



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



**Audit of  
The Franklin County District  
Attorney's Office's Equitable Sharing  
Program Activities  
Franklin County, New York**

**AUDIT OF  
THE FRANKLIN COUNTY DISTRICT ATTORNEY'S OFFICE'S  
EQUITABLE SHARING PROGRAM ACTIVITIES  
FRANKLIN COUNTY, NEW YORK**

**EXECUTIVE SUMMARY\***

The Department of Justice (DOJ) Office of the Inspector General conducted an audit on the accounting for and use of DOJ equitable sharing funds by the Franklin County District Attorney's Office (District Attorney's Office), located in Malone, New York. The audit covered Franklin County's 2011 to 2015 fiscal years (FY). During that period, the District Attorney's Office received equitable sharing funds totaling \$604,649 and expended \$802,196 in equitable sharing funds.

The objective of the audit was to assess whether equitably shared cash and property received by the District Attorney's Office was accounted for properly and used for allowable purposes, as defined by applicable regulations and the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (the Guide).

We found that although the District Attorney's Office was aware of the Guide, it failed to adhere to it. As such, it did not follow the Money Laundering and Asset Recovery Section (MLARS) policies regarding requests for equitable sharing funds, reporting and audit requirements, and appropriate safeguarding of equitable sharing funds. We also noted several instances of the District Attorney's Office's lack of compliance with established county policies and procedures. Specifically, the District Attorney's Office did not routinely follow the established purchasing policy for the procurement of items with federal equitable sharing funds. We found nearly \$111,000 in supplies and equipment purchased with equitable sharing funds that did not pass through the internal controls of the Franklin County Manager's Office or the Franklin County Purchasing Policy. This lack of oversight resulted in the unsupported expenditure of funds and a failure to secure the most competitive price for the services that the District Attorney's Office required.

The District Attorney's Office also lacked controls and documentation related to nearly \$60,000 it provided for drug buy expenditures to investigators via check, which the investigators cashed themselves and then kept the cash in a bank bag in county offices. We determined there was no system of records to identify or track which checks funded any particular investigation. Although the equitable sharing guide specifically permits funding to be used for drug buy money, the District Attorney's Office failed to follow equitable sharing guidelines or establish written policies regarding drug buys and was therefore unable to demonstrate that funding was used for its intended purpose and was properly safeguarded.

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\* Redactions were made to the full version of this report for privacy reasons. The redactions are contained only in Appendix 3, the auditee's response, and are of individuals' names.

The District Attorney's Office was also found to not follow established county employment policies with regard to employee overtime. We found that the District Attorney's Office issued over \$43,000 in checks for overtime to an investigator in direct violation of Franklin County's overtime policy. The District Attorney's Office also opened an unauthorized credit card and used equitable sharing funds to pay the bills for it. In total, we identify \$454,673 in questioned costs.

We made 15 recommendations to assist the Criminal Division in addressing the weaknesses we identified. The audit objective, scope, and methodology are included in Appendix I. We discussed the results of our audit with Franklin County officials and have included their comments in the report, as applicable.

We discussed the results of our audit with District Attorney's Office officials and have included their comments in the report, as applicable. In addition, we requested responses to the draft report from the District Attorney's Office and the Criminal Division and their responses are appended to this report as Appendix 3 and 4, respectively. Our analysis of the responses, as well as a summary of actions necessary to close the recommendations can be found in Appendix 5 of this report.

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**INTRODUCTION**

The Department of Justice (DOJ) Office of the Inspector General conducted an audit on the accounting for and use of DOJ equitable sharing funds by the Franklin County District Attorney's Office (District Attorney's Office), located in Malone, New York. The audit covered Franklin County's fiscal years (FY) 2011 through 2015. During that period, the District Attorney's Office received equitable sharing receipts totaling \$604,649 and expended \$802,196 in equitable sharing funds.

**DOJ Equitable Sharing Program**

The Comprehensive Crime Control Act of 1984 authorized the implementation of a national asset forfeiture program. The asset forfeiture program deprives criminals of the proceeds derived from their illegal activity. One of the key elements of this initiative is the equitable sharing program. The equitable sharing program allows any state or local law enforcement agency that directly participated in an investigation or prosecution resulting in a federal forfeiture to claim a portion of federally forfeited cash, property, and proceeds.

Although several DOJ agencies are involved in various aspects of the seizure, forfeiture, and disposition of equitable sharing revenues, three DOJ components work together to administer the equitable sharing program: (1) the U.S. Marshals Service (USMS), (2) the Justice Management Division (JMD), and (3) the Criminal Division's Money Laundering and Asset Recovery Section (MLARS). The USMS is responsible for transferring the equitable sharing funds from the DOJ to the receiving state or local agency. JMD manages the Consolidated Asset Tracking System (CATS), a database used to track federally seized assets throughout the forfeiture life-cycle. Finally, MLARS tracks membership of state and local participants, updates the equitable sharing program rules and policies, and monitors the allocation and use of equitably shared funds.

The amount of direct participation in an investigation and whether a seizure was part of a joint investigation or an adopted seizure determines a state or local agency's amount or percentage of equitable sharing funds. Joint investigations are those in which federal agencies work with state or local law enforcement agencies to enforce federal criminal laws, and the equitable sharing funds distributed to the state or local agency are related to the agency's direct participation. An adoption occurs when a seizure is made by the state or local law enforcement agency without the assistance of a federal agency and requests one of the federal seizing

agencies to adopt the seizure and proceed with federal forfeiture.<sup>1</sup> In adoptive cases where the state or local agency performed 100 percent of pre-seizure activity, the federal agency will generally receive 20 percent of the equitable sharing proceeds.

In order to participate in the asset forfeiture program and receive equitable sharing funds, a state or local law enforcement agency must become a member of the equitable sharing program and submit an annual Equitable Sharing Agreement and Certification Form. This form is submitted to MLARS by the state or local law enforcement agency within 60 days of the end of the agency's fiscal year. By signing the form, the officials of the participating agency certify that their agency will comply with the equitable sharing guidelines and statutes.

### **Franklin County District Attorney's Office**

The District Attorney's Office, located in Malone, New York, investigates and prosecutes violations of state and local criminal statutes to ensure the public's safety in Franklin County. The primary duty of the District Attorney is to represent the people when crimes are committed, which includes presenting cases to grand juries for indictment, negotiating plea agreements, and representing the county during hearings, trials, and appeals.

The District Attorney's Office also participates in criminal investigations, primarily related to drug smuggling. Franklin County borders Canada and a large volume of people and goods pass through the northern border from the major population centers of Canada into the United States. Criminal organizations smuggle drugs by capitalizing on the significant volume of commerce and travel between nations and the remote forests, fields, and waterways straddling the international boundary. All of the equitable sharing funds received by District Attorney's Office's that we reviewed as part of this audit were related to drug smuggling investigations.

The Franklin County Legislature governs all county departments, including the District Attorney's Office, by exercising a wide variety of administrative and legislative responsibilities that include establishing county policies, reviewing the administration of government, appropriating funding, levying taxes, reviewing and adopting the annual budget, and enacting resolutions and local laws. The Franklin County Manager assists in the day-to-day administration of county government and acts on behalf of the legislature, implementing county policies, and overseeing and coordinating activities of all county departments.

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<sup>1</sup> On January 16, 2015, then Attorney General Eric H. Holder issued a DOJ Order limiting federal adoptions for participants in the DOJ Asset Forfeiture Program. Specifically, agencies are only permitted to adopt assets seized by state and local law enforcement agencies that directly implicate public safety concerns, including firearms, ammunition, explosives, and property associated with child pornography.

## OIG Audit Approach

The objective of the audit was to assess whether the District Attorney's Office properly accounted for equitable sharing funds and tangible property, and used such revenues for allowable purposes, as defined by applicable guidelines. We tested compliance with what we considered to be the most important conditions of the DOJ Equitable Sharing Program. We applied the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (the Guide), updated in April 2009 and MLARS Interim Policy on Use of Funds as our primary criteria, as well as any additional policies issued in equitable sharing wires applicable to the scope of this audit. The Guide identifies the accounting procedures and requirements for tracking equitably shared monies and property; establishes reporting and audit requirements; and defines the permissible use of equitably shared resources. To conduct the audit; we tested the District Attorney's Office's compliance with the following:

- **Use of equitable sharing resources** to determine if equitable sharing cash and property were used for allowable law enforcement purposes.
- **Requests for equitable sharing funds** to ensure adequate controls were established.
- **Equitable Sharing Agreement and Certification Reports** to determine if these documents were complete, accurate, and submitted timely.
- **Compliance with audit requirements** to ensure the accuracy, consistency, and uniformity of audited equitable sharing data.
- **Accounting for equitable sharing resources** to determine whether standard accounting procedures were used to track equitable sharing assets.

Appendix 1 contains additional information on this audit's objective, scope, and methodology.

## Overview

To participate in the Equitable Sharing program and receive funding, on an annual basis, the District Attorney and the County Manager completed the required Equitable Sharing Agreement and Certification form in which both agreed to comply with the statutes and guidelines that regulate the equitable sharing program. The guidance issued by DOJ specifically requires the District Attorney's Office to implement internal controls related to the expenditure, accounting, and safeguarding of equitable sharing funds.

The District Attorney's Office operations are funded by Franklin County's annual budget and are required to comply with countywide policies and procedures in the areas of accounting, banking, and procurement. However, we determined that the District Attorney's Office did not apply these countywide controls nor did it abide by the Guide in its management of the equitable sharing funding we audited. Specifically, the District Attorney's Office established an accounting

system and bank accounts for the expenditure of equitable sharing funding and spent that money in a way that circumvented the county's system of controls and oversight.<sup>2</sup>

A former District Attorney told us that county controls were not applied to the equitable sharing funds because the funding was provided to the District Attorney's Office and the county did not have authority over the funding. We disagreed. At the initiation of this audit, we discussed this matter with the current District Attorney and county Officials who told us that they no longer agree with the former District Attorney's approach, and equitable sharing funding will be considered funding belonging to the county as a whole. As such, going forward, officials told us they plan to manage this funding in the same way all county funding is managed; which will help to ensure that the policies and procedures of the Guide are followed.

### Use of Equitable Sharing Funds

Between January 2011 and December 2015, we determined that the District Attorney's Office used a total of \$802,196 to make various types of expenditures. Of the total expenditures, we tested a sample of \$454,673 categorized in the table below.

**Table 1**  
**Franklin County District Attorney's Expenditure Sample<sup>3</sup>**

<i>Type of Expenditure</i>	<i>Amount</i>
Drug Buys	\$59,590
Overtime	43,851
Garage Construction	73,329
Payments to Credit Card	55,717
Supplies and Utilities	155,609
Financing of Unrelated Projects	66,577
<b>Total</b>	<b>\$454,673</b>

Source: Franklin County Expenditure Report FY 2011 – FY 2015

#### *Drug Buys*

Equitable sharing guidelines require that equitable sharing funds used for buy money be from appropriated or other funding sources that are subject to the agency's procurement policies. Agencies may then reimburse the jurisdiction with equitable sharing funds once all cash payments have been reviewed and approved

<sup>2</sup> Because the equitable sharing funds were not included on Franklin County's accounting system, the equitable sharing funds were not subject to single audit throughout the scope of our audit.

<sup>3</sup> Differences in totals throughout the report are due to rounding (the sum of individual numbers prior to rounding may differ from the sum of the individual numbers rounded).



by the agency head. This policy was not adhered to by the District Attorney's Office, who provided nearly \$60,000 in equitable sharing funds directly to investigators for buy money via check, which the investigators cashed themselves and provided to informants in order to purchase illegal drugs as part of drug smuggling investigations. The District Attorney's Office issued 37 checks during our audit period, averaging \$1,611 per check. Investigators told us that they held the cash in a bank bag located at offices leased by the county until it was needed for a drug buy.<sup>4</sup>

In addition, we determined that there was no system of records to identify or track which checks funded any particular investigation and officials told us that any of the 37 checks was likely used in more than one specific investigation. We also learned that cash used for these drug buys may not be referred to specifically in investigative files if an arrest did not occur, and typically these funds are never recovered. Although the equitable sharing guide specifically permits funding to be used for payments to informants such as "buy" money, "flash," or reward money, the District Attorney's Office failed to follow equitable sharing guidelines or establish written policies regarding drug buys and was therefore unable to demonstrate that funding was used for its intended purpose and was properly safeguarded. Without a well-designed process and good internal controls the drug buys are not being properly documented; thereby, subjecting the equitable sharing funds to fraud, waste and abuse.

Due to the lack of controls and documentation related to drug buy expenditures, we were unable to complete our testing of these expenditures. As a result, we recommend that the Criminal Division remedy \$59,590 in unsupported drug buy expenditures as well as \$1,000 in unallowable and unsupported drug buy expenditures and ensure that the District Attorney's Office implements and adheres to policies and procedures to adequately oversee and safeguard cash used for drug buys.

### *Overtime*

We determined that the District Attorney's Office used \$43,851 of equitable sharing funds in FY 2011 through FY 2015 for the overtime expenses of its investigator, despite county rules prohibiting individuals in this position from working and receiving overtime. The District Attorney's Office paid the investigator as an employee for regular time, while paying him as a contractor when working overtime so that public employment income limitations would not be exceeded. The former District Attorney also told us that he did not consider equitable sharing funds as belonging to Franklin County because it would limit the amount of compensation the investigator could receive from the District Attorney's Office if it was considered part of the county's funds.

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<sup>4</sup> As of July 2015, the Guide strictly prohibits the use of equitable sharing funds for cash on-hand. After this date, the District Attorney's Office expended a total of \$1,000 on checks that were converted to cash.

The timing and amount of overtime worked by the investigator was largely determined by the investigator without prior approval from a District Attorney. In addition the investigator submitted overtime vouchers, without prior approval, to the District Attorney, for overtime, that was self-generated and self-certified. We determined that the District Attorney's overtime procedures were not appropriate, and the related expenditures were both unsupported, due to the lack of approval and submission of overtime vouchers, and unallowable per Franklin County employment policies. The District Attorney's Office's decision to expend equitable sharing funds for overtime, in direct violation of the county's overtime policy, was a violation of the Guide, which resulted in the impermissible expenditure of those funds. In addition, an Internal Revenue Service (IRS) Examination Report concluded that that Franklin County had incorrectly categorized individuals who worked for the county during 2012 as independent contractors rather than employees. As a result, the IRS instructed Franklin County to pay back taxes in the amount of \$106,458 for the over \$1 million paid to these workers during calendar year 2012.

As a result, we recommend that the Criminal Division remedy \$43,851 in unsupported overtime expenditures and ensure that the District Attorney's Office implement and adhere to written policies and procedures to ensure overtime expenditures are allowable and supported.

#### *Garage Expenditures*

In December 2014 the District Attorney's Office used \$73,328 in equitable sharing funds to purchase building material, without the required prior approval for capital improvements from MLARS, to have a building constructed for the purpose of housing equipment that the District Attorney's Office purchased with equitable sharing funds since 2002.

The purchase of the building materials and construction of the garage was identified in a prior single audit. Internal investigations by the county are ongoing based on a lack of support for the origination of the revenue that was spent, as well as the unauthorized use of funds and potential fraud.<sup>5</sup> Specifically, the District Attorney's Office issued a check to the Franklin County Highway Department for materials to construct the building. The Highway Department Superintendent endorsed the check which was unallowable per Franklin County Cash Management Policy. In addition there was no documentation of approval of any invoices provided to the District Attorney's Office for the materials acquired. Although the payment to the vendor was based on a quote, the vendor subsequently provided an invoice in the exact same amount despite significant differences between the itemized quote and the itemized invoice. Most notably, the quote included an estimate of labor costs of \$18,500 while the invoice included only materials. We

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<sup>5</sup> According to the Franklin County Cash Management Policy, Department Heads are unauthorized to endorse checks.

also noted that the cost of a particular item in the invoice was \$10,000 more than what was stated on the quote.

Due to the District Attorney's failure to comply with the Guide by obtaining prior approval to expend equitable sharing funds for capital improvement purposes, as well as failing to address prior audit findings to ensure that it adheres to county policies and procedures with regard to equitable sharing funds, we recommend that the Criminal Division remedy \$73,329 of garage expenditures identified as unsupported, and ensure that the District Attorney's Office implements and adheres to well-designed procurement policies.

#### *Payments to Credit Card*

We determined that a former District Attorney had exclusive use of a credit card, which was used throughout the scope of the audit for expenditures totaling \$55,717. The District Attorney's Office used equitable sharing funds to pay the monthly charges related to this credit card and the balance of the credit card was paid in full every month. This card was issued in 2007, but was not authorized by Franklin County. In fact, the Franklin County Manager and the Franklin County Treasurer told us in 2016 that they had no knowledge of the credit card being used by the District Attorney's Office.

Because the accounting system only captured the monthly credit card payment rather than the individual purchases, we chose a judgmental sample of the 14 highest monthly credit card statements, which totaled \$37,828, to determine whether the District Attorney had expended equitable sharing funds for permissible purposes. We determined that for 28 percent of the expenditures tested, \$10,648, the District Attorney's Office did not maintain any supporting documentation for the charges, such as invoices or receipts. Therefore, we were unable to determine whether these equitable sharing fund expenditures were permissible. Supporting documentation was obtained for the remaining 72 percent of the expenditures, \$27,180; however, we were unable to discern from this documentation whether the expenditures were a permissible use of equitable sharing funds.

In addition, the District Attorney's Office had not received the required approval from the Board of Legislature to obtain the credit card, nor did it adhere to the Franklin County Purchasing Policy and Franklin County Credit Card Policy for card holders. When we discussed this matter with MLARS officials, they stated that by circumventing these processes, the District Attorney's Office's use of the credit card to expend equitable sharing funds was impermissible.

By not adhering to the county's system of controls the District Attorney's Office's use of equitable sharing funds for its credit card purchases was impermissible. We recommend that the Criminal Division remedy \$55,717 in unallowable credit card payments, and ensure that the District Attorney's Office implements and adheres to policies and procedures that ensure credit card

purchases are appropriately recorded, supported, and comply with the Franklin County procurement policies.

### *Supplies and Utilities Expenditures*

The District Attorney's Office used federal equitable sharing funds throughout the scope of our audit to purchase nearly \$111,000 for supplies and equipment for the office and for law enforcement personnel, as well as \$45,000 in telecommunication expenditures. The supplies were purchased directly from the vendors and purchased via a written check from the federal equitable sharing bank account. We found that the supplies purchased using equitable sharing funding did not pass through the Franklin County Purchasing Department, nor were the expenditures properly procured to the standards of the Franklin County Purchasing Policy.

In determining that the District Attorney's Office failed to follow county procurement policies, we also found that Franklin County could not demonstrate that the amount paid for the supplies and equipment was reasonable. The Franklin County Manager told us that all purchases from any Department within Franklin County, including the District Attorney's Office, must complete a purchase order and it must be submitted through the Purchasing Department.

In addition, the District Attorney's Office had installed throughout the county surveillance cameras and maintained phone lines to help further investigations. In order for these devices to relay information to the District Attorney's Office, a telecommunications company provided service to all of the devices and phone lines. The utility company submits, to the District Attorney's Office, an invoice every month for the services provided. However, we found that the invoice, included services of other devices for other grant-related activities not involving federal equitable sharing funds. Additionally, we found that the invoices were not reviewed by appropriate county Officials.

Franklin County District Attorney's Office officials told us that the majority of these phone lines were not working or were no longer needed, and that the location of some of the surveillance cameras is unknown. This poor oversight resulted in the unsupported expenditure of funds and a failure to secure the most competitive price for the services that the District Attorney's Office required.

As a result, we recommend that the Criminal Division remedy \$110,548 of supplies and equipment purchased using equitable sharing funds not properly procured under the Franklin County purchasing policy, and remedy the \$45,061 of telecommunication's invoice expenditures due to the lack of supporting documentation.

## *Financing of Unrelated Project Expenses*

During the course of our audit, the District Attorney's Office was also administering a U.S. Department of Homeland Security (DHS) grant for border protection costs, including the purchase of a vehicle and related expenses. During our audit, District Attorney's Office officials told us that they used DOJ equitable sharing funds to make DHS grant-related expenditures totaling \$66,577 because DHS funding was provided on a reimbursement basis. District Attorney's Office officials told us that when they received reimbursement for the DHS grant expenditures, the funds were not deposited in the bank account that was established to manage cash related to the DOJ equitable sharing program. Instead, the reimbursement funds were deposited into another District Attorney owned bank account unrelated to federal equitable sharing. District Attorney's Office officials told us that they did not replace the money in the bank account established for DOJ equitable sharing because they believed only MLARS could make deposits in the bank account. We believe the District Attorney's Office officials failed to follow the Guide by expending funds impermissibly and misconstrued the requirements to establish separate codes in its accounting system to track receipt of equitable sharing funding.

Based on our review of the account records and bank statements, we determined that the federal equitable sharing bank account did not include any of the expenditures identified relating to DHS funded items. Therefore we recommend that the Criminal Division remedy \$66,577 in unallowable and unreimbursed expenditures financed by the DOJ equitable sharing funds.

### **Requests for Equitable Sharing Funds**

In order for law enforcement agencies to receive Equitable Sharing program funding they must submit an electronic form, known as the DAG-71<sup>6</sup>. Equitable sharing recipients are required to monitor their requests to ensure transfers are accurate and revise funding requests as needed.

Law enforcement agencies are required to submit requests for funding within 45 days of the related seizure or adoption seizure by a Federal agency.<sup>7</sup> We determined the District Attorney's Office completed 40 equitable sharing requests from FY 2011 thru FY 2015 and identified four DAG-71 requests that were not submitted timely. While three of the four late requests were overdue by 22 days or less, we determined that 1 request was submitted more than 7 months late. District Attorney's Office officials told us they could not determine why this submission was late. The non-compliance we identified is immaterial, but late

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<sup>6</sup> DAG-71 or the Equitable Sharing Request Form, is used by State and Local Law Enforcement Agencies to describe the asset seized and the agencies involvement in the seizure, as well as request either cash/proceeds or an item in return.

<sup>7</sup> Prior to January 1, 2015, requests were required to be submitted within 60 days of the related seizure.

submission delays payment and affects crime-detering programs funded by equitable sharing funds.

When the USMS approves DAG-71 requests, equitable share funds are transferred to state and local agency bank accounts electronically through a system known as E-Shares. When this occurs for Franklin County, the Franklin County District Attorney's Office receives an e-mail receipt notification detailing the amount of funding to be electronically transferred to its bank account. We determined that the equitable sharing bank account received 28 E-Shares in the amount identified in the related e-mail notifications and MLARS submission logs. An additional 11 equitable sharing requests were pending, denied, or extinguished. However, Franklin County did not consistently reconcile the receipts and therefore it was unable to readily identify the source of funding when received and also allowed for the impermissible E-Share transfer deposits.

We recommend that the Criminal Division ensure that the District Attorney's Office implements and adheres to policies and procedures so that requests for equitable sharing funding are submitted timely.

### **Equitable Sharing Agreement and Certification Reports**

As part of this audit, we reviewed the reporting and audit requirements to determine whether the District Attorney's Office submitted complete, accurate, and timely Equitable Sharing Agreement and Certification (ESAC) reports.

Equitable sharing program participants are required to submit a signed ESAC form within 60 days of the beginning of each fiscal year. The certification section of the form details the equitable sharing activity of the fiscal year, and the agreement portion must be signed by the head of agency and a designated official of the governing body.

We reviewed the District Attorney's Office FY 2011 through FY 2015 Agreement and Certifications forms for proper signatures and submission dates. We determined that all ESAC forms were submitted timely and the forms were signed by the Franklin County District Attorney and the Franklin County Manager.

To assess the accuracy of the annual reports submitted by the District Attorney's Office, we compared the disbursements recorded by MLARS with the District Attorney's Office's accounting system data that was used to prepare the annual reports. We found that the reports prepared for FYs 2011 through 2015 accurately reflected equitable sharing funding received except for FY 2014, which overstated equitable sharing funding received by \$1,493, or less than 1 percent. District Attorney Officials were unable to determine the cause of this error.

In addition, the Guide requires that if an agency uses funds for transfers to other law enforcement agencies, the certification section of the form must include the amount transferred and the receiving agency name(s). We reviewed these forms for FYs 2011 through 2015 and, although Franklin County reported transfers

to other law enforcement agencies of \$700 in FY 2014 and \$26,246 in FY 2015, they did not provide a description of the receiving agencies. Although the form was not completed accurately, we were able to identify the receiving agencies by using accounting and bank account records and determined that the funds were expended for permissible purposes under the Guide.

### **Compliance with Audit Requirements**

Although Franklin County obtained Single Audit Reports as required for FYs 2011 through 2015, officials from the District Attorney's Office told us that the District Attorney's accounting system was not evaluated as a part of these audits, due to the accounting system's separation from Franklin County oversight. However, the single auditors did note in Franklin County's annual single audit for calendar year 2014, that there were significant deficiencies in the District Attorney's accounting system for equitable sharing funds, as well as a lack of policies or procedures in effect for its expenditure of the funds. The independent auditors recommended that the District Attorney's Office establish policies and procedures to comply with the Federal Equitable Sharing Guide. Throughout the course of our audit, we determined that these defined deficiencies were never resolved and the District Attorney's Office was still operating in the absence of proper policy and procedures to safe guard the equitable sharing funds. As a result, we determined that Franklin County did not comply with the single audit requirements.

We recommend that the Criminal Division ensure the District Attorney's Office implement and adhere to policies and procedures so that equitable sharing reports submitted are completed accurately and that equitable sharing activities are included in Franklin County Single Audit Reports.

### **Accounting for Equitable Sharing Resources**

According to the USMS Consolidated Asset Tracking System (CATS) Report, the District Attorney's Office received 56 E-Share receipts totaling \$604,649 between FYs 2011 and 2015, as shown below.

**Table 2**  
**USMS E-Share Receipts: March 2011 to July 2015**

<b>Fiscal Year</b>	<b>Receipts</b>	<b>Cash or Proceeds</b>
2011	15	\$144,688
2012	5	9,459
2013	9	211,141
2014	24	237,243
2015	3	2,117
<b>Total</b>	<b>56</b>	<b>\$604,649</b>

Source: USMS Consolidated Asset Tracking System (CATS) Report

The Guide requires that agencies implement standard accounting procedures to track all equitable monies and tangible property received. We reviewed the accounting of receipts to determine whether the equitable sharing monies received were properly recorded and safeguarded. As previously discussed, the District Attorney's Office established a separate bank account from that of Franklin County to track equitable sharing funding. However, District Attorney Officials mistakenly made 12 deposits into this account totaling \$66,753 from sources other than the Equitable Sharing program. In addition and as described in the Reporting and Audit Requirements section of this report, we determined that the accounting system established by the District Attorney's Office did not accurately reflect total equitable sharing receipts, and was not included in the Franklin County Single Audit Reports for FYs 2011 through 2015.

We recommend that the Criminal Division ensure that the District Attorney's Office implement and adhere to policies and procedures to ensure equitable sharing funding is properly accounted for and safeguarded.

## **Conclusion**

The District Attorney's Office failed to properly adhere to the regulations outlined in the Guide. In addition, the District Attorney's Office did not follow established policies for the procurement of items purchased with federal equitable sharing funds, resulting in \$454,673 in questioned costs. Further, the Franklin County District Attorney's Office did not follow MLARS polices regarding requests for equitable sharing funds, reporting and audit requirements, and safeguarding the equitable sharing funds. Without a well-designed process and good internal controls, the District Attorney's Office is subjecting the equitable sharing funds to fraud, waste and abuse.

## **Recommendations**

We recommend that the Criminal Division:

1. Remedy \$59,590 in unsupported drug buy expenditures from FY 2011 through FY 2015 as identified.
2. Remedy \$1,000 in unallowable drug buy expenditures from FY 2011 through FY 2015 as identified.
3. Remedy \$43,851 in unsupported overtime expenditures from FY 2011 through FY 2015 as identified.
4. Remedy \$73,329 of garage expenditures identified as unsupported.
5. Remedy \$55,717 in unallowable credit card payments.
6. Remedy \$110,548 of unsupported supplies and equipment purchased not properly procured under the Franklin County purchasing policy.



7. Remedy \$45,061 in unsupported telecommunication's expenditures.
8. Remedy \$66,577 in unallowable and unreimbursed expenditures financed by the DOJ equitable sharing funds.
9. Ensure that the Franklin County District Attorney's Office implement and adhere to written policies and procedures to adequately oversee and safeguard cash used for drug buys.
10. Ensure that the Franklin County District Attorney's Office implement and adhere to written policies and procedures to ensure overtime expenditures are allowable and supported.
11. Ensure that the Franklin County District Attorney's Office implement and adhere to well-designed procurement policies.
12. Ensure that the Franklin County District Attorney's Office implement and adhere to policies and procedures that ensure credit card purchases are appropriately recorded, supported, and comply with the Franklin County procurement policies.
13. Ensure that the Franklin County District Attorney's Office implement and adhere to policies and procedures that requests for equitable sharing funding are submitted timely.
14. Ensure that the Franklin County District Attorney's Office implement and adhere to policies and procedures so that the equitable sharing reports submitted are completed accurately and that equitable sharing activities are included in Franklin County single audits.
15. Ensure that the Franklin County District Attorney's Office implement and adhere to policies and procedures to ensure equitable sharing funding are properly accounted for and safeguarded.

### OBJECTIVE, 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was to assess whether the equitably shared cash and property received by the Franklin County District Attorney's Office (District Attorney's Office) were accounted for properly and used for allowable purposes as defined by applicable regulations and guidelines. We tested compliance with what we considered to be the most important conditions of the DOJ Equitable Sharing Program. We reviewed the Guide to Equitable Sharing for State and Local Law Enforcement Agencies, updated April 2009 as well as the District Attorney's Office's local laws, regulations. In addition we reviewed the interim policies, wires and procedures made available by MLARS. Unless, otherwise stated in our report, the criteria we audit against are contained in these documents.

Our audit concentrated on, but was not limited to, equitable sharing funds received by the District Attorney's Office from January 1, 2011, through December 31, 2015. During this period, the District Attorney's Office received \$604,649 and expended \$802,196 in equitable sharing funds. We tested all 56 E-Share receipts corresponding to amount received and used a judgmental sampling design to obtain broad exposure to numerous facets of the expenditures reviewed, such as dollar amount and categories. This non-statistical sample design does not allow projection of the test results to the entire universe of equitable sharing receipts during our audit period.

We performed audit work at the District Attorney's Office by interviewing the District Attorney and officials responsible for managing the equitable sharing program and funds. We also examined revenue and expenditure records related to the DOJ equitable sharing funds that Franklin County received. We relied on computer-generated data contained in the USMS E-Share Report and the District Attorney's Office's accounting system to determine equitable sharing revenues awarded to the District Attorney's Office as well as related expenditures for FYs 2011 to 2015. We assessed the reliability of the District Attorney's Office's accounting system by comparing the USMS E-Share records to the District Attorney's Office's revenue account to verify that the accounting system entries matched the District Attorney's Office's source documents. However, we did not establish the reliability of the data contained in the USMS or the MLARS systems as a whole. Nevertheless, when the data we used is viewed in context with other available evidence, we believe the opinions, conclusions, and recommendations included in this report are valid.

Our audit specifically evaluated the District Attorney's Office's compliance with what we considered to be essential equitable sharing guidelines, relating to the following: (1) equitable sharing requests, (2) accounting for equitable sharing receipts, (3) use of equitable sharing funds, and (4) reporting and audit requirements. In planning and performing our audit, we considered internal controls established and used by the District Attorney's Office for the equitable sharing funds. Our audit also included a review of the District Attorney's Office's FY 2011 through FY 2015 Single Audits and found that the equitable sharing funds were not subject to single audit throughout the scope of our audit.

SCHEDULE OF DOLLAR-RELATED FINDINGS

<u>Description</u>	<u>Amount</u>	<u>Page</u>
<b>Questioned Costs:</b>		
Credit Card Payments	55,717	7
Financed Unrelated Project Expenditures	66,577	9
Drug buys	<u>1,000</u>	5
Unallowable Costs	\$123,294	
Overtime	\$43,851	5
Drug buys	59,590	5
Garage Construction	73,329	7
Supplies and Equipment	110,548	8
Telecommunications and Utilities	<u>45,061</u>	8
Unsupported Costs	\$332,379	
<i>Gross Questioned Costs</i> <sup>8</sup>	\$455,673	
Less Duplicate Questioned Costs <sup>9</sup>	<u>\$(1,000)</u>	
<b>Net Questioned Costs</b>	<b>\$454,673</b>	
<b>TOTAL DOLLAR-RELATED FINDINGS</b>	<b><u>\$454,673</u></b>	

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<sup>8</sup> **Questioned Costs** are expenditures that do not comply with legal, regulatory, or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

<sup>9</sup> Some costs were questioned for more than one reason. Net questioned costs exclude the duplicate amount, which includes \$1,000 in Drug Buy expenditures that were both unallowable and unsupported.

FRANKLIN COUNTY DISTRICT ATTORNEY'S OFFICE'S RESPONSE  
TO THE DRAFT REPORT



CRAIG P. CARRIERO  
District Attorney

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FRANKLIN COUNTY DISTRICT ATTORNEY

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MEREDITH LARSEN  
Assistant District Attorney

February 16, 2017

VIA 1<sup>st</sup> CLASS MAIL and EMAIL

Thomas O. Puerzer, Regional Audit Manager  
U.S. Department of Justice  
Office of Inspector General  
701 Market Street, Suite 2300  
Philadelphia, Pennsylvania 19106

Re: Franklin County District Attorney's Office  
Revised Official Response to DOJ Audit of FES Account

Dear Mr. Puerzer:

Please accept this letter as the Franklin County District Attorney's Office's official response to the Department of Justice Office of Inspector General's (hereinafter "DOJ") Draft Report (hereinafter "audit") regarding our office's management of our federal equitable sharing (hereinafter "FES") account from FY 2011 to 2015.

My first term as Franklin County District Attorney commenced on January 1, 2016. Thus, I was not District Attorney during any of the period of time that the audit covered (FY 2011 to 2015), and the office secretary that handled our federal equitable sharing FES accounts retired in early 2016. For this reason, our current office staff does not have firsthand information regarding much of the historical information and background concerning our FES account. However, the DOJ can be assured that I and the current office staff answered all DOJ inquires to the best of our knowledge and provided the DOJ with all requested information and documentation.

The issues and concerns identified in the audit clearly were not attempts by prior District Attorney administrations to intentionally circumvent County procedures regarding accounting, purchasing and procurement policies of FES funds. Rather, the issues addressed

in the audit stemmed from a belief that FES funds could be treated differently than other County funds because FES funds were monies seized from drug dealers and criminals, and not derived from law abiding taxpayers. In meeting with DOJ auditors early last year, it was evident that they did not share this view regarding the administration of FES funds. Upon learning of the DOJ's position, this office immediately took the measures to correct the issues identified in the audit and to implement all the recommendations detailed in the audit.

Since meeting with DOJ auditors in the beginning of 2016, not only has our office accepted all the recommendations in the audit, our office has proactively taken measures to correct all issues and deficiencies that were detailed in the audit. In early August, 2016, nearly five months prior to the completion of the audit, our office took the corrective measure to transfer our FES account (and our State forfeiture account) into County controlled accounts so that the FES funds will now be subject to the same countywide policies and procedures regarding banking, accounting and procurement as other funds handled by our office. At this time, I am fully confident that all issues and concerns cited in the audit have already been addressed and corrected.

To the extent the DOJ Criminal Division agrees with DOJ Inspector General's conclusion regarding the questions costs identified in the audit, we would request the question costs be remedied by a measure other than the recovery of costs. The crux of the DOJ's audit concerns appear to involve a lack of adherence to proper regulations and internal controls, and not any misuse or misappropriation of funds. In other words, the audit identifies issues with the process of how forfeiture funds were spent, not necessarily what the funds were spent on. Lastly, based on conversation with the former Franklin County District Attorney, it is my understanding that the DOJ audited our FES accounts 6-8 years ago and corrective measures were taken as a result of that audit. Importantly, it is also my understanding that the prior audit never recommended that our FES account must be transferred to the County. Otherwise, I am confident this corrective measure would have been completed at the time of that prior audit 6-8 years ago. Thus, for all the reasons detailed herein, the remedy of recovery of funds seem unduly harsh and would significantly impede our ability to combat and prosecute crime in our County.

## **A. GENERAL RESPONSE TO AUDIT**

### **1. DRUG BUYS**

From FY 2011 to 2015, the audit notes our office used approximately \$60,000 in FES funds for drug buy money, which is clearly a permissible use of FES funds. During this period, our office prosecuted approximately 180 defendants involving approximately 260 drug sale charges, which is a significant amount of cases and charges for a county of our size. These figures also do not include cases of individuals who sold drugs to informants or undercover

officers but who were never arrested as a result of cooperation deals the individuals negotiated with law enforcement agencies.

Access to drug buy funds is a critical tool in fighting drug and drug-related crime in Franklin County. Without drug buy funds, our office would have little ability to make drug sale arrests and organize drug "round-ups," whereby we arrest numerous individuals for the illegal sale and distribution of drugs. However, when drug buy money is used, it is often times difficult to recover those funds from the defendants for a variety of reasons.

In response to the audit, our office no longer use FES funds for buy money. However, if we decide to use FES funds in the future, the use of those funds will follow all County internal processes and controls, as our FES funds have been turned over to the County. We also now understand that if FES funds are used for buy money, the buy money must first come from another source, and only then can FES funds be used to reimburse that other source for the expenditure of buy money. Finally, we have developed a detailed ledger to ensure proper accounting of all future buy money. (It is my understanding that from 2011 through 2015 a "buy ledger" was kept, but the ledger was previously misplaced by a former employee.) Thus, our office now has the proper controls and processes in place to administer buy money if we ever use FES funds for buy money in the future.

With respect to the audit's questioned cost of \$59,590 (plus \$1,000) regarding buy money, we would request that the final remedy not be a recovery of costs due to the fact buy money is an authorized expense for FES funds and that based on the above arrest and conviction figures during the audit period of 2011-2015, our office clearly utilized buy money for law enforcement purposes and for the protection of our community. The issues detailed in the audit involve the process behind the use of buy money and not necessarily any misuse of buy money.

## **2. OVERTIME**

The audit states that from FY 2011 to 2015, our office used \$43,851 in FES funds to pay overtime to our office's investigator, despite the fact the investigator's employment classification prohibited the investigator from being paid overtime. This error appears to have been an honest mistake resulting from a misunderstanding of the investigator's County employment classification.

FES funds clearly permit the use of FES funds to pay overtime to investigators. Thus, it is understandable that our office paid its' investigator overtime using FES funds without realizing that the investigator's employment classification prohibited this payment. For this reason, we would request that the final remedy for the questioned costs of \$43,851 not be a recovery of costs, as the payment of overtime to the investigator would have been an

authorized use of FES funds if it were not for the investigator's County employment classification.

In correcting this issue, our office no longer pays the investigator overtime. In fact, upon being informed by the DOJ auditors in May, 2016 that the investigator was not eligible to receive overtime due to his County employment classification, we immediately discontinued compensating the investigator for overtime.

### **3. GARAGE EXPENDITURES**

In October 2014, the District Attorney's Office used \$73,328 in FES funds to purchase building materials and supplies to construct a storage building for the purpose of housing our office's vehicles and equipment, such as a bucket truck, speed trailers and other items purchased with FES and other grant funds. The audit lists the \$73,328 expended as a questioned cost. The audit states that our office failed to adhere to policies and procedures requiring prior approval for capital improvements and that we failed to follow County policies and procedures regarding procurement policies. For the reasons set forth below, the remedy for this questioned cost of \$73,382 should be not be the recovery of said costs.

The use of FES funds to construct a storage building for the above stated purpose is an authorized expenditure under FES guidelines. Ultimately, our office was able to construct a storage building in 2014 for \$73,328 that likely has a current worth well exceeding the \$73,328 in FES funds expended. In fact, the former District Attorney estimates the value of the building at \$200,000. Thus, although the proper County procedures and procurement policies were not followed, the use of FES funds were used for an authorized expense and our office, as well as the County Office of Emergency Management, benefits greatly from the use of the storage building.

The audit also notes discrepancies between the original quote and final invoices for the materials supplied by the vendor. While the vendor's initial quote and bills certainly contain errors, it is also apparent our office ultimately obtained building materials and supplies totaling the \$73,328 paid to the vendor.

Further, the patent errors on the vendor's invoices appear to be mistakes caused by poor and careless drafting of paperwork, not an attempt to defraud the County. For instance, the original invoice provided to our office erroneously listed a 41' dual truss package as only \$5,354.91. (A quote from another vendor estimated such a truss package at \$20,000.) In the final invoice, the vendor who provided the materials corrected invoice and listed the final price of the 41' dual truss package at \$12,130.34. A similar mistake on the invoice occurred regarding the price of the concrete provided. The initial invoice listed the cost of concrete at \$7875, when it was later confirm the actual concrete cost exceeded \$16,000. Again, while



note excusing the vendor's errors, these types of errors on the quotes and invoices suggest the mistakes more likely the result of the poor and careless drafting of invoices, not fraudulent conduct.

To ensure these errors never occur again, all FES funds have been transferred to the County as of August 1, 2016. Thus, any future capital projects will adhere to FES guidelines and the County's well-designed procurement and purchasing policies and procedures.

#### **4. PAYMENTS TO CREDIT CARDS**

The audit references that from FY 2011 to 2015 a former District Attorney had exclusive use of a credit card that was used for expenditures totaling \$55,717, despite the fact our office never obtained County approval before obtaining the credit card.

From FY 2011 to 2015, the District Attorney's Office purchased several pieces of important law enforcement-related equipment and supplies using a credit card under the exclusive control of the District Attorney's Office. The credit card statements were then paid using FES funds. Documentation, receipts and invoices were kept for all of the vital, law enforcement-related purchases made with the credit and can be provided upon request. Further, the possession and use of a credit card by our office appears to have been an honest misunderstanding regarding FES guidelines, not an intentional attempt to circumvent County purchasing and procurement procedures. In fact, it is my understanding the former District Attorney provided our monthly FES account bank statements to the County Treasurer's Office for review. Those bank statements had payments to Bank of America included on them. Thus, there was nothing secretive about the credit card and the fact it was not authorized through the County was an honest mistake. As such, we would request that any remedy of the \$55,717 not include a recovery of costs.

Importantly, since January 1, 2016, the use of the District Attorney Office credit card has been discontinued and this office no longer possesses or uses its own credit card. For any purchases that require a credit card, our office uses the County credit card and follows all County procedures and policies to ensure that purchases are appropriately recorded, supported and in compliance with procurement procedures. Thus, as with the other issues discussed above, this issue detailed in the audit has been remedied.

#### **5. SUPPLIES AND UTILITIES**

From FY 2011 to 2015, the audit states that the District Attorney Office's used FES funds to purchase approximately \$110,000 for supplies and equipment for the office and other law enforcement agencies and another \$45,000 for telecommunication expenses. These

expenditures are labeled questioned costs by the audit because these purchases did not pass through the County's Purchasing Department.

In the event the DOJ decides to remedy these costs, we would request the remedy be a measure other than the recovery of costs. As noted above, it was previously understood that because FES funds originated from drug dealers and criminals, the use of said funds did not have to be expended under the same policies and procedures as funds received from taxpayers. FES funds were used to purchase critical supplies and equipment for law enforcement agencies such as local police departments, the State Police and our County Drug Task Force. Prior administrations kept an accurate accounting of how these FES funds used to purchase equipment by retaining receipts, invoices and copies of cancelled checks, concerning equipment purchases. Further, our monthly FES bank statements were provided to the County Treasurer's Office. Lastly, a significant portion of the \$110,000 used for supplies and equipment likely includes the above-noted credit card questioned costs of \$55,717.

As for the \$45,061 in telecommunication expenses, it is important to note that the death of the County IT Director [REDACTED] in October, 2015 had a devastating impact on our law enforcement operations that required IT support. His tremendous efforts led to the development of a comprehensive electronic surveillance system (cameras and license plate readers) that still assists law enforcement agencies in making arrests for drug smuggling, alien smuggling and other drug and border related crimes. Unfortunately, many of these electronic devices do require monthly phone lines to operate, so the telecommunication expenses are required cost to support these law enforcement tools.

When [REDACTED] passed away, we lost his wealth of knowledge regarding this electronic system. Since [REDACTED] passing and with the help of many individuals, we do in fact know the location of all our cameras and license plate readers and we have disconnected all phones lines no longer needed. Further, as noted above, we have transferred all FES funds to the County as of August 1, 2016, so all future equipment, supplies and telecommunication expenditures will be subject to County policies and procedures regarding purchasing and procurement.

#### **6. FINANCING OF UNRELATED PROJECT**

The audit notes that during FY 2011 to 2015 the District Attorney's Office used \$66,577 in FES funds to make United States Department of Homeland Security grant-related expenditures because such grant-related expenditures were provided on a reimbursement basis. However, due to the fact a former employee believe that funds could not be deposited back into our FES account, when the reimbursement for the FES funds was received, the

reimbursed funds were deposited into our office's State forfeiture account, not the FES account.

This error by the former employee was an honest mistake and a genuine misunderstanding of the FES guidelines, as she mistakenly believed funds could not be deposited into the FES account. This was not an intentional commingling of State forfeiture and FES funds. Thus, all \$66,577 in FES funds can be accounted for, as the \$66,577 was deposited into our office's State forfeiture account. (That state forfeiture account was also transferred to County control on August 1, 2016.)

As a corrective measure, we no longer use FES funds to pay for other reimbursable grant related expenditures. Further, our office understands that funds can be deposited into our FES accounts.

Therefore, in light of the above and the fact the \$66,577 can be accounted for and was simply erroneously placed in another office forfeiture account, we would request that if the DOJ decides to remedy the \$66,577, it be done so by a remedy other than recovery of funds.

## **B. RESPONSE TO THE 15 SPECIFIC RECOMMENDATIONS**

1. For the reasons discussed in Section A(1) above, we disagree that questioned costs of \$59,590 should be remedied. However, if the DOJ opts to remedy these questioned costs, we request that the remedy be a measure other than a recovery of costs. Please also see Section A(1) for a discussion of the corrective measures already implemented.
2. For the reasons discussed in Section A(1) above, we disagree that questioned costs of \$1,000 should be remedied. However, if the DOJ opts to remedy these questioned costs, we request that the remedy be a measure other than a recovery of costs. Please also see Section A(1) for a discussion of the corrective measures already implemented.
3. For the reasons discussed in Section A(2) above, we disagree that questioned costs of \$43,851 should be remedied. However, if the DOJ opts to remedy this questioned costs, we request that the remedy be a measure other than a recovery of costs. Please also see Section A(2) for a discussion of the corrective measures already implemented.
4. For the reasons discussed in Section A(3) above, we disagree that questioned costs of \$73,329 should be remedied. However, if the DOJ opts to remedy this questioned

- costs, we request that the remedy be a measure other than a recovery of costs. Please also see Section A(3) for a discussion of the corrective measures already implemented.
5. For the reasons discussed in Section A(4) above, we disagree that questioned costs of \$55,717 should be remedied. However, if the DOJ opts to remedy this questioned costs, we request that the remedy be a measure other than a recovery of costs. Please also see Section A(4) for a discussion of the corrective measures already implemented.
  6. For the reasons discussed in Section A(5) above, we disagree that questioned costs of \$110,000 should be remedied. However, if the DOJ opts to remedy this questioned costs, we request that the remedy be a measure other than a recovery of costs. Please also see Section A(5) for a discussion of the corrective measures already implemented.
  7. For the reasons discussed in Section A(5) above, we disagree that questioned costs of \$45,061 should be remedied. However, if the DOJ opts to remedy this questioned costs, we request that the remedy be a measure other than a recovery of costs. Please also see Section A(5) for a discussion of the corrective measures already implemented.
  8. For the reasons discussed in Section A(6) above, we disagree that questioned costs of \$66,577 should be remedied. However, if the DOJ opts to remedy this questioned costs, we request that the remedy be a measure other than a recovery of costs. Please also see Section A(6) for a discussion of the corrective measures already implemented.
  9. See Section A(1) above for a discussion of corrective measures already implemented regarding drug buy money.
  10. See Section A(2) above for a discussion of corrective measures already implemented regarding the payment of overtime.
  11. Our office proactively took steps over 6 months ago to ensure the implementation and adherence of well-designed procurement policies by transferring our FES account (and our State forfeiture account) into County controlled accounts, so that FES funds will now be subject to the same countywide policies and procedures regarding banking, accounting and procurement as other funds handled by our office.

12. See Section A(3) above for a discussion of corrective measures already implemented regarding the use of credit cards by the District Attorney's Office. Specifically, since January 1, 2016, the District Attorney's Office no longer possesses or uses a credit card for any purposes.
13. Since January 1, 2016, the District Attorney's Office has ensured that the DAG-71 requests for equitable sharing funds completed within one week of receiving notification that funds are available, despite the standard time frame for responding to the requests is 45 days. The District Attorney's Office has also developed a contact at the DEA that notifies us when funds are available to request. In response, we submit the requests on a timely basis. Our office has made it a priority to be efficient with responding to requests and filing forms in a prompt manner.
14. Since January 1, 2016, the District Attorney's Office has insured all reports have been filed in a prompt manner. The Equitable Sharing Agreement and Certification report is due within 60 days of the end of the fiscal year. This year we received the reminder email on January 3, 2017 and the 2016 report was completed and filed on January 4, 2017. The report for 2015 was filed on January 11, 2016. The Franklin County Treasurer's Office, along with the County Manager, receive copies of the Equitable Sharing and Agreement Certification report.

Since August 1, 2016, our FES accounts have been transferred to the County and are now included in the County's financial accounting system. Thus, when any single audits are performed, the information is easily accessible and shared with all these departments. As a result, there is no miscommunication between the District Attorney's Office and the County Manager, Treasurer and Auditor. And as noted above, all FES funds are now spent pursuant to County policies and procedures regarding accounting, purchasing and procurement.

15. Our office proactively took steps over 6 months ago to ensure the implementation and adherence of well-designed procurement policies by transferring our FES account (and our State forfeiture account) into County controlled accounts, so that the FES funds will now be subject to the same countywide policies and procedures regarding banking, accounting and procurement as other funds handled by our office.

### **C. CONCLUSION**

As detailed above, not only has the District Attorney's Office accepted all the recommendations in the DOJ audit, we have proactively addressed the all recommendations and findings. In fact, the corrective measures and actions to address the recommendations were completed over six (6) months ago. Most notably, the District

Attorney's Office's transferred its' FES accounts to County control by resolution in August, 2016. This measure ensures all future FES funds will be spent pursuant to County policies and procedures regarding accounting, purchasing and procurement.

As for the questioned costs detailed in the audit, we would respectfully request that any ordered remedy be a measure not involving the recovery of costs. First, any errors made from FY 2011 to 2015 by the District Attorney's Office were honest mistakes involving a misinterpretation of FES guidelines, not an intentional effort to circumvent rules and regulations regarding FES funds. Second, our office has taken steps to cure all issues detailed in the audit and proactively implemented corrective action to implement policies and procedures to ensure compliance with all FES rules, regulations and guidelines. Lastly, demanding a recovery of costs from our office would have a crippling effect on our office's ability to combat and prosecute crime in our County, as our FES account balance has dwindled to a historically low level.

If you have any questions regarding the audit or this response, I welcome the opportunity to address these questions by further written correspondence, telephone phone or in person. Thank you.

Very truly yours,



Craig P. Carriero

CPC/mg

Enclosure

cc: Franklin County Board of Legislators (via hand delivery)

██████████ County Manager (via email)

██████████ County Treasurer (via email)

United States Dept of Justice, Criminal Division (via U.S. mail and email)



CRIMINAL DIVISION'S RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice  
Criminal Division

Money Laundering and Asset Recovery Section

Washington, D.C. 20530

FEB - 8 2017

MEMORANDUM

**TO:** Thomas O. Puerzer, Regional Audit Manager  
Philadelphia Regional Audit Office  
Office of the Inspector General (OIG)

**FROM:** Jennifer Bickford, Deputy Chief  
Program Management and Training Unit  
Money Laundering and Asset  
Recovery Section (MLARS) *Jennifer Bickford*

**SUBJECT:** DRAFT AUDIT REPORT of the Franklin County District Attorney's Office  
Equitable Sharing Program Activities

In a memorandum dated January 19, 2017, your office provided a draft audit report for the Franklin County District Attorney's Office (FCDAO), which included actions necessary for closure of the audit report findings. MLARS concurs with all findings and recommendations stated in the draft audit report noted on pages 13-14.

Upon receipt of the final audit report, MLARS will request that FCDAO implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken. MLARS will request and review supporting documentation to remedy the questioned costs listed in the recommendations.

cc: Denise Turcotte  
Audit Liaison  
Criminal Division

Richard P. Theis  
Assistant Director  
Internal Revenue and Evaluation Office  
Justice Management Division

## APPENDIX 5

### OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

The OIG provided a draft of this audit report to the Department of Justice Criminal Division (CRM) and the Franklin County District Attorney's Office (District Attorney's Office). CRM's response is incorporated in Appendix 4 of this report, and the District Attorney's Office's response is included as Appendix 3 of this final report. In response to our draft audit report, CRM concurred with our recommendations, and as a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

#### Analysis of the District Attorney's Office's Response

The District Attorney's Office's response to the draft report addresses the change in personnel at the District Attorney's Office since January 1, 2016, and an acceptance of all audit recommendations. The response goes on to request that, to the extent that CRM agrees with the audit conclusions regarding questioned costs, that the questioned costs be remedied by means other than recovery of costs because the audit identifies issues with the process of how forfeiture funds were spent, not necessarily what the funds were spent on. However, this is not the case. Our audit identifies several instances where the District Attorney's Office expended funds for unallowable purposes, resulting in questioned costs of over \$120,000 in, and over \$330,000 in unsupported expenditures. Lastly, as a point of clarification, the OIG did not previously perform an audit of the District Attorney's Office's use of federal equitable sharing funds.

#### Recommendations for the Criminal Division:

- 1. Remedy \$59,590 in unsupported drug buy expenditures from FY 2011 through FY 2015 as identified.**

Resolved. CRM concurred with our recommendation. In its response, CRM stated that it will request and review supporting documentation to remedy the questioned costs.

The District Attorney's Office disagreed that the questioned costs associated with this recommendation be remedied. The District Attorney's Office further stated that if the DOJ opts to remedy these questioned costs, it requests that the remedy be a measure other than a recovery of costs. In addition, the District Attorney's Office notes that buy money is an authorized expense for FES funds. The District Attorney's Office further states that issues detailed in the audit involve the process behind the use of buy money and not necessarily any misuse of buy money. Although the Equitable Sharing Guide



(Guide) allows for the use of buy money, there are specific provisions in place that participating law enforcement agencies must follow and, in fact, agree to follow when they become DOJ equitable sharing participants. These provisions are established, in part, to mitigate the risk that buy money will be used for improper purposes. By failing to follow the Guide, the District Attorney's Office's was unable to show that the money was expended for permissible purposes, it increased the risk of buy money misuse, and it neglected to abide by its agreement to follow Program Guidelines.

This recommendation can be closed when we receive documentation demonstrating the remedied questioned costs.

**2. Remedy \$1,000 in unallowable drug buy expenditures from FY 2011 through FY 2015 as identified.**

Resolved. CRM concurred with our recommendation. In its response, CRM stated that it will request and review supporting documentation to remedy the questioned costs.

The District Attorney's Office disagreed that the questioned costs should be remedied. The District Attorney's Office further stated that if the DOJ opts to remedy these questioned costs, it requests that the remedy be a measure other than a recovery of costs. In addition, the District Attorney's Office notes that buy money is an authorized expense for FES funds. The District Attorney's Office further states that issues detailed in the audit involve the process behind the use of buy money and not necessarily any misuse of buy money. As we note above, the Equitable Sharing Guide (Guide) does allow for the use of buy money. However, there are specific provisions in place that equitable sharing participants must follow, and that they agree to, when they become DOJ equitable sharing participants. These provisions are established, in part, to mitigate the risk that buy money will be used for improper purposes. By failing to follow the Guide, the District Attorney's Office's was unable to show that the money was expended for permissible purposes, it increased the risk of buy money misuse, and it neglected to abide by its agreement to follow Program Guidelines.

This recommendation can be closed when we receive documentation demonstrating that the questioned costs have been remedied.

**3. Remedy \$43,851 in unsupported overtime expenditures from FY 2011 through FY 2015 as identified.**

Resolved. CRM concurred with our recommendation. In its response, CRM stated that it will request and review supporting documentation to remedy the questioned costs.

The District Attorney's Office disagreed that the questioned costs should be remedied. The District Attorney's Office further stated that if the DOJ opts to

remedy these questioned costs, it requests that the remedy be a measure other than a recovery of costs. The District Attorney's office stated that its error appears to have been a mistake resulting from a misunderstanding of the investigator's county employment classification. However, given that the documentation we were provided was a violation of Franklin County rules and unapproved costs, we do not have adequate support evidencing that these costs were approved and allowable.

This recommendation can be closed when we receive adequate support demonstrating that the costs were approved and allowable, or the questioned costs are remedied through another appropriate remedial action.

**4. Remedy \$73,329 of garage expenditures identified as unsupported.**

Resolved. CRM concurred with our recommendation. In its response, CRM stated that it will request and review supporting documentation to remedy the questioned costs.

The District Attorney's Office disagreed that the questioned costs should be remedied. The District Attorney's Office further requests that if the DOJ opts to remedy these questioned costs, that the remedy be a measure other than a recovery of costs. The District Attorney's Office explains that proper county procedures and procurement policies were not followed, but the use of the funds was for an authorized expense. This expense, however, would only be authorized if the District Attorney's Office had sought, and MLARS had granted, advance approval for this capital improvement. The District Attorney's Office did not seek nor did it receive such approval. In addition, the District Attorney's Office was unable to provide documentation of approval for any invoices provided to the District Attorney's Office for the materials acquired. The response also includes assertions regarding errors in the vendor's invoices that the District Attorney's Office claims understated the actual cost of the building and justifies the amounts paid to the vendor. However, these claims and assertions made by the District Attorney's Office in its response did not include adequate support.

This recommendation can be closed when we receive documentation demonstrating that the questioned costs have been remedied.

**5. Remedy \$55,717 in unallowable credit card payments.**

Resolved. CRM concurred with our recommendation. In its response, CRM stated that it will request and review supporting documentation to remedy the questioned costs.

The District Attorney's Office disagreed that the questioned costs should be remedied. The District Attorney's Office further stated that if the DOJ opts to remedy these questioned costs, it requests that the remedy be a measure other than a recovery of costs. The District Attorney's Office also notes that

it used a credit card to purchase several pieces of law enforcement-related equipment and supplies and paid the credit card statements using FES funds. It further states that the fact that the credit card was not authorized through the county was an honest mistake. Because the District Attorney's Office had not received the required approval from the Board of Legislature to obtain the credit card, nor did it adhere to the Franklin County Purchasing Policy and Franklin County Credit Card Policy for card holders, we question these costs as unallowable. The District Attorney's Office indicated that documentation, receipts, and invoices were kept for all of the vital, law enforcement-related purchases made with the credit card and can be provided upon request. However, we determined that 28 percent of the expenditures tested, \$10,648, the District Attorney's Office did not maintain any supporting documentation, such as invoices or receipts, for the charges.

This recommendation can be closed when we receive documentation demonstrating that the questioned costs have been remedied.

**6. Remedy \$110,548 of unsupported supplies and equipment purchased not properly procured under the Franklin County purchasing policy.**

Resolved. CRM concurred with our recommendation. In its response, CRM stated that it will request and review supporting documentation to remedy the questioned costs.

The District Attorney's Office disagreed that the questioned costs should be remedied. The District Attorney's Office further stated that if the DOJ opts to remedy these questioned costs, it requests that the remedy be a measure other than a recovery of costs. Although the response indicates that prior administrations kept an accurate accounting of how these FES funds were used to purchase equipment by retaining receipts, invoices, and copies of cancelled checks concerning equipment purchases, the records we were provided during this audit were not complete nor well organized. In addition, the response included a statement that a significant portion of the \$110,000 used for supplies and equipment likely includes the above-noted credit card questioned costs of \$55,717. However, this is not the case. The expenditures for supplies and equipment for the District Attorney's Office and other law enforcement agencies are separate and distinct from the credit card costs noted above. The accounting records clearly differentiate credit card expenses from supplies and equipment through vendor classification.

This recommendation can be closed when we receive documentation demonstrating that the questioned costs have been remedied.

**7. Remedy \$45,061 in unsupported telecommunication's expenditures.**

Resolved. CRM concurred with our recommendation. In its response, CRM stated that it will request and review supporting documentation to remedy the questioned costs.

The District Attorney's Office disagreed that the questioned costs should be remedied. The District Attorney's Office further stated that if the DOJ opts to remedy these questioned costs, it requests that the remedy be a measure other than a recovery of costs. In addition, the District Attorney's Office stated that it has transferred all FES funds to the county as of August 1, 2016, so all future equipment, supplies, and telecommunication expenditures will be subject to county policies and procedures regarding purchasing and procurement.

This recommendation can be closed when we receive documentation demonstrating that these questioned costs have been remedied.

**8. Remedy \$66,577 in unallowable and unreimbursed expenditures financed by DOJ equitable sharing funds.**

Resolved. CRM concurred with our recommendation. In its response, CRM stated that it will request and review supporting documentation to remedy the questioned costs.

The District Attorney's Office disagreed that the questioned costs should be remedied. The District Attorney's Office further stated that if the DOJ opts to remedy these questioned costs, it requests that the remedy be a measure other than a recovery of costs. The District Attorney's Office stated that the amount of questioned costs can be accounted for as it was deposited into the State forfeiture fund based on the mistaken belief that funds could not be deposited into the FES fund. In addition, the response states that the District Attorney's Office no longer uses FES funds to pay for other reimbursable grant related expenditures.

This recommendation can be closed when we receive documentation demonstrating that the questioned costs have been remedied.

**9. Ensure that the Franklin County District Attorney's Office implements and adhere to written policies and procedures to adequately oversee and safeguard cash used for drug buys.**

Resolved. CRM concurred with our recommendation. CRM stated that it will request that the District Attorney's Office implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken.

The District Attorney's Office did not state whether it agreed or disagreed with this recommendation. The response states that the office no longer uses equitable sharing funds for buy money, that it now understands the process for using equitable sharing funds for buy money, and that it has developed a detailed ledger to ensure proper accounting of all future buy money. The District Attorney's Office further stated that it now has the

proper controls and processes in place to administer buy money if they use equitable sharing funds for this purpose in the future.

This recommendation can be closed when we receive documentation demonstrating that the District Attorney's office implemented and adheres to written policies and procedures to oversee and safeguard cash used for drug buys.

**10. Ensure that the Franklin County District Attorney's Office implement and adhere to written policies and procedures to ensure overtime expenditures are allowable and supported.**

Resolved. CRM concurred with our recommendation. CRM stated that it will request that the District Attorney's Office implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken.

The District Attorney's Office does not state whether it agrees or disagrees with the recommendation and notes that corrective measures have been implemented, as it no longer pays the investigator overtime.

This recommendation can be closed when we receive documentation demonstrating the implementation of and adherence to written policies and procedures ensuring that overtime expenditures are allowable and supported.

**11. Ensure that the Franklin County District Attorney's Office implement and adhere to well-designed procurement policies.**

Resolved. CRM concurred with our recommendation. CRM stated that it will request that the District Attorney's Office implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken.

The District Attorney's Office does not state agreement or disagreement with the recommendation and expresses that the office has taken steps to ensure the implementation and adherence of well-designed procurement policies by transferring its federal equitable sharing funds account into county controlled accounts. By transferring the funds to county control, the funds are now subject to the same countywide policies and procedures as other funds handled by the District Attorney's Office.

This recommendation can be closed when we receive documentation demonstrating the implementation of and adherence to well-designed procurement policies.

**12. Ensure that the Franklin County District Attorney's Office implement and adhere to policies and procedures that ensure credit card**

**purchases are appropriately recorded, supported, and comply with the Franklin County procurement policies.**

Resolved. CRM concurred with our recommendation. CRM stated that it will request that the District Attorney's Office implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken.

The District Attorney's Office stated neither agreement nor disagreement with the recommendation and noted that it no longer possess or uses a credit card for any purpose as of January 1, 2016. In addition, the District Attorney's Office stated that it uses the county credit card and follows all county procedures and policies to ensure that purchases are appropriately recorded, supported, and in compliance with procurement procedures.

This recommendation can be closed when we receive documentation demonstrating the implementation of and adherence to policies and procedures that ensure credit card purchases made with equitable sharing funding are appropriately recorded, supported, and comply with the Franklin County procurement policies.

**13. Ensure that the Franklin County District Attorney's Office implement and adhere to policies and procedures that requests for equitable sharing funding are submitted timely.**

Resolved. CRM concurred with our recommendation. CRM stated that it will request that the District Attorney's Office implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken.

The District Attorney's Office neither agreed nor disagreed with the recommendation and states that since January 1, 2016, the office has submitted timely DAG-71 requests.

This recommendation can be closed when we receive documentation demonstrating the implementation of and adherence to policies and procedures for the timely submission of equitable sharing fund requests.

**14. Ensure that the Franklin County District Attorney's Office implement and adhere to policies and procedures so that the equitable sharing reports submitted are accurate and equitable sharing activities are included in single audits.**

Resolved. CRM concurred with our recommendation. CRM stated that it will request that the District Attorney's Office implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken.

The District Attorney's Office neither agreed nor disagreed with the recommendation and stated that since January 1, 2016, all reports have been filed in a timely manner according to the Guide. In addition, because all of the equitable sharing accounts have been transferred into the county's financial system as of August 1, 2016, when any single audits are performed, the information is easily accessible and shared.

This recommendation can be closed when we receive documentation demonstrating the implementation of and adherence to policies and procedures ensuring the accurate submission of equitable sharing reports and inclusion of equitable sharing activities in single audits.

**15. Ensure that the Franklin County District Attorney's Office implement and adhere to policies and procedures to ensure equitable sharing funding is properly accounted for and safeguarded.**

Resolved. CRM concurred with our recommendation. CRM stated that it will request that the District Attorney's Office implement the recommended standard operating procedures and provide documentation verifying that the corrective actions have been taken.

The District Attorney's Office neither agreed nor disagreed with our recommendation and stated that it has taking steps to ensure the implementation and adherence of well-designed procurement policies by transferring the equitable sharing account into county controlled accounts; thereby subjecting those funds to all county banking, accounting, and procurement policies and procedures.

This recommendation can be closed when we receive documentation demonstrating the implementation of and adherence to policies and procedures to ensure equitable sharing funds are properly accounted for and safeguarded.

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