantees and whether those grantees were accurately reporting and using program income we spoke with the NIJ and OJP officials and reviewed DNA Backlog Reduction Program documentation. In order to assess how grant recipients identified, reported, and used program income, we performed site visits at: (1) the Georgia Bureau of Investigation, Decatur, Georgia; (2) Dallas County, Texas; (3) Tarrant County, Texas; and (4) Bexar County, Texas. In selecting grantees for specific review and testing, we took into consideration grantees' program income reporting status as well as OJP and NIJ official's statements regarding their concerns with Tarrant and Bexar Counties reporting of program income, which we discuss in the report. We also interviewed laboratory personnel, performed testing of the program income calculation for FYs 2010 through 2013, and determined if program income generated was properly recorded and used. The non-statistical sample design does not allow a projection of the test results for all grantee generated program income or internal controls and procedures.

THE NATIONAL INSTITUTE OF JUSTICE'S
RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

MAR 21 2016

MEMORANDUM TO: Michael E. Horowitz
Inspector General
United States Department of Justice

THROUGH: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General
United States Department of Justice

FROM: Karol V. Mason *KVM*
Assistant Attorney General

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report, *Audit of the National Institute of Justice's Management and Oversight of DNA Backlog Reduction Grantees Reporting and Use of Program Income*

This memorandum provides a response to the Office of the Inspector General's (OIG) March 8, 2016, draft audit report entitled, *Audit of the National Institute of Justice's Management and Oversight of DNA Backlog Reduction Grantees Reporting and Use of Program Income*. The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on the draft report. OJP also would like to thank the OIG for agreeing to undertake this audit on program income-related issues with grantees under the National Institute of Justice's (NIJ) DNA Capacity Enhancement and Backlog Reduction Program¹ (DNA CEBR Program).

The goal of the DNA CEBR Program is to assist eligible States and units of local government to process, record, screen, and analyze DNA samples, and to increase the capacity of forensic laboratories to process more DNA samples, thereby reducing the backlog of evidence awaiting DNA testing.

¹ In fiscal year 2014, the National Institute of Justice renamed its DNA Backlog Reduction Program. The program is now called the DNA Capacity Enhancement and Backlog Reduction Program.

As of July 2015, the DNA CEBR Program grant recipients reported working over 641,000 investigative cases, and uploaded over 290,000 forensic profiles to the national DNA database, known as the Combined DNA Index System (CODIS), over a ten-year period. These grant recipients also reported working over 2.79 million database samples and uploaded over 2.84 million profiles to CODIS. All of these efforts have resulted in over 149,000 CODIS “hits,” which are queries that resulted in an investigative lead. Ultimately, this DNA CEBR Program has helped improve how criminal cases are investigated, and has been a major factor in solving cold cases and exonerating the wrongfully convicted.

Recognizing the importance of the DNA CEBR Program and the need to carefully manage and optimize funding, in June 2013, OJP requested that the OIG conduct a review to determine the extent to which program income generated from DNA Program investments was “under-reported, improperly accounted for, and potentially misused,” by grant recipients of the DNA CEBR Program. This OIG audit focused on a limited sample of four grantees, three of which were geographically co-located and share a similar understanding on how to calculate program income. It should be noted that NIJ had been previously working with these three grantees to correctly apply OJP’s program income policy and requirements. This work highlighted the need for further examination of the issue across the program.

In conjunction with the release of this audit report, OJP is making immediate, meaningful changes to encourage improved grantee compliance with program income requirements and to enhance its monitoring practices, as outlined below. Building on the findings in the OIG’s draft audit report, I have requested OJP’s Office of Audit, Assessment, and Management (OAAM) to conduct an in-depth analysis of a broader sample of DNA CEBR Program grant recipients to examine, at a national level, the potential for improper identification, reporting, and use of program income.

The draft audit report contains four recommendations and no questioned costs. For ease of review, these recommendations are summarized below and followed by OJP’s response.

1. Strengthen and enhance the current process to ensure clear and consistent procedures to identify and monitor all grantees with the potential to generate program income.

The Office of Justice Programs agrees with the recommendation. As previously stated, OAAM will initiate a program assessment of the DNA CEBR Program to help NIJ better identify the common challenges and misconceptions the DNA CEBR Program grant recipients have in identifying, reporting, and applying grant program income. Based on the analysis contained in this assessment, expected to be complete by December 31, 2016, as well as lessons learned by NIJ since the distribution of the 2013 program income guidance, NIJ will further enhance or clarify its existing program income guidance, develop technical assistance tools for its grant recipients, and enhance monitoring practices around program income.

In the interim, NIJ will include language in its FY 2016 DNA Capacity Enhancement and Backlog Reduction solicitation **requiring** grant applicants to document their intent, or potential, to generate program income as a formal declaration in the grant application package. Furthermore, NIJ will include language in this solicitation **requiring** grantees, as a condition of funding, to report program income on their Federal Financial Report (FFR). NIJ will continue to apply special conditions reinforcing program income-related requirements – conditions that are already included in NIJ DNA CEBR grant awards. Finally, NIJ will include, as part of its monitoring protocol for FY 2016 and future grant recipients, a review of grantee program income declarations against submitted FFRs to identify and address discrepancies.

The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

2. Ensure that its staff and all grantees receive training on the reporting of program income, including on the required and proper use of the program income calculator.

The Office of Justice Programs agrees with the recommendation. NIJ will disseminate its revised program income guidance to all active DNA CEBR Program grant recipients following completion of the OAAM program assessment and subsequently revised guidance, providing the training and technical assistance necessary to promote effective grantee implementation of this guidance. In the interim, NIJ will promote the Department of Justice's (DOJ) existing Financial Guide training, available online, that includes a section on program income reporting.

In addition, NIJ will assess the utility of its program income calculator, utilized by DNA CEBR Program grant recipients, and accompanying guidance, in collaboration with OJP's Office of the Chief Financial Officer, to mitigate any confusion grant recipients presently may have in calculating and applying program income to their grant. If the OAAM program assessment reveals that a revision to the program income calculator is necessary, those revisions will be made immediately in the DOJ Financial Guide.

The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

3. Improve and enhance formal written procedures for accurately reporting and verifying program income, including for any extension periods.

The Office of Justice Programs agrees with the recommendation. NIJ will use the aforementioned OAAM program assessment to inform enhanced program income guidance for its DNA CEBR Program grant recipients. As an interim measure until the OAAM program assessment is completed, NIJ will communicate in writing to all current DNA CEBR Program grant recipients, reminding them of the requirement to report any program income under their awards, currently available DOJ Financial Guide training, and methods for properly handling program income. This correspondence will be circulated to current DNA CEBR Program grant recipients by July 31, 2016, and will include an offer of one-on-one technical assistance to address grant recipient's questions or concerns.

The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

4. Establish policies and procedures to inform all grantees of decisions that may impact grantees' reporting of program income.

The Office of Justice Programs agrees with the recommendation. NIJ will establish policies and procedures to ensure that grant recipients are made aware of any decision(s) that change, or otherwise, impact grantee reporting of program income no later than July 31, 2016.

The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

Thank you for your continued support and assistance. If you have any questions regarding this response, please contact Ralph E. Martin, Director, Office of Audit, Assessment, and Management, at (202) 305-1802.

cc: Beth McGarry
Principal Deputy Assistant Attorney General

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for Operations and Management

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OJP Executive Secretariat
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**OFFICE OF THE INSPECTOR GENERAL
ANALYSIS AND SUMMARY OF ACTIONS
NECESSARY TO CLOSE THE REPORT**

The Office of the Inspector General (OIG) provided a draft of this audit report to the Office of Justice Programs (OJP). OJP's response is incorporated in Appendix 2 of this final report. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendation:

- 1. Strengthen and enhance the current process to ensure clear and consistent procedures to identify and monitor all grantees with the potential to generate program income.**

Resolved. OJP agreed with our recommendation. OJP stated in its response that it will initiate a program assessment of the DNA Backlog Reduction Program to help the National Institute of Justice (NIJ) better identify the challenges and misconceptions of grant recipients for identifying, reporting, and applying grant program income. Based on this assessment, the NIJ will further clarify its existing program income guidance, develop technical assistance tools for its grant recipients, and enhance monitoring practices for program income. OJP further stated that the NIJ will include language in its FY 2016 DNA Backlog Reduction Program solicitation requiring grant applicants to document their potential to generate program income as a formal declaration in the grant application package. The NIJ will also include language in the solicitation requiring grantees to report program income on the Federal Financial Reports. OJP also stated that the NIJ will continue to apply special conditions that are already included in the grant awards and that the NIJ will, as part of its monitoring protocol for FY 2016, include a review of grantee program income declarations against submitted financial reports to identify and address discrepancies.

This recommendation can be closed when we receive evidence that the program assessment is complete, guidance is clarified, technical assistance tools have been developed, monitoring has been enhanced, and the FY 2016 solicitation requires applicants to document their potential to generate program income.

2. Ensure that its staff and all grantees receive training on the reporting of program income, including on the required and proper use of the program income calculator.

Resolved. OJP agreed with our recommendation and stated that the NIJ will provide revised program income guidance to all active DNA Backlog Reduction Program grant recipients following the completion of the program assessment. The NIJ will also provide training and technical assistance to implement the new guidance. OJP also stated that the NIJ will assess, in collaboration with OJP's Office of the Chief Financial Officer, the utility of the program income calculator and accompanying guidance. If a revision to the program income calculator is determined to be necessary, the revisions will be made to the Department of Justice Financial Guide.

This recommendation can be closed when we receive evidence that training and technical assistance has been provided on the reporting of program income, including any new guidance developed for the program income calculator.

3. Improve and enhance formal written procedures for accurately reporting and verifying program income, including for any extension periods.

Resolved. OJP agreed with our recommendation. OJP stated in its response that the NIJ will use the program assessment to inform DNA Backlog Reduction grantees of the enhanced program income guidance. NIJ will also provide written communication to all current grant recipients reminding them of the program income reporting requirements under their award, available Department of Justice Financial Guide training, and methods for properly handling program income. OJP also stated that this guidance would include an offer to provide technical assistance to address questions or concerns from grant recipients.

This recommendation can be closed when we receive evidence of the written communication to all DNA Backlog Reduction grant recipients regarding program income requirements, training, and handling methods.

4. Establish policies and procedures to inform all grantees of decisions that may impact grantees' reporting of program income.

Resolved. OJP agreed with our recommendation and stated in its response that the NIJ will establish policies and procedures to ensure that grant recipients are made aware of any decision that change, or otherwise, impact grantee reporting of program income.

This recommendation can be closed when we receive evidence of the established policies and procedures to make grant recipients aware of decisions affecting the reporting of program income.

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