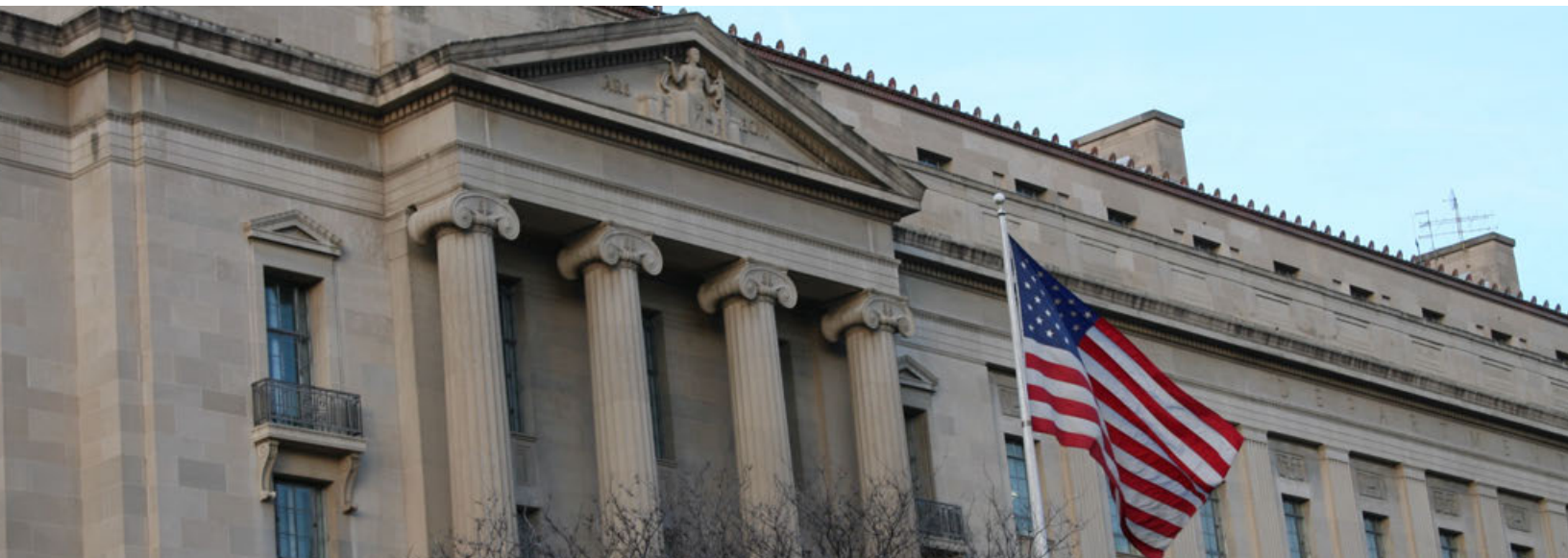




Office of the Inspector General U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



Audit of National Institute of Justice's Grants Management



Executive Summary

Audit of National Institute of Justice's Grants Management

Objectives

The objectives of this audit were to determine whether the National Institute of Justice (NIJ): (1) used fair and open processes to award competitive grants; (2) properly justified its decisions when awarding non-competitive grants; and (3) managed grant activities in compliance with legal, regulatory, and ethical requirements. This audit reviewed: (1) allegations contained in a 2015 whistleblower complaint and by NIJ employees; (2) judgmentally selected samples of NIJ-reviewed applications and award selections for competitive awards from fiscal year (FY) 2013 through FY 2016; and (3) all nine sole sourced award selections for non-competitive awards from FY 2014 through FY 2016.

Results in Brief

A 2009 OIG audit of the NIJ and a 2015 Office of Special Counsel (OSC) referral to the Department of Justice both raised concerns about NIJ's management of its grant process. In response, OJP conducted an internal review of the NIJ. The NIJ undertook a reorganization in 2015, and the NIJ made improvements to its grant management policies and processes. Although the NIJ is making progress in improving its grant management, we determined that further improvements are needed in the areas of post-award activities, defining employee roles and responsibilities, preventing conflicts of interest, compliance with Paperwork Reduction Act requirements, and strategically addressing the issues identified in consistently low Federal Employee Viewpoint Survey (FEVS) results.

Recommendations

We made seven recommendations in this report that will help the NIJ improve its grant management and administration. We provided OJP with the draft audit report and requested a response, which can be found in Appendix 3, and our analysis of that response is included in Appendix 4.

Audit Results

The NIJ is a component of the Office of Justice Programs (OJP) that seeks to improve knowledge and understanding of crime and justice issues through science. As part of this mission, the NIJ funds competitive and non-competitive grant and cooperative agreement awards. Our audit examined NIJ's grant management process, and recent efforts to improve its programs.

Non-Competitive Awards – The NIJ awarded nine sole sourced non-competitive awards from FY 2014 through FY 2016. We reviewed all nine awards and determined that the NIJ properly documented the required justifications for the awards.

Competitive Awards – We reviewed funding recommendation memoranda for 39 of the 180 grant solicitations the NIJ issued during FYs 2013 through 2016. The 39 solicitations resulted in \$169 million in awards. We identified several issues in our review of these awards.

A former NIJ Director awarded 25 percent of the funds available in the FY 2016 W.E.B. DuBois Program of Research on Race and Crime to one applicant, even though its peer review assessment score was far below the recommended minimum and there were identified concerns about its capabilities.

We also found that, in 8 of the 39 solicitations we reviewed, the NIJ did not document at all, or did not fully document as required, the reasons why it did not fund 42 grant applicants that scored relatively high in the applicant peer review process. Instead, the NIJ made awards to other applicants that received lower peer review scores.

We further determined that, until 2016, NIJ staff routinely asked some applicants to respond to post-application questions. This practice had the effect of improving grant applications and at times implied that the applicant would receive an award prior to a decision. OJP recommended that this practice cease, and we found no evidence that it, or other unfair assistance to grant applicants, continued throughout the FY 2016 solicitation cycle.



Executive Summary

Audit of National Institute of Justice's Grants Management

Grant Management – The NIJ has made improvements in its grants management program, but further improvements are required. For example, a whistleblower and 3 NIJ staff reported 36 post-award violations by the NIJ between 2010 and 2017. We substantiated 11 of these violations. The majority of the violations involved social science analysts assuming the role of a grant manager. The NIJ is working to clearly define the role of social science analysts and other positions, but those clarifications have not yet been finalized.

During our review, NIJ staff expressed to us significant concerns about real or potential conflicts of interest within the NIJ. While OJP issued a revised policy in June 2018, we determined that this policy did not have specific guidance for its employees about protocols for avoiding conflicts of interest when participating in initial and supplemental award decisions.

NIJ Reorganization – In 2015, the NIJ reorganized in an effort to improve its grants management practices. We determined that NIJ needs to finalize the steps it is taking to more clearly define employee roles, and communicate these changes to its workforce.

FEVS Results – The NIJ's FEVS results were generally low across the board, which may indicate concern among the NIJ staff with their leaders' motivation, communication, and integrity. Since at least 2013, the survey results have been highly negative, yet NIJ leaders only began developing and implementing an action plan to address these concerns in 2017. As of 2017, the most recent data available, NIJ's FEVS score for the employee engagement index, which reflects employees' perceptions of leaders' motivation, communication, and integrity, was significantly lower (52 percent) than the comparable score for OJP (74 percent), the DOJ (68 percent), and the government as a whole (67 percent). A new NIJ Director started in August 2017.

AUDIT OF THE NATIONAL INSTITUTE OF JUSTICE'S GRANTS MANAGEMENT

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AUDIT OF THE NATIONAL INSTITUTE OF JUSTICE'S GRANTS MANAGEMENT

INTRODUCTION

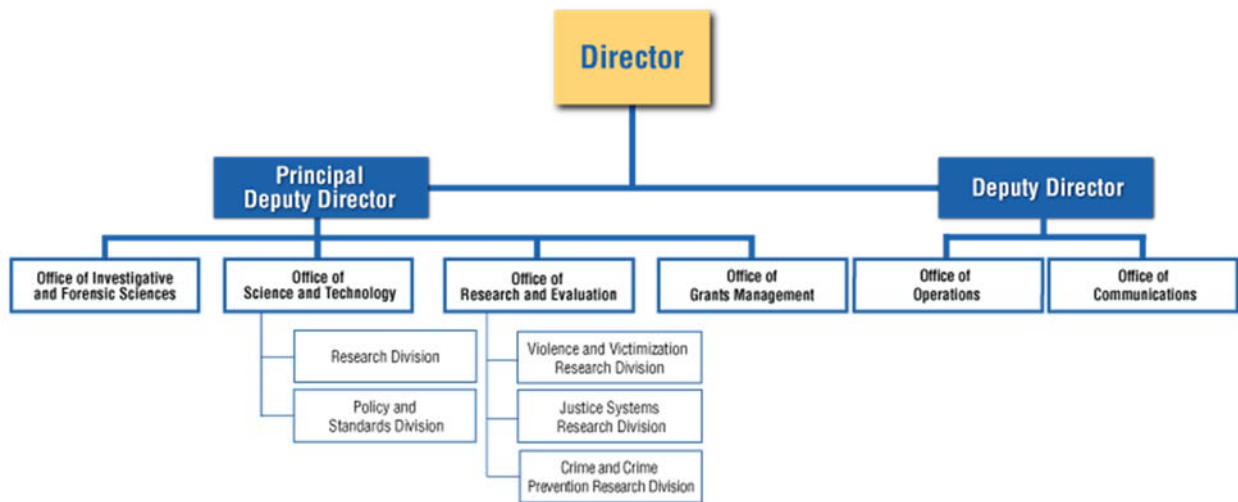
The National Institute of Justice (NIJ) is a component of the Office of Justice Programs (OJP) that seeks to improve knowledge and understanding of crime and justice issues through science. As part of its mission, the NIJ funds competitive and non-competitive grant and cooperative agreement awards.¹ NIJ grants support research, evaluation, and development projects in the following broad areas:

- causes and correlates of crime;
- crime prevention and control;
- prevention of violence and victimization;
- forensic sciences;
- corrections practice and policy, including community corrections;
- law enforcement effectiveness, legitimacy, accountability and safety; and
- courts and adjudication.

Four NIJ offices are involved in awarding and managing grants. The Office of Investigative and Forensic Sciences seeks to improve the quality and practice of forensic science by supporting research and development, testing and evaluation, technology, and information exchange. The Office of Science and Technology (OST) manages technology related research and development, and the development of technical standards, testing, and technology assistance to state and local law enforcement and corrections agencies. The Office of Research and Evaluation (ORE) develops, conducts, directs, and supervises social and behavioral science research and evaluation activities across a wide variety of issues. The Office of Grants Management (OGM) works in conjunction with the NIJ's scientists and award recipients throughout the grant lifecycle to facilitate the successful completion of grant-funded projects. Figure 1 shows the NIJ's complete organizational structure.

¹ OJP uses cooperative agreements to reflect the relationship between OJP and an eligible recipient when the principal purpose of the relationship is the transfer of money or anything of value to accomplish a public purpose of support or stimulation authorized by federal statute and OJP anticipates substantial involvement with the recipient during performance of the contemplated activity. In this report we use "grant" to refer generally to both grants and cooperative agreements.

Figure 1
NIJ Organizational Structure



Source: National Institute of Justice website, as of October 25, 2017.

The Office of the Inspector General’s 2009 Audit²

The OIG audited the NIJ’s grant-awarding practices during FYs 2005 through 2007 and found that the NIJ could not demonstrate that grant award practices were based on fair and open competition. The NIJ’s grant application review process, including its initial reviews, peer reviews, documentation of program office recommendations, and documentation of NIJ Director award selections, raised concerns about the fairness and openness of the competition process. The NIJ did not maintain adequate pre-award records to document that its grant award process ensured fair and open competition. In addition, we identified instances where NIJ staff involved in the grant award process had potential conflicts of interest with grantees receiving awards but nevertheless participated in the approval process for the grants in question. We also found that NIJ staff did not have knowledge of grantees’ lobbying activities because NIJ grantees and sub-grantees did not fully disclose lobbying activities that were potentially related to NIJ grants or sub-grants.

In December 2011 we closed the prior audit based on OJP’s reported corrective actions. Specifically, the NIJ established procedures to:

- maintain Disclosure of Conflict of Interest Forms for staff involved in grant making decisions;
- maintain a list of approved peer reviewers for each solicitation, as well as individual peer reviewer comments;

² U.S. Department of Justice, Office of the Inspector General, *Audit of the National Institute of Justice’s Practices for Awarding Grants and Contracts in Fiscal Years 2005 through 2007*, Audit Report 09-38 (September 2009).

- document reasons in the Grant Management System (GMS) for denying awards to applicants;³
- require OJP's Office of Audit, Assessment, and Management (OAAM) to monitor the NIJ's compliance with OJP's policies regarding fair and open competition through internal control assessments; and
- ensure required lobbying disclosure forms were completed and maintained in GMS for all grantees and sub-grantees and that disclosures were considered when evaluating grant applications.

The NIJ also provided ethics training to NIJ staff and imposed disciplinary action as appropriate on personnel who improperly handled real or apparent conflicts of interest.

NIJ Whistleblower Allegations

In June 2015, the Office of Special Counsel (OSC) referred to the Department of Justice a whistleblower allegation that certain NIJ officials may have engaged in actions that constitute a violation of law, rule, or regulation, or an abuse of authority.⁴ The OJP's Senior Counsel for Oversight (Counsel) reviewed the whistleblower's allegations and issued a Report of Investigation in January 2016.⁵ Based on the Counsel's Report of Investigation, OJP concluded that the NIJ had not violated a law, rule, or regulation. OJP also concluded that the NIJ had not grossly mismanaged its grant programs, grossly wasted funds, or abused its authority. However, the Counsel identified some areas related to grant management that OJP could clarify, such as pre-award communication and incentive approval. After reviewing the report, the whistleblower formally responded to the OSC stating the Counsel was not independent, impartial, and properly trained for this role. Further, the whistleblower objected to the Counsel's review methodology and understanding of the alleged violations.

Based on the whistleblower's concerns, in July 2016, OJP's OAAM assisted in a supplemental review of the allegations. The resulting information supported the OJP Counsel's findings, and the whistleblower again objected to these results.

During our audit work, we discussed with the whistleblower a specific allegation regarding an NIJ manager. In the Audit Results section of this report, we assess the whistleblower's allegations and OJP's review of the allegations.

³ The Grants Management System is OJP's web-based, data-driven, computer application system that provides end-to-end support for the application, award, and management of grants. The electronic grant files contained within GMS are the official federal grant records of OJP.

⁴ The Office of Special Counsel is an independent federal investigative and prosecutorial agency whose mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing.

⁵ The Report of Investigation as well as subsequent whistleblower responses are available on the OSC website, located at OSC File Number 17-03 at <https://osc.gov/Pages/PublicFiles-FY2017.aspx>

Audit Objectives and Scope

The objectives of this audit were to determine whether the NIJ: (1) used fair and open processes to award competitive grants; (2) properly justified its decisions when awarding non-competitive grants; and (3) managed grant activities in compliance with legal, regulatory, and ethical requirements. This audit focused on the review of: (1) allegations contained in a 2015 whistleblower complaint and by NIJ employees; (2) judgmentally selected samples of NIJ-reviewed applications and award selections for competitive awards from FY 2013 through FY 2016; and (3) all nine sole sourced award selections for non-competitive awards from FY 2014 through FY 2016.

AUDIT RESULTS

The Office of Inspector General's (OIG) 2009 audit of the National Institute of Justice (NIJ) and a 2015 Office of Special Counsel (OSC) referral to the Department of Justice (DOJ) raised concerns about grants management within the NIJ. In 2016, OJP completed a review of the whistleblower allegations referred by the OSC. This audit assessed the whistleblower and NIJ employee allegations, the OJP review of the whistleblower allegations, and other steps taken by the NIJ to improve its operations, including a 2015 reorganization. While we found that the NIJ made improvements to its grants management processes, further corrective action is necessary.

We determined that the NIJ generally managed grant activities in compliance with legal, regulatory, and ethical requirements. The NIJ properly justified its decisions when awarding non-competitive grants in the cases we reviewed, and generally employed fair and open processes when awarding competitive grants. However, despite general grant management compliance, we identified instances where NIJ employees circumvented established controls. For example, NIJ personnel, other than grant managers, inappropriately responded to grantee requests for changes in the scope of grant awards. In addition, the NIJ did not properly document the basis for not funding 42 of 1,206 grant applicants after awarding funds to applicants that received lower peer review scores. We also substantiated 10 allegations of post-award violations between 2010 and 2017 that were reported by a whistleblower and NIJ employees. Finally, the NIJ's Federal Employee Viewpoint Survey (FEVS) results may indicate that there is a concern among NIJ staff with their leaders' motivation, communication, and integrity. The negative survey results are a long-standing issue, and we are concerned with the length of time it took the NIJ to effectively implement actions to address these concerns.

The NIJ Grant Award Process

The NIJ's process for awarding competitive grants and cooperative agreements begins when the NIJ posts solicitations for competitive discretionary programs and cooperative agreements to Grants.gov, the OJP Funding Opportunities website, and the NIJ website. Once the NIJ receives applications, NIJ staff review the applications to ensure they meet the basic minimum requirements outlined in the solicitation's standard criteria. Applications that meet minimum requirements are peer reviewed by panels that score and rank the applications. Based on peer review scores and other criteria, NIJ officials recommend applications for funding. A memorandum is then provided to the NIJ Director for concurrence, which must include a detailed justification for each application recommended for funding and each higher-scoring application recommended to be passed over for funding. Justifications are not required for applicants that score below the lowest-rated applicant that received an award. However, as discussed in the section of this report about *Competitive Grant Solicitations*, we identified areas for improvement in these processes.

Non-Competitive Awards

The NIJ also awards non-competitive awards when there exists: (1) only one responsible applicant; (2) a compelling public interest; (3) statutory requirements; or (4) recommendations in Congressional reports, when a non-competitive award would be consistent with applicable law.⁶ The NIJ awarded nine sole sourced non-competitive awards from FY 2014 through FY 2016. Of the nine awards, seven were justified based on there being only one responsible applicant to perform the work. Two other awards were justified on both there being only one responsible applicant and there also being a compelling public interest. We reviewed all nine awards and determined that the NIJ properly documented the required justifications for the awards.

Competitive Grant Solicitations

During FYs 2013 through 2016, the NIJ issued 180 competitive grant solicitations that resulted in \$910.6 million awarded to grantees. We reviewed funding recommendation memoranda for 39 of the 180 grant solicitations. Four of the 39 solicitations were judgmentally selected based on whistleblower allegations; 1 solicitation was recommended by an NIJ employee; 3 were judgmentally selected from a list of FYs 2013 through 2016 awards considering the grantee's name, the solicitation, and the award amount; and the remaining 31 were FY 2016 solicitations not already selected. For the 39 solicitations, the NIJ received a total of 1,206 grant applications and issued a total of 284 grant awards totaling \$169 million. We tested the funding recommendation memoranda for 39 solicitations to determine if the NIJ properly justified the 284 awards made under those solicitations. The results of our testing are summarized below.

Grant Award by the NIJ Director to Applicant Despite its Failure to Meet Recommended Minimum Score and Concerns About its Capabilities

In FY 2016, the NIJ awarded solicited applications for \$1.1 million in funding for the W.E.B. DuBois Program of Research on Race and Crime. We determined that the then-NIJ Director awarded 25 percent of these funds to an applicant that received a peer review score significantly below the recommended minimum score, even though the peer review panel raised concerns about the applicant's ability to carry out the project. We further found that, since the award, the NIJ has limited the amount of funds released to the grantee because the project is moving slowly and has not shown a high enough potential for success. We believe that awarding grants to applicants that fall substantially below a minimum scoring standard significantly increases the risk of wasting taxpayer funds, and consequently we reviewed the details associated with this award.

The NIJ received 43 applications in response to a solicitation for the FY 2016 W.E.B. DuBois Program of Research on Race and Crime. Thirty-nine of these

⁶ The NIJ, "Guidelines Regarding Non-Competitive Awards", October 16, 2016, <https://www.nij.gov/funding/reviews/pages/non-competitive-awards.aspx> (Accessed February 2018).

applications met basic minimum requirements and were peer reviewed. Peer reviewer scores ranged from 23.83 to 86.5 points (out of 100). The NIJ's funding table for this solicitation stated "applications receiving an average score below 70 points are not recommended for funding."⁷ In September 2016, the NIJ made a total of 7 awards, with 6 awards made to applicants with peer review scores ranging from 73 to 83.5. While awards were not made to all of the highest scoring applicants, each of these six awards is supported by appropriate justifications. The NIJ issued the remaining award to a grantee that received a peer review score of 57.83, well below the recommended minimum score of 70. Twenty-two other applicants that received a higher score did not receive an award.

During an interview in February 2017, the Principal Deputy Director, who was the Acting NIJ Director at the time of our interview, told us the NIJ justified the award to the low scoring applicant on the basis of it being the only application with a focus on policing accountability and civilian oversight. The NIJ Director at the time of the award had determined this subject to be of great importance to the program. In the justification for the award, the NIJ stated, "... the NIJ felt the proposal had the potential to be of great importance to the field and fit the goal of the program as a whole." However, the justification added, "the critical flaw noted by peer reviewers had to do with the viability of carrying out the project." Originally, the applicant requested \$499,835 for its 2-year project. The NIJ awarded the applicant \$292,979 for Year 1, and future funding was made contingent on the grantee's progress implementing the grant.

The NIJ introduced risk of significant waste when it awarded the largest award for this solicitation to a grantee with questionable capabilities. We did not identify or become aware of any conflict of interest between the NIJ Director and the grantee at the time of the award. We discussed our concerns with the Principal Deputy Director, who told us the previous NIJ Director made the decision to make the award on her own.⁸ The Principal Deputy Director told us that he expressed his concerns to the previous NIJ Director about awarding to this applicant on several occasions. He was concerned about the low score of 57.83, the peer reviewers' concerns about the grantee's ability to carry-out the project, and the size of the award. The Principal Deputy Director stated that he worked to manage the risk by awarding a cooperative agreement, requiring more NIJ involvement, limiting the amount of funding released with stipulations, and closely monitoring the project. As of February 2018, OJP had disbursed \$197,337 to the grantee. He told us the NIJ has yet to release any further funding for this project because the project is moving very slowly and has not shown a high enough potential for success. Given the low peer review score, the comments in the justification indicating concerns about the viability of the project, and the project's current status, it appears that

⁷ A funding table accompanies the Funding Recommendation Memorandum, and is used to document and display information resulting from the peer review process. This information includes the application number and applicant name, award amount, application consensus or average score, NIJ office-level recommendation, NIJ Director initials, NIJ funding decision, solicitation or priority area, and subcontracts proposed.

⁸ We offered the former NIJ Director an opportunity to review the draft report in order to obtain her view on the grant award. She declined to review the report.

the NIJ acted appropriately to closely control the disbursement of funds to the grantee and then monitor the use of those funds.

We believe that the concerns expressed by the NIJ Principal Deputy Director prior to the award were well placed. We discussed the award with OJP's Deputy Assistant Attorney General for Operations and Management, who told us that the NIJ Director possesses statutory authority to make such awards without further review or oversight within OJP. This authority is provided in 34 U.S.C. §10122(b), which states that "The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Institute." However, in June 2017, OJP implemented a document tracking system for Funding Recommendation Memoranda. The system requires that Funding Recommendation Memoranda for NIJ grants related to research and evaluation are routed to OJP's Office of the Assistant Attorney General for acknowledgment, rather than approval or disapproval. This system ensures that top OJP management is aware of NIJ funding decisions.

The NIJ Did Not Include Required Justifications in GMS for Lower Scoring Applicants to 8 of the 39 Solicitations

OJP's Grants Management Manual requires that funding memoranda and the award justifications in those memoranda be placed in GMS. Placement in GMS helps the NIJ to demonstrate evidence of a fair and open process in its award decisions.

Notwithstanding this requirement, in 8 of the 39 solicitations we reviewed from FYs 2013 through 2016, we determined the NIJ did not include the required justifications for all of the awards in GMS. In these 8 solicitations, a total of 204 applications required a detailed justification for funding based on the applicant's peer review score and the funding decision. Of the 204 applications that required justification, 24 were missing justifications entirely from the funding recommendation memoranda, and 18 justifications did not contain sufficient detail in the funding recommendation memoranda, as required by the Grants Management Manual.

These problems with justifications occurred because the NIJ does not have internal controls in place to ensure that all required justifications are documented in GMS, a concern first identified in our 2009 audit. We summarize these results by each solicitation in Table 1 and discuss the eight solicitations in detail in Appendix 2.

We discussed the 24 justifications missing from GMS and the funding recommendation memoranda with NIJ staff. They agreed that detailed justifications were not contained in the funding recommendation memoranda, and therefore, detailed justifications were not placed in GMS as required. However, they stated that detailed justifications were available elsewhere in NIJ files. We requested and received the detailed justifications from the NIJ and determined that the justifications were sufficient to support the funding decisions. Although the NIJ was able to provide the justifications, not including them in funding memoranda does not comply with the OJP's Grants Management Manual.

TABLE 1

SUMMARY OF RESULTS OF ANALYSIS FOR REQUIRED JUSTIFICATIONS

Solicitation Name	Number of Applications Received	Number With Proper Justification	Number Where No Justification Was Required^a	Number of Required Justifications Not Documented in GMS	Number of Required Justifications with Insufficient Detail
FY 2014 Research on Offender Decision Making and Desistance from Crime	35	5	21	6	3
FY 2016 Comprehensive School Safety Initiative – Category 1: Developing Knowledge about What Works to Make Schools Safe	59	19	34	0	6
FY 2016 Research and Development in Forensic Science for Criminal Justice Purposes	172	60	103	9	0
FY 2016 NIJ Graduate Research Fellowship Program in the Social and Behavioral Sciences	85	34	44	0	7
FY 2016 Research and Evaluation on Institutional Corrections	41	7	30	4	0
FY 2016 New Investigator and Early Career Program in the Social and Behavioral Sciences	49	15	33	1	0
FY 2016 Research and Evaluation in Support of the Recommendations of the President’s Task Force on 21 st Century Policing	67	13	50	4	0
FY 2016 Research and Evaluation on Victims of Crime	29	9	18	0	2
TOTALS	537	162	333	24	18

Source: OJP’s Grants Management System and OIG Analysis of Grants Management System Data

^a As stated in the first paragraph of page 5, justifications are not required for applicants that score below the lowest rated applicant that received an award.

Compliance with the Manual's requirement and placement of the memoranda in GMS is essential for the NIJ to demonstrate that it fairly and transparently awards competitive grants. As noted, the electronic grant files contained within GMS are the official federal grant records of OJP, and all funding justifications should be included in GMS and not maintained in an ad hoc system.

The NIJ's Office of Grants Management (OGM) Director told us that detailed justifications were not included in the funding recommendation memos because the NIJ follows the OJP Peer Review Standard Operating Procedures and the Funding Recommendation Memorandum Guidance.⁹ The peer review procedures do not require justifications for applications the NIJ did not fund but rather only for those it did fund. The Grants Management Manual states that the Peer Review Standard Operating Procedures is the authoritative process document on peer review. The OGM Director also told us that despite not including negative justifications in its funding recommendation memoranda, the NIJ thoroughly documents reasons for funding or not funding all reviewed applications. The OGM Director added that the NIJ can produce that information well after those decisions are made.

Although the Peer Review Standard Operating Procedures state that funded awards require justification, it does not address those applicants with higher scores that are not funded. The Grants Management Manual requires a justification for those applicants. The Grants Management Manual states that the Peer Review Standard Operating Procedures are authoritative with respect to the peer review process, not the award process. The Grants Management Manual's stated objective is to set a standard process for grant processing and management, and we believe the NIJ should follow it. By following only the Peer Review Standard Operating Procedures, the NIJ does not fully document how it manages a fair and open process, which is provided for in the Grants Management Manual requirements.

We discussed with NIJ management our concern that justifications were documented in accordance with peer review standards but not in accordance with the Grants Management Manual. The officials told us that they have made significant efforts to include the justifications in accordance with the Grants Management Manual. The Principal Deputy Director told us that for the FY 2017 grant award cycle, which we did not test, the OJP Assistant Attorney General (AAG) required the NIJ to submit all selected awards to the AAG's staff for notification and acknowledgement before making awards. The NIJ developed a template to submit for each solicitation that would include all required justifications.

We recommend that the NIJ formally document its internal control procedures to ensure that all required justifications are documented and included in the funding recommendation memoranda. These procedures would allow the NIJ to comply with the Grants Management Manual and demonstrate its competitive awards process is fair and open on a consistent basis.

⁹ Funding Recommendation Guidance refers to annually published Guidance for Invited Applications and it contains the Non-Competitive Funding Recommendation Memorandum Template, which is used to help OJP staff complete Funding Recommendation Memoranda.

Compliance with Other Requirements Pertaining to Competitive Award Processes

In addition to testing funding recommendation memoranda for proper award justifications, we tested 8 of the 39 solicitations from FY 2013 through FY 2016 to assess compliance with requirements related to: (1) posting solicitations on websites and (2) sending denial letters to applicants not funded. In our judgment, compliance with these requirements is crucial to the NIJ demonstrating that it maintains a fair and open award process.

The Office of Management and Budget (OMB) requires the NIJ to post all solicitations for competitive discretionary programs and cooperative agreements to Grants.gov. We found that the NIJ posted the eight solicitations to Grants.gov. In addition, OJP requires its bureaus and offices to post solicitations to the "OJP Funding Opportunities" page on its website and requires its bureaus and offices to post to their own websites. We verified that the eight solicitations were posted to the OJP website and to the NIJ website.

The OJP Peer Review Standard Operating Procedures require that the NIJ send Basic Minimum Requirement denial letters to applicants for those applications that did not pass screening. The denial letter must identify the reasons that an application did not pass the screening. We reviewed documents in GMS and saw evidence that NIJ staff sent Basic Minimum Requirement denial letters to applicants that did not pass the screening.

Allegations of Improper Activity at the NIJ

The OIG received several allegations of improper activity occurring at the NIJ, which we reviewed in this audit. We substantiated some of those allegations and identified some instances where the NIJ took action. We also offer recommendations to improve some of its processes by clarifying the roles of NIJ staff and improving its conflict of interest protocols, as discussed in the following sections of this report.

Allegations of Inappropriate Pre-Award Assistance

OJP's Grants Management Manual requires that NIJ staff offer general assistance or information about goals and objectives to all potential applicants of competitive awards. Such assistance is provided through hotline numbers, pre-application conferences, cluster conferences, meetings, conference calls, list serves, or frequently asked questions posted on the NIJ and OJP website. This general assistance allows NIJ staff to work with all potential applicants to improve the quality of applications and, consequently, further support OJP's goals and objectives to foster customer service and build capacity among criminal justice organizations.

While these collective efforts to assist applicants are permissible and encouraged, OJP's Grants Management Manual states that NIJ staff may not provide individual assistance to competitive applicants because such assistance may create an unfair advantage for the individual entities assisted. Examples of individual assistance can include discussing details of award status, asking post-application

questions that allow the applicant to supplement or add desired content to application narratives, or requesting other changes to applications that provide an unfair competitive advantage over other applicants.

To assess whether NIJ personnel provided preferential treatment to grant applicants contrary to requirements within the Grants Management Manual, we first reviewed whistleblower allegations that 70 instances of prohibited pre-award assistance occurred from 2010 through 2014. We substantiated instances of improper assistance. For example, we identified where NIJ personnel requested that grantees:

- consider eliminating project tasks;
- revise their proposal to eliminate a qualitative portion of the proposed study; and
- increase the study sample size and develop a participant follow-up survey.

In addition, some of the allegations we reviewed pertained to the NIJ staff's, practice of asking "clarifying questions" of applicants prior to the FY 2016 solicitation cycle. We concluded that for all these allegations, these questions occurred after the applications were submitted and did not constitute prohibited pre-application assistance. Nevertheless, we support NIJ's FY 2016 decision to discontinue this practice to avoid the appearance of preferential treatment. A report to the Office of the Special Counsel, OJP's Senior Counsel for Oversight, described clarifying questions asked by NIJ's Social Science Analysts (SSAs) as follows:

After the applicants' proposals have been received in response to solicitations, SSAs engage in a practice of asking "clarifying questions" in an effort to fully understand the proposed research and elicit unmentioned specifics. This began as a well-intentioned practice to permit the NIJ to select and fund the best research possible and to avoid learning about problematic details of proposals after grants had been awarded. But as NIJ leadership has changed, so has the theory behind the clarifying questions. Previous NIJ leadership encouraged SSAs to "help shape science" and to help prospective grantees craft the best applications possible. Those types of questions, therefore, were sometimes leading and at times implied funding, especially if specific changes to the proposals were mentioned by the SSA.¹⁰

The NIJ modified the clarifying questions process so that the Office of Research and Evaluation (ORE) Director or the Deputy NIJ Director approved the questions asked. The OJP Counsel's report identified this change but concluded that it was not communicated clearly to NIJ staff. The OJP Counsel identified disagreement among the NIJ staff as to whether the NIJ should continue with its

¹⁰ SSAs perform a variety of analytical research, evaluation, program development, and other professional tasks aimed at improving justice systems and reducing and preventing crime. As discussed later in this report, the responsibilities of SSAs had not been clearly defined to avoid conflict with NIJ grant managers.

“clarifying questions” practice, and the Counsel recommended that NIJ management decide if the practice should continue. In April 2017, the Acting NIJ Director told us that, to eliminate an appearance of preferential treatment, the NIJ prohibited staff from asking “clarifying questions” during the FY 2016 solicitation cycle. We further agree with the OJP Counsel and the NIJ Acting Director that such questions may give the appearance of preferential treatment.

In addition to assessing the 70 specific whistleblower allegations, we reviewed documentation in GMS to test 8 additional solicitations during FY 2013 through FY 2016. These eight solicitations included one for FY 2013, three for FY 2014, one for FY 2015, and three for FY 2016. We did not find any evidence of impermissible pre-award assistance.

As discussed previously, the FY 2016 solicitation cycle was the first cycle where the NIJ no longer used clarifying questions. To further test whether the NIJ was no longer using clarifying questions, we reviewed additional applications for the FY 2016 solicitation cycle. We selected a judgmental sample of 238 applications associated with 14 FY 2016 solicitations. We did not identify any evidence in GMS that the NIJ provided clarifying questions to any of the 238 applicants we reviewed.

Allegations of Grantees’ Improper Use of Incentives

Grant incentives are payments or nonmonetary inducements that encourage initial and ongoing participation by study subjects. An example of an incentive is a gift card. At the time of the whistleblower allegations, NIJ policy provided that incentives were unallowable unless specifically approved by the NIJ Deputy Director.

We reviewed 36 allegations pertaining to incentives during the period 2010 through 2015. We substantiated an allegation for a 2014 award to a university, which provided grant-funded gift cards as a study participation incentive, in lieu of stipends, which circumvented state victim restitution requirements.

At the time of the award, the Principal Deputy Director and the grant manager recognized that using gift cards in lieu of stipends could be interpreted as circumventing the law. However, the Principal Deputy Director said that he approved the incentives because he believed that the NIJ’s policies on the use of stipends and incentives were not clear. The Principal Deputy Director told the grant manager that once the NIJ policy was clarified, he would be more stringent. We believe that the NIJ should have clarified any ambiguity before deciding on this incentive. The OJP Counsel’s Report of Investigation covered 22 whistleblower allegations regarding inappropriate incentives, including the one involving this university. The OJP Counsel concluded that the incentive to the university was inappropriate.

In April 2016, NIJ officials developed a new Incentives Review Protocol for NIJ-Funded Research to establish a standard incentive review process. The new protocol is posted on the NIJ’s website. We assessed the protocol and believe it ensures the appropriate approval of reasonable incentives.

We reviewed the approved budgets for all 69 applications from the 2016 solicitations that included incentives in their budgets. We found that NIJ officials approved all 69 budget incentives, which typically included gift cards and other such inducements. We assessed each incentive and determined that each of the 69 incentives conformed to the April 2016 protocol.

Allegations of Post-Award Violations between FY 2010 and FY 2016

We tested 10 allegations regarding post-award violations reported to have occurred from FY 2010 through 2016. We substantiated four violations based on documents contained in GMS.¹¹ The allegations involved: (1) an SSA improperly telling an individual that she would receive a subcontract or become a consultant in connection with an NIJ grant once the individual left the university that was the actual grant recipient; (2) an SSA requesting proposal and budget materials from a grantee in support of an anticipated continuation award to the grantee without proper justification; (3) NIJ personnel allowing the principal investigator of a grantee to hire a family member as a consultant; and (4) an SSA directing a grantee to expand its scope.¹²

For the first substantiated allegation, we concluded that the SSA's statements had the potential to compromise the integrity of the grant-making process by appearing to link the award to the individual, and not to the university that received the grant. Specifically, the SSA emailed the individual stating that: "your current university [the university to which the grant was awarded] will hold the grant and you will either become a subcontractor or a consultant." NIJ guidelines state that NIJ staff may not require or imply that a grantee should use a specific subgrantee to perform work related to a grant without compelling, contemporaneously documented reasons and specific prior approval of the NIJ Director. The SSA does not have authority to bind the university to a consultant arrangement, and should not have sought to do so. The NIJ Director at the time was notified of this violation. We are not aware of any action taken against the SSA.

The second substantiated allegation involved the SSA telling the grantee, via email, to submit a budget and scope change for a \$40,000 grant supplement. At the time of this instruction, the federal government was under a continuing resolution, and the funding was not available. In addition, GMS did not contain a grant adjustment notice for the scope and budget changes. This does not conform to the requirements in the OJP Grants Management Manual, Section 6.2, Changes in Grants, which provide, among other things, that changes to a grant require the creation, submission, and approval of a grant adjustment notice. The NIJ Director at the time was notified and agreed it was improper for the SSA to proceed with contacting the grantee regarding a supplement without first having properly

¹¹ We provided a portion of this report in draft to the whistleblower whose comments we considered in finalizing the report.

¹² A continuation award is an award that provides supplemental funds to awards made in a prior fiscal year. The NIJ often uses these supplements to fund multi-year research and development projects when the original project period ends.

completed the steps involved in documenting justification to invite an application for a continuation award. We were unable to determine what actions, if any, the NIJ took regarding the SSA.

With regard to the third allegation, we confirmed that the NIJ allowed a grantee to hire a family member as a consultant. The university submitted its application along with the budget detail in May 2012. The budget detail clearly shows that the Principal Investigator shared an uncommon last name with a consultant. The SSA should have identified this in the initial review of the application. In this case the university researcher hired his father to perform consulting work. The grantee (the university) was aware of the conflict. However, it did not acknowledge the conflict until December 2012, well after the application was received by the NIJ, and just before the January 2013 grant period start date. After the university became aware of the conflict, it placed two restrictions on the contract to mitigate the appearance of a potential conflict of interest. The first restriction included a requirement to perform an annual review of the consulting contract body of work, prior to renewal. The second restriction required a university employee, not supervised by the researcher, to be responsible for administrative and contractual matters arising under the consulting contract. Although the university established these restrictions to mitigate the potential conflict, it did not conform to 28 C.F.R. §70.42, Code of Conduct, which states that no employee shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved, such as where a member of his or her immediate family has a financial or other interest in the firm selected for an award.

For the fourth allegation, we confirmed that a grantee expanded the scope of a project by adding two states to a study sample. The grantee submitted a progress report explaining that it added the two states at the direction of the NIJ project officer. The OJP Grants Management Manual, Section 6.2, Changes in Grants, provides that changes to a grant require the creation, submission, and approval of a grant adjustment notice that must be approved by a grant manager. We reviewed GMS and did not identify any approved grant adjustment notices for the scope change.

We discussed this concern with NIJ managers who told us that the grantee modified the research design at the request of an SSA who was the grant manager of record at the time the change was requested. The managers also pointed us to a grant adjustment notice in GMS that provided approval for the removal of grant special conditions pertaining to human subject protections and privacy requirements. However, no specific request was made for the addition of the states. In the view of NIJ managers, a grant adjustment notice for the addition of the two states was not required because the scope of the project had not changed. The managers viewed the addition of the two states as a modification made to improve the research design, and they believed the design modification was appropriately approved via the grant adjustment notice that removed special provisions. However, we believe that expanding the number of states from seven to nine does change the scope of the project and that formal approval of such an expansion

would make clear to all involved NIJ staff that the change was both appropriate and approved in accordance with the Grants Management Manual.

We did not find sufficient evidence during our audit to substantiate the remaining six allegations pertaining to: (1) the former ORE Director not being administratively removed as co-Principal Investigator of an NIJ grant until 3 months after the employee's NIJ start date, (2) an SSA providing a grantee with a list of possible researchers to be employed during grant continuation at the grantee's request, (3) an SSA approving an Institutional Review Board modification to allow typically prohibited food and beverage costs, (4) NIJ staff extending a grant 7 years past its award date, (5) an SSA inappropriately communicating with a grant subcontractor and giving directions to the subcontractor, and (6) the ORE Director speaking inappropriately to a subcontractor regarding the status of a grant.

Regarding the first unsubstantiated allegation, we identified an issue of concern associated with supplemental grant awards. The supplemental awards were approved by the former ORE Director, who had previously been employed by the grantee receiving the supplemental awards, and one of the supplemental awards funded an NIJ-funded project on which the employee had served as a Principal Investigator.¹³

According to 5 C.F.R. §2635.502, if an agency employee determines that circumstances would cause a reasonable person with knowledge of the relevant facts to question his or her impartiality in the matter, the employee should not participate in the matter, if the employee has a covered relationship, unless he or she has informed the agency designee of the appearance problem, and received authorization from the agency designee.¹⁴ The employee has a covered relationship if the employee is less than 1 year removed from the previous employer.

Based on the evidence we received, we determined that the former ORE Director's approval of the supplemental awards was beyond the 1-year covered relationship period specified in 5 C.F.R. §2635.502. We also reviewed the justification for each supplement included in the Noncompetitive Funding Recommendation Memoranda located in GMS and we believe each supplemental award was adequately justified. We therefore did not substantiate the allegation.

We determined, however, that OJP did not have specific guidance for its employees about protocols for avoiding conflicts of interest when participating in supplemental award decisions. In June 2018, OJP issued a more specific policy on award competition and continuation of awards. We reviewed the policy and noted

¹³ A Principal Investigator is typically the primary individual responsible under a grant with significant responsibility for carrying out the substantive aspects of a research grant, cooperative agreement, training or public service project, or other sponsored project. The Principal Investigator typically is responsible for compliance with applicable laws and regulations and institutional policy governing the conduct of sponsored research, and may or may not have roles or responsibilities under the grant that extend to grants administration consistent with federal grants administrative requirements.

¹⁴ An OJP official told us that the employee did not request and receive authorization within the meaning of 5 C.F.R. §2635.502 to participate in approving the supplemental awards.

that it does not include or provide references to protocols for managing real or potential conflicts of interest. In light of the fact that NIJ staff expressed to us significant concerns about real or potential conflicts of interest within the NIJ, we believe the June 2018 policy should be modified to contain guidance and information about managing conflicts of interest, with the goal of ensuring that all NIJ managers and staff are familiar with protocols for ensuring conflicts, if identified in initial and supplemental award decisions are properly remedied. Consequently, we recommend that OJP revise its policy to clearly state the necessary protocols for ensuring no real or apparent conflict.

Of these six unsubstantiated allegations, OJP's Report of Investigation to the OSC addressed two post-award allegations also made to us by the whistleblower. One of those involved an allegation that an SSA provided a list of possible researchers to a grantee. The other involved an allegation that an SSA inappropriately communicated directly with a grant subcontractor and provided the subcontractor directions. The report found that these examples did not appear to violate NIJ policy and did not demonstrate improper post-award communication. We reviewed the same two allegations and, similar to the OJP's Report of Investigation, could not substantiate the allegation involving the NIJ improperly providing a list of possible researchers to a grantee. For the other allegation, we substantiated that the SSA communicated with a subgrantee, but we could not determine if the SSA provided specific directions contrary to the OJP policy for such communications.

Post-Award Violations Alleged by NIJ Staff

During this audit, we interviewed 25 NIJ staff members and, at the conclusion of each interview, encouraged each to follow up with us if they had additional information to share about the NIJ's grant management practices. Three NIJ staff members provided us with documentation regarding 26 alleged instances of improper activities subsequent to these interviews. We substantiated 7, could not substantiate 16, and the remaining 3 were duplicates of previous allegations. The substantiated allegations pertained primarily to instances that occurred from November 2014 through May 2017 where SSAs assumed the role of grant managers and communicated inappropriately with grantees.

To identify additional post-award violations, if any, we surveyed all of the 68 NIJ staff and asked if they were aware of any post-award grant management practices by NIJ staff or managers that are contrary to NIJ policy. We received responses from seven NIJ employees. Only one of the seven responses included an alleged violation, and we determined that this allegation was similar to a whistleblower allegation previously discussed in this report.

In total, we substantiated 11 post-award violations from our review of whistleblower allegations, interviews with NIJ staff, and the follow-up survey of all NIJ staff. The majority of the substantiated allegations related to SSAs assuming the role of grant manager. In addition to technical non-compliance with NIJ policy, the potential effects for these types of violations include providing grantees misinformation concerning allowable expenditures, performing work on unapproved

projects, or granting unallowable deadline extensions. Based on the allegations that we were able to substantiate, we recommend that OJP ensures that the NIJ establish procedures to ensure NIJ staff appropriately communicate with grantees in compliance with the Grants Management Manual.

NIJ Reorganization

Prior to a 2015 reorganization of the NIJ, both grant managers and scientists worked within the NIJ's science units – the Office of Investigative and Forensic Sciences, the Office of Research and Evaluation, and the Office of Science and Technology. Prior to the reorganization, both grant managers and scientists performed grant management duties consisting of providing grant oversight, technical assistance, and consultation to supervisors and recipients. The reorganization created the Office of Grants Management, which is staffed mainly with grant managers. After the reorganization, scientists remained in the science offices where their duties focus on activities such as forensic science research and development, research and evaluation activities to prevent and reduce crime and violence, and the application of technology to improve criminal justice policy and practice.

We reviewed the reorganized structure for the NIJ and preliminarily concluded that it allows for proper separation of the grant manager and scientist functions. However, when we interviewed four of nine scientists and one office director about their responsibilities under the new organizational structure, they each told us that they believe their new roles and responsibilities have not yet been clearly defined by NIJ managers. In November 2016, we discussed this concern with the previous NIJ Director who told us that she recognized that the distinctions in duties between scientists and grant managers still required more formal clarification. While both NIJ managers and staff told us that management has sought to verbally clarify the scientists' roles, four scientists who we interviewed told us they remain unclear about their roles and would like more formal clarification.

In January 2017, the OGM Director told us she had prepared a document that illustrates and guides NIJ staff responsibilities. She had presented this information at two NIJ staff meetings, managers' meetings, and at various divisional staff meetings attended by NIJ's Office of Investigative and Forensic Sciences, ORE, and OST staff. The document identifies specific areas where, in the view of the OGM Director, further NIJ guidance is required regarding the distinction of responsibilities between grant managers and scientists. The NIJ began an effort to review and update grant manager and scientist job descriptions, except the Supervisory General Engineer, to further clarify roles and responsibilities. In addition, NIJ managers have continued to meet with staff in efforts to discuss specific responsibilities.

In January 2017, OJP hired a contractor to facilitate the rewrite of position descriptions. In May 2017, NIJ staff provided us draft position descriptions for grant managers and scientists written by the contractor. We reviewed the draft position descriptions and believe the descriptions clearly define grant manager and

SSA duties and responsibilities. However, as of April 2018, the position descriptions had not been finalized. The Principal Deputy Director told us that work on finalizing the position descriptions was in process as of April 2018. We recommend that OJP ensures the NIJ finalize and promulgate the position descriptions for grant managers and SSAs.

Federal Employee Viewpoint Survey

We reviewed the NIJ’s FEVS results for 2013 through 2017 to identify any potential impact from the 2015 reorganization. The FEVS is a tool, administered and deployed by the Office of Personnel Management (OPM) that measures employees’ perceptions of whether conditions characterizing successful organizations are present in their agencies. Employees’ responses to the survey provide agency leaders with critical information needed to make their agency work better and improve employees’ engagement in the workplace.¹⁵

Employee engagement is measured by the Employee Engagement Index (EEI) of the FEVS. The EEI is comprised of 15 survey questions, and has three sub-components: (1) Leaders Lead, (2) Supervisors, and (3) Intrinsic Work Experiences. Each sub-component has five topic-related survey questions. Responses to the Leaders Lead survey questions are intended to reflect employees’ perceptions of the integrity of leadership, as well as leadership behaviors such as communication and workforce motivation. Responses to the Supervisors survey questions are intended to reflect the interpersonal relationship between employees and their supervisors, including trust, respect, and support. Responses to the Intrinsic Work Experiences survey questions are intended to reflect the employees’ feelings of motivation and competency relating to their role in the workplace.

The NIJ’s FEVS 2017 results are provided in Table 2, along with Government-wide, DOJ, and OJP results to allow comparison. As displayed in Figure 2, overall, the NIJ’s Employee Engagement Index score decreased 10 percent and the Leaders Lead sub-component score decreased 13 percent from 2013 through 2017. This downward trend improved modestly between 2016 and 2017. However, the percentages remain significantly below the government-wide, DOJ, and OJP levels.

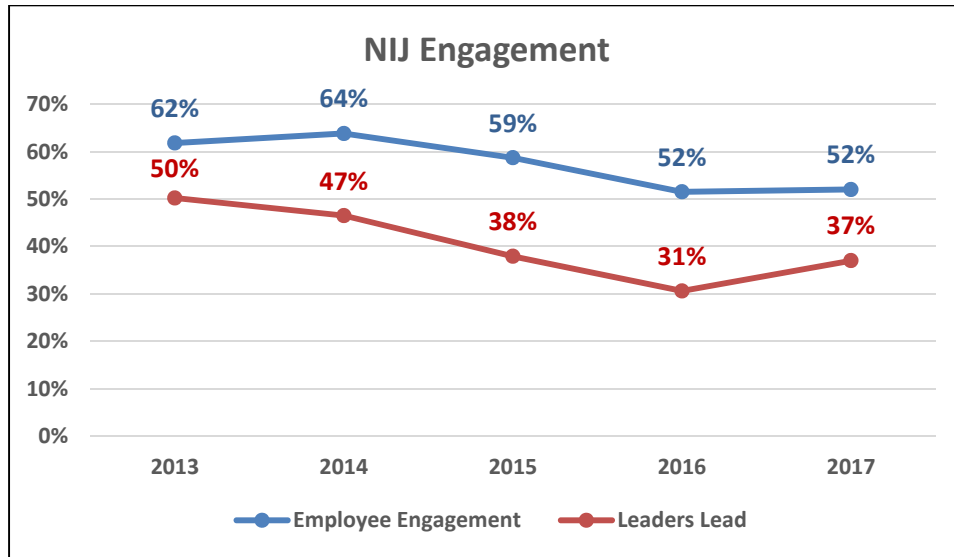
TABLE 2
SUMMARY OF 2017 FEVS RESULTS

Entity	Employee Engagement Index Score	Leaders Lead Score
Government-wide	67%	55%
DOJ	68%	58%
OJP	74%	65%
NIJ	52%	37%

Source: Office of Personnel Management

¹⁵ U.S. Office of Personnel Management, 2017 FEVS: Government-wide Management Report, (2017).

**FIGURE 2
HISTORICAL NIJ FEVS RESULTS**



Source: Office of Personnel Management

Based on the reported NIJ FEVS scores and the concerns expressed to us by the NIJ whistleblower and staff, it appears to us that NIJ leaders have not succeeded in improving employee engagement. We discussed the low scores with the NIJ Director and Principal Deputy Director. They told us that they attributed the low scores to NIJ’s constant turnover in leadership and recent organizational changes. We also discussed the scores with OJP’s Deputy Assistant Attorney General for Operations and Management who told us that OJP is aware of NIJ’s scores and has always emphasized the importance of the FEVS to OJP senior leadership at monthly meetings.

As part of the Government Performance and Results Modernization Act of 2010, Senior Executive Service members are responsible for improving employee engagement within their organization.¹⁶ OPM recommends all federal agencies develop an action plan to address key employee engagement drivers.¹⁷ We cannot identify a direct relation between the NIJ whistleblower allegations of management problems and the NIJ Employee Engagement Index score. However, we believe the low Leaders Lead sub-component score indicates concern among the NIJ staff with their leaders’ motivation, communication, and integrity. We also believe that these problems reflect a lack of trust, respect, and support between NIJ supervisors and employees and, consequently, detract from the NIJ staff’s performance of their grant management responsibilities. To address concerns raised from the NIJ’s FEVS results, in April 2015 the NIJ held 2 days of offsite strategic planning meetings involving Division Directors, Office Directors, and Senior Leadership. In 2016, the NIJ continued creating a comprehensive strategic plan. This plan was intended to

¹⁶ Public Law 111-352, GPRA Modernization Act of 2010, (January 2011).

¹⁷ U.S. Office of Personnel Management, [2017 Federal Employee Viewpoint Survey: Government-wide Management Report](#), (2017).

address a range of issues, including those identified with the FEVS results. In August 2017, the NIJ identified a contractor to help the NIJ develop a strategic plan.

In November 2017, the Principal Deputy Director told us that the NIJ started implementation of its strategic plan and started to take corrective action on the low FEVS scores. The strategic plan included: (1) conducting focus groups to obtain staff insight for the strategic plan, (2) training for senior leaders and managers to develop interpersonal skills and enhance communication skills, and (3) conducting monthly interactive meetings with staff members. The Principal Deputy Director told us that the focus groups began in November 2017, the training for senior leaders and managers would begin before the end of calendar year 2017, and the monthly meetings had begun.

In our judgment, the FEVS results indicate that the NIJ should have taken effective steps to improve employee engagement sooner, and that it needs to expeditiously implement its strategic plan and continue to pursue other initiatives to improve employee engagement. Therefore, we recommend that OJP ensures that the NIJ fully implement its strategic plan to address FEVS results, communicate its purpose to staff, and update the strategic plan based on continuous employee feedback.

OMB Approval for Data Collection

Under the Paperwork Reduction Act of 1995 (the Act or PRA), OMB approval must be obtained prior to collecting federally sponsored data in any situation where 10 or more respondents, within a 12-month period, are involved, and the questions are standardized in nature.¹⁸ In NIJ guidance documentation, the NIJ informs applicants that OMB approval is likely required if the NIJ has substantial involvement in the design, methodology development, and analysis of the data collection.

In June 2014, the NIJ implemented internal guidance to solicitation applicants for obtaining OMB approval when required by the Act. We reviewed this guidance and believe it is an acceptable process for obtaining the required approval, with one exception; the process does not set forth a timeframe for awardees to provide the NIJ the necessary information to prepare requests for OMB approval. We reviewed 7 cooperative agreements for which there were 10 or more respondents and awards made after implementation of the guidance. We found that the NIJ has not prepared the planned request to OMB for approval for four of these seven cooperative agreements.

For six of the seven grants, the NIJ provided an update from the grantees regarding information necessary to prepare the NIJ's request for OMB approval. As

¹⁸ Data collection is considered federally sponsored by OMB when a federal agency: (1) causes another agency to collect information; (2) contracts or enters into a cooperative agreement to collect information; or (3) requires a person to provide information to another person, or otherwise causes another person to obtain, retain, solicit, or require the disclosure to third parties or the public.

of November 2017, the NIJ had not submitted any of the PRA packages for these awards to OMB for approval. The NIJ no longer intended to submit the PRA package for one of the grantees since the NIJ's involvement is no longer substantial. One grant was for a 24-month planning phase and decisions to proceed or not would be made at the end of the planning phase. The NIJ was waiting for a revised PRA package for one grantee and waiting for an initial PRA package for two grantees. The NIJ received and reviewed PRA packages for the remaining two grantees, but the NIJ had not submitted the packages to OMB. The NIJ did not provide the grantee a timeframe to submit the information. The NIJ cannot request OMB approval until the grantee has developed the data collection instrument. The OGM Director told us that some grantees' schedule data collection efforts later in the project period schedule, and OMB approval will not be initiated until after the project period begins. NIJ officials told us they expected to request OMB approval by the end of July 2018, for three of the remaining five grants that required approval.

To effectively minimize the costs associated with the government's collection of data and otherwise comply with Paperwork Reduction Act requirements, we recommend that OJP ensures that the NIJ timely requests OMB approval for all cooperative agreements, when required. We also recommend OJP ensures that the NIJ establish a timeframe for awardees to provide the NIJ the necessary information to prepare requests for OMB approval.

CONCLUSION AND RECOMMENDATIONS

We determined that the NIJ is making progress in its efforts to improve grants management and that it generally managed grant activities in compliance with legal, regulatory and ethical requirements. For instance, we determined that the NIJ properly justified its decisions for all non-competitive grants we reviewed. We also determined that the NIJ generally demonstrated that it used a fair and open process when awarding competitive grants and managed grant activities in compliance with legal, regulatory, and ethical requirements. However, the NIJ still has several aspects in which to improve, including award justifications, personnel responsibilities, and conflicts of interest. Further, NIJ's historically low FEVS scores indicate a significant need for improved leadership at the NIJ. The NIJ acknowledged this need and began attempting to improve its leadership; however, we are concerned with the length of time it took the NIJ to implement actions to address this concern.

We recommend that OJP:

1. Ensures the NIJ follows OJP policy to formally document internal control procedures to ensure all required justifications are documented and included in the funding recommendation memoranda.
2. Ensures that the NIJ establish procedures to ensure NIJ staff appropriately communicate with grantees in compliance with the Grants Management Manual.
3. Ensures that the NIJ finalize and promulgate the position descriptions for NIJ personnel.
4. Ensures that the NIJ revises its June 2018 policy for award competition and continuation of awards to clearly state the necessary protocols for ensuring no real or apparent conflicts of interest.
5. Ensures that the NIJ fully implements the NIJ's strategic plan to address FEVS results, communicate its purpose to staff, and update the plan based on continuous employee feedback.
6. Ensures that the NIJ timely requests OMB approval for all cooperative agreements, when required, for data collection.
7. Ensures that the NIJ establishes a timeframe for awardees to provide the NIJ the necessary information to prepare requests for OMB approval for data collection.

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 evaluation of the NIJ's internal controls was not made for the purpose of providing assurance on its internal control structure as a whole. NIJ management is responsible for the establishment and maintenance of internal controls.

As noted in the Audit Results section of this report, we identified a deficiency in the NIJ's internal controls that is significant within the context of the audit objectives and based upon the audit work performed that we believe adversely affects the NIJ's ability to ensure all required justifications are documented in funding recommendation memoranda. As a result, the NIJ does not fully document how it manages a fair and open awards process as required.

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 the NIJ's processes, controls, and records to obtain reasonable assurance that the NIJ complied with federal laws and regulations, for which noncompliance, in our judgment, could have a material effect on the results of our audit. The NIJ is responsible for ensuring compliance with applicable federal laws and regulations. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditees and that were significant within the context of the audit objectives:

- 5 C.F.R. § 2635.502 (Impartiality in Performing Official Duties)
- 44 U.S.C. § 3101 (Records Management by Federal Agencies)

Our audit included examining, on a test basis, the NIJ's compliance with the aforementioned laws and regulations that could have a material effect on this organization's operations, through interviewing NIJ personnel, assessing internal control processes and procedures, and analyzing NIJ data. Nothing came to our attention that caused us to believe that the NIJ was not in compliance with the aforementioned laws and regulations.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objectives were to determine whether the NIJ: (1) used fair and open processes to award competitive grants; (2) properly justified its decisions when awarding non-competitive grants; and (3) managed grant activities in compliance with legal, regulatory, and ethical requirements.

We conducted our 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 on our audit objectives. Our audit concentrated on, but was not limited to, the period from FY 2013 through FY 2016. Our audit encompassed (1) allegations contained in a 2015 whistleblower complaint and by NIJ employees; (2) judgmentally selected samples of NIJ reviewed applications and award selections for competitive awards from FY 2013 through 2016; and (3) all nine sole sourced award selections for non-competitive awards from FY 2014 through FY 2016. The results of our judgmentally selected samples cannot be projected to the whole population.

We performed the following work at the NIJ offices in Washington, D.C. It included the NIJ's Office of Grants Management and its three science offices, the Office of Research and Evaluation, the Office of Science and Technology, and the Office of Investigative and Forensic Sciences.

- We reviewed the current applicable policies and procedures in place for reviewing and awarding competitive and non-competitive grants and cooperative agreements.
- We reviewed whistleblower complaint information regarding alleged NIJ practices.
- We interviewed key staff and conducted walk-throughs of their respective control processes for soliciting applications, selecting awards, and monitoring awards.
- We obtained information and statistics from the NIJ on solicitations, applications, awards, and employee viewpoint survey results.

As described on page 6 of this report, we selected 39 of 180 competitive grant solicitations for testing. Of the 39 solicitations: (1) 4 were selected based on whistleblower allegations; (2) 1 was referred to us by an NIJ employee; (3) 3 were judgmentally selected from a list of FY 2013 through 2016 awards considering the grantee's name, the solicitation, and the award amount; and (4) the remaining 31 were FY 2016 solicitations not already selected.

As described on page 11, we tested 8 of the 39 solicitations from FY 2013 through FY 2016 to assess compliance with various requirements. Of the eight

solicitations: (1) four were selected based on a whistleblower allegations; (2) one was referred to us by an NIJ employee; and (3) three were judgmentally selected from a list awards from FYs 2013 through 2016 award considering the grantee's name, the solicitation, and the award amount.

As described on page 14, we selected a judgmental sample of 238 applications associated with 14 FY 2016 solicitations to determine whether the NIJ was no longer using clarifying questions. We judgmentally selected 238 applications from a universe of 1,304 applications.

In this report, we analyzed information from the Office of Justice Program's Grants Management System (GMS). We were able to verify data contained in GMS with information from other sources. We determined the information reliable for the purpose of our testing. In addition, we analyzed results for the 2013 through 2017 FEVS results. The FEVS is a government-wide effort of the Office of Personnel Management (OPM). OMB and OPM intend for agency managers to use the findings in the FEVS to develop policies and action plans for improving agency performance, including the enhancement of employee engagement and satisfaction. The technical details of the 2017 FEVS methodology are contained in the 2017 FEVS technical report contained at <https://www.opm.gov/fevs/reports/technical-reports/technical-report/technical-report/2017/2017-technical-report.pdf>. We reviewed the methodology contained in that report and believe it to be reasonable. NIJ officials provided us technical comments on our analysis of the NIJ FEVS results, and we incorporated those comments in our report, as appropriate.

ANALYSIS FOR REQUIRED JUSTIFICATIONS

*FY 2014 Research on Offender Decision Making and Desistance from Crime Solicitation*¹⁹

The NIJ received 35 applications in response to its February 2014 solicitation for research on offender decision making and desistance from crime solicitation. Twenty-eight applications passed basic minimum requirements screening and moved to peer review. In September 2014, the NIJ made awards to three applicants, which were ranked second, third, and 14th by the peer review panels. Consequently, the NIJ passed over the 11 applicants that scored higher than the one ranked 14th. We sought to review the NIJ's justifications for selecting or denying each of the top 14 scored applications.

The NIJ sufficiently justified the selection of the applications ranked second and third. The NIJ justified the award to the applicant ranked second based on the applicant proposing a "sound methodology to extend beyond rational choice theory as an explanation of committing crime by including measures of emotion and impulsivity." The NIJ justified the award to the applicant ranked 3rd based on its "well designed and unique study to examine decision making through a procedural justice lens." The NIJ did not provide a justification why it did not make an award to the top ranked application.

In our judgment, the NIJ did not sufficiently justify the selection of the application ranked 14th. That justification contained contradictory language that can reasonably be interpreted to both support and express concern regarding the potential award. The justification was as follows.

The applicant seeks to examine the role...While there are a few, arguable, issues... there are great potential impacts from this research. While the award amount may seem like a great deal for secondary data analysis, this proposal has shown great cost savings and is a good value considering the true amount of work to conduct this research. The research team is sound and has great knowledge of the data sources. This application is very likely to achieve its intended aims.

In February 2017, we discussed the award with the Principal Deputy Director. He told us that the grant award was based in part on the variation in scoring outcomes when multiple panels are used to score applications received in response to a single solicitation. For the FY 2014 Research on Offender Decision Making and Desistance from Crime Solicitation, two peer review panels each reviewed separate

¹⁹ In the field of criminology, "desistance" is generally defined as the cessation of offending or other antisocial behavior. <http://www.oxfordbibliographies.com/view/document/obo-9780195396607/obo-9780195396607-0056.xml>

sets of applications. The Principal Deputy Director said that one of the panels was believed to score more stringently than the other, and the more-stringent scoring was applied to the application ranked 14th. To address the discrepancies in the scoring, the two peer review panels discussed the top seven scoring applications from each panel and determined as a group which applications they would recommend for funding.

We sought to review the NIJ's justifications for the 11 applications that scored higher than the 14th ranked applicant, but were not funded. The NIJ fully justified not selecting 2 of the 11 applications. These justifications consisted of:

- An applicant unable to provide a compelling argument with peer reviewed research that suppression is a component of current mainstream sex offender programs for a project to examine the role of cognitive and emotional decision-making and suppression among men convicted of child molestation, and
- An applicant was unable to demonstrate that a proposed intervention impacts cognitive functioning for a project to examine whether executive functioning and affective decision making mediate the relationship between antisocial attitudes and antisocial behaviors.

Of the remaining nine unfunded applications, the NIJ was unable to provide any justification for six, and provided justifications that lacked significant detail for three. We discussed these nine applications with NIJ officials. An official told us the justifications were not available because of a staff error. The same official also said that a former NIJ staff member neglected to document justifications in GMS for all applicants not recommended for funding and all applications that received an equal or higher score than the lowest scoring application recommended for funding. We concluded that this occurred because NIJ management did not ensure the NIJ staff complied with policy to demonstrate an open and fair process for awarding competitive grants.

FY 2016 Comprehensive School Safety Initiative – Category 1: Developing Knowledge about What Works to Make Schools Safe

The NIJ received 59 applications in response to this March 2016 solicitation. Fifty-four applications met basic minimum requirements and moved to peer review. In September 2016, the NIJ made awards to all 12 applications recommended by peer reviewers. We reviewed applicant scores to determine if the funding recommendation memorandum included the required detailed justifications. Of the 59 applications, we determined that 19 included detailed justifications, 34 did not require justification, and 6 included a justification that was not sufficiently detailed. The six applications scored higher than the lowest scoring application recommended for funding. The NIJ justified not recommending the six applications for funding stating for each, "This application was not recommended by the peer review panel or the NIJ. See consensus peer review comments for rationale." The OJP Grants Management Manual requires that all justification information should be included on the funding memorandum. The six justifications were insufficient in that the

justifications did not include detail why the peer review panel did not recommend funding.

FY 2016 Research and Development in Forensic Science for Criminal Justice Purposes

The NIJ received 172 applications in response to this September 2015 solicitation. One hundred and fifty applications met basic minimum requirements and moved to peer review. In September 2016 the NIJ made awards to all 54 applications recommended by peer reviewers. We reviewed applicant scores to determine if the funding recommendation memorandum included the required detailed justifications. Of the 172 applications, we determined that 60 included detailed justifications, 103 did not require justification, and 9 were not justified but should have been. The nine applications scored equal to or higher than the lowest scoring application recommended for funding. The NIJ did not justify why it did not recommend the nine applications for funding in the funding recommendation memorandum.

FY 2016 NIJ Graduate Research Fellowship Program in the Social and Behavioral Sciences

The NIJ received 85 applications in response to this August 2015 solicitation. Seventy-six applications passed basic minimum requirements screening and moved to peer review. In July 2016, the NIJ made awards to all seven applications recommended by peer reviewers. We reviewed the applicant scores to determine if the funding recommendation memorandum included the required detailed justifications. Of the 85 applications, we determined that 34 included detailed justifications, 44 did not require a justification, and 7 included a justification that was not sufficiently detailed. The seven applications scored higher than the lowest scoring application recommended for funding, and the NIJ justified not recommending each by stating "Not recommended by the external peer review panel for further consideration." This justification does not include detail why the peer review panel did not recommend the applications for funding.

FY 2016 Research and Evaluation on Institutional Corrections

The NIJ received 41 applications in response to this February 2016 solicitation. Thirty-nine applications passed basic minimum requirements screening and moved to peer review. In September 2016, the NIJ made awards to all six applications recommended by peer reviewers. We reviewed the applicant scores to determine if the funding recommendation memorandum included the required detailed justifications. Of the 41 applications, we determined that 7 included detailed justification, 30 did not require justification, and 4 were not justified. These four applications scored equal to or higher than the lowest scoring application recommended for funding. The NIJ did not justify why it did not recommend the four applications for funding in the funding recommendation memorandum.

FY 2016 New Investigator and Early Career Program in the Social and Behavioral Sciences

The NIJ received 49 applications in response to this March 2016 solicitation. Forty-seven applications passed basic minimum requirements screening and moved to peer review. In September 2016, the NIJ made awards to all seven applications recommended by peer reviewers. We reviewed the applicant scores to determine if the funding recommendation memorandum included the required detailed justifications. Of the 49 applications, we determined that 15 included detailed justifications, 33 did not require justification, and 1 was not justified. One application scored higher than the lowest scoring application recommended for funding. The NIJ did not justify why it did not recommend the application for funding in the funding recommendation memorandum.

FY 2016 Research and Evaluation in Support of the Recommendations of the President's Task Force on 21st Century Policing

The NIJ received 67 applications in response to this February 2016 solicitation. Sixty applications passed basic minimum requirements screening and moved to peer review. In September 2016, the NIJ made awards to all five applications recommended by peer reviewers. We reviewed the applicant scores to determine if the funding recommendation memorandum included the required detailed justifications. Of the 67 applications, we determined that 12 included detailed justifications, 50 did not require justification, and 5 were not justified. These five applications scored equal to or higher than the lowest scoring application recommended for funding. The NIJ did not justify why it did not recommend the five applications for funding in the funding recommendation memorandum.

FY 2016 Research and Evaluation on Victims of Crime

The NIJ received 29 applications in response to this March 2016 solicitation. Twenty-three applications passed basic minimum requirements screening and moved to peer review. In September 2016, the NIJ made awards to all seven applications recommended by peer reviewers. We reviewed the applicant scores to determine if the funding recommendation memorandum included the required detailed justifications. Of the 29 applications, we determined that 9 included detailed justifications, 18 did not require justification, and 2 included a justification that was not sufficiently detailed. The two applications scored higher than the lowest scoring application recommended for funding, and the NIJ justified not recommending the two applications for funding by stating for each, "This application was not recommended by the panel or by the NIJ. See peer review comments." This justification does not include detail why the peer review panel did not recommend the application for funding.

OJP'S RESPONSE TO THE DRAFT AUDIT REPORT



U.S. Department of Justice

Office of Justice Programs


Office of the Assistant Attorney General

Washington, D.C. 20531

NOV - 9 2018

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: Matt M. Dummermuth 
Principal Deputy Assistant Attorney General

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report, *Audit of the National Institute of Justice's Grants Management*

This memorandum provides a response to the Office of the Inspector General's (OIG) October 16, 2018, draft audit report entitled, *Audit of the National Institute of Justice's Grants Management*. The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on the draft report.

As noted by the OIG in the report, the National Institute of Justice (NIJ) has made improvements to its grant selection and oversight practices. These improvements have helped to further NIJ's mission and enhance services to criminal justice stakeholders and the American public. Each year, NIJ oversees up to 1,400 active, grant-funded partnerships with state and local governments, universities, and other organizations across the country. These partnerships generate independent, rigorous, and consistently high-impact research and evaluation results that are made available to the public through CrimeSolutions.gov, the National Criminal Justice Reference Service, and other targeted outreach. These vital partnerships also increase crime laboratory capacity, and advance the quality and practice of forensic science that are critical to law enforcement crime prevention and criminal prosecution efforts.

The draft audit report contains seven recommendations. For ease of review, the recommendations directed to OJP are summarized below and followed by OJP's response.

1. Ensures the NIJ follows OJP policy to formally document internal control procedures to ensure all required justifications are documented and included in the funding recommendation memoranda.

The Office of Justice Programs agrees with this recommendation. The requirement to document justifications for funding decisions has been in place since March 2009. Annually, OJP updates its Funding Recommendation Memorandum (FRM) template and, as necessary, provides clarification regarding existing policy to guide OJP program offices in preparing fully documented funding justifications. All OJP program offices, including NIJ, are required to use the approved FRM template to document final funding decisions.

For Fiscal Year (FY) 2018 funding decisions, NIJ included detailed justifications for all funding decisions in the FRM approved and signed by the NIJ Director. Beginning in FY 2017, all NIJ research and evaluation FRMs where the NIJ Director has signing authority are sent to OJP's Assistant Attorney General for acknowledgement of the approval (Attachment 1, page 11). Copies of the approved and signed FRMs are maintained electronically in OJP's Grants Management System as part of the solicitation-wide attachments maintained for each grant award.

The Office of Justice Programs requests closure of this recommendation and requests written acceptance from your office.

2. Ensures that the NIJ establish procedures to ensure NIJ staff appropriately communicate with grantees in compliance with the Grants Management Manual.

The Office of Justice Programs agrees with this recommendation. Since 2016, NIJ leadership has issued an annual, written refresher to NIJ staff on the importance of, and requirement to, maintain a fair and open competitive grant selection process. This written reminder has specifically stated that direct, pre-decisional contact with grant applicants is not permissible for any NIJ staff member, except as permitted in the Grants Management Manual (GMM) Section 4.7, which states:

"Pre-application assistance includes providing general information about program goals and objectives to prospective applicants. Since individual assistance to applicants in a competitive process may create an unfair advantage to other applicants, OJP staff members may not provide individual assistance to competitive applicants. Instead, each program office may conduct some level of pre-application assistance using hotline numbers, pre-application conferences, cluster conferences, meetings, conference calls, list serves, or frequently asked questions posted on the program office and OJP website."

In 2018, NIJ's written communication to staff has been enhanced with a specific requirement for NIJ to observe all communication and other grant management requirements, as specifically outlined in the GMM, and as further described by NIJ policies and procedures where process-level roles and responsibilities of NIJ staff are outlined in greater detail (See Attachment 2).

The Office of Justice Programs requests closure of this recommendation and requests written acceptance from your office.

3. Ensures that the NIJ finalize and promulgate the position descriptions for NIJ personnel.

The Office of Justice Programs agrees with this recommendation. NIJ finalized the position descriptions of all current Grant Managers and Social Science Analysts. The position descriptions, which were provided via email to the OIG on November 9, 2018, fully align with the organizational changes made by NIJ in 2015 that are referenced in the draft report.

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

4. Ensures that the NIJ revises its June 2018 policy for award competition and continuation of awards to clearly state the necessary protocols for ensuring no real or apparent conflicts of interest.

The Office of Justice Programs agrees that OJP staff must be made aware of the necessary protocols for ensuring no real or apparent conflicts of interest. The June 2018 policy referenced in this recommendation (OJP Order 4200.1, *Award Competition, Continuations, Period of Performance, and No Cost Extensions*, issued on June 27, 2018) is an OJP order.

OJP contends that a policy, order, or procedure is not the appropriate place to discuss a federal statute that applies to staff. Orders can be rescinded at any time, but the ethics statute remains. Since the standards of conduct for federal employees and financial conflicts of interest (which are federal crimes) concern the behavior of all federal employees, not just OJP employees, OJP believes that the annual ethics training is a more effective way to address this issue.

In FY 2018, the annual ethics training, which almost all OJP employees are mandated to complete¹, addressed the importance of complying with standards of conduct for federal employees and financial conflicts of interest (see Attachment 3). OJP will continue to ensure that reminders regarding conflict of interest protocols is addressed as part of the annual ethics training.

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

¹ Every employee who administers, awards, monitors or makes determinations or recommendations about grants or contracts must take annual ethics training. See 5 C.F.R. §2634.904.

5. Ensures that the NIJ fully implements the NIJ's strategic plan to address FEVS results, communicate its purpose to staff, and update the plan based on continuous employee feedback.

The Office of Justice Programs agrees with this recommendation. In December 2017, NIJ completed its strategic plan, which focused on improving the culture and effectiveness of NIJ, and was developed with extensive staff participation (see Attachment 4).

To implement the plan, NIJ developed four employee-driven and management-facilitated working groups to align with the strategic objectives and goals of the plan. The working groups were created to: encourage solution-focused collaborations across disciplines and between staff and managers; to promote change that is meaningful to NIJ staff; and to ensure the plan has sustained utility. The following attachments provide documentation that fully addresses this recommendation:

- Attachment 5 - Strategic Planning Communication Strategy. NIJ management team is using this communication plan to guide continued implementation of the strategic plan.
- Attachment 6 - NIJ Culture Improvement Strategy - The NIJ management team's overarching method of improving organizational culture. This document is frequently referenced as NIJ continues to implement its strategic plan.
- Attachment 7 - Performance Management Scorecard. The NIJ management team defined the conditions for implementation success (for each of the four implementation working groups) using this scorecard. NIJ continues to evaluate implementation against this scorecard.
- Attachment 8 - Implementation and Key Accomplishments. This document is a compilation of completed and planned activities to demonstrate that NIJ has and continues to work diligently to implement its strategic plan.

Finally, NIJ has embarked on a series of training sessions to improve its ability to effectively lead staff and to address concerns NIJ staff have raised regarding their management in the Federal Employee Viewpoint Survey. Management trainings began in Calendar Year 2018 (see Attachment 9).

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

6. Ensures that the NIJ timely requests OMB approval for all cooperative agreements, when required, for data collection.

The Office of Justice Programs agrees with this recommendation. By March 31, 2019, NIJ will document its process for ensuring timely requests for Office of Management and Budget (OMB) data collection approval. The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

7. Ensures that the NIJ establishes a timeframe for awardees to provide the NIJ the necessary information to prepare requests for OMB approval for data collection.

By March 31, 2019, NIJ will document its process for ensuring timely requests for OMB data collection approval. The Office of Justice Programs considers this recommendation resolved and requests written acceptance of this action from your office.

Thank you for the opportunity to respond to this draft report, and for your continued collaboration to improve the administration of our grant programs. If you have any questions regarding this response, please contact Ralph E. Martin, Director, Office of Audit, Assessment, and Management, at (202) 305-1802.

Attachments

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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 provided a formal response, which is incorporated as Appendix 3 in this final report. We also provided pertinent portions of this report to the whistleblower and two former NIJ officials. The whistleblower provided comments that we reviewed and considered in finalizing the report. The two NIJ officials did not provide comments. In response to our audit report, OJP proposed appropriate actions to adequately address all of the report recommendations. Therefore, the status of the audit report is resolved. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

Recommendations for OJP:

- 1. Ensures the National Institute of Justice (NIJ) follows OJP policy to formally document internal control procedures to ensure all required justifications are documented and included in the funding recommendation memoranda.**

Resolved. OJP agreed with the recommendation and stated that the requirement to document justifications has been in place since March 2009. OJP also stated that it updates its Funding Recommendation Memorandum (FRM) template, and as necessary, provides clarification regarding existing policy to guide OJP program offices in preparing fully documented justifications. All OJP offices, including NIJ, must use the approved FRM template.

OJP also provided its most recently updated FRM template, dated June 4, 2018 that was used for the FY 2018 funding decisions. OJP stated that beginning in FY 2017, all NIJ research and evaluation FRMs where the NIJ Director has assigning authority, are sent to OJP's Assistant Attorney General for acknowledgement of the approval. The FRM template OJP provided includes a section that requires the Assistant Attorney General's signature. OJP stated that copies of approved FRMs are maintained electronically in OJP's Grants Management System (GMS).

Although OJP provided documentation that NIJ used the updated template for its FY 2018 funding decisions, OJP did not provide documentation that NIJ was compliant with the new template.

We can close this recommendation when we receive documentation that NIJ provided assurance to OJP that NIJ complied with the template and included all required justifications for the FY 2018 awards.

2. Ensures that the NIJ establish procedures to ensure NIJ staff appropriately communicate with grantees in compliance with the Grants Management Manual.

Closed. OJP agreed with the recommendation and stated that since 2016, NIJ leadership has issued an annual, written refresher to NIJ staff on the importance of, and requirement to, maintain a fair and open competitive grant selection process. The NIJ stated that the reminder specifically states that direct, pre-decisional contact with grant applicants is not permissible for any NIJ staff member, except as permitted in Section 4.7 of the Grants Management Manual (GMM). To support its enhanced written communication, OJP provided a copy of the October 30, 2018, email from the NIJ Principal Deputy Director to all NIJ staff that served as the reminder regarding compliance with grant management requirements. The email includes a specific requirement for NIJ to observe all communication and other grant management requirements to ensure it complies with the Grants Management Manual.

Based on the documentation OJP provided, this recommendation is closed.

3. Ensures that the NIJ finalize and promulgate the position descriptions for NIJ personnel.

Resolved. OJP agreed with the recommendation and stated that the NIJ finalized the position descriptions of all current grant managers and social science analysts, and that the descriptions fully align with the organizational changes made by the NIJ in 2015. OJP provided the descriptions and a list of the NIJ's grant managers and social science analysts. We reviewed the position descriptions and verified that the descriptions align with the 2015 reorganization. However, OJP did not provide documentation that the finalized position descriptions were provided to all grant managers and social science analysts.

We can close this recommendation when we receive documentation that NIJ provided each grant manager and social science analyst the revised position descriptions.

4. Ensures that the NIJ revises its June 2018 policy for award competition and continuation of awards to clearly state the necessary protocols for ensuring no real or apparent conflicts of interest.

Closed. OJP stated that it agrees that staff must be made aware of the necessary protocols for ensuring no real or apparent conflicts of interest. However, OJP stated that a policy, order, or procedure is not the appropriate place to discuss a federal statute that applies to staff. OJP stated that orders can be rescinded at any time, but the ethics statute remains. Therefore, OJP believes that the annual ethics training required to be taken by almost all OJP employees, including every employee who administers, awards, monitors, or makes determinations or recommendations about grant or contracts, is a more effective way to address the issue.

OJP provided supporting documents for the FY 2018 training and stated it will continue to ensure that reminders regarding the conflict of interest protocols are addressed as part of the annual ethics training.

Based on OJP's response and the supporting documents that it provided, this recommendation is closed.

5. Ensures that the NIJ fully implements the NIJ's strategic plan to address Federal Employee Viewpoint Survey (FEVS) results, communicate its purpose to staff, and update the plan based on continuous employee feedback.

Resolved. OJP agreed with the recommendation and stated that in December 2017, the NIJ completed its strategic plan. The plan focused on improving the culture and effectiveness of the NIJ, and was developed with extensive staff participation. The NIJ also stated that it developed four employee-driven and management-facilitated working groups to align with the strategic objectives and goals of the plan. The working groups were created to: encourage solution-focused collaborations across disciplines and between staff and managers; promote change that is meaningful to NIJ staff; and ensure the plan has sustained utility. OJP provided supporting documentation that included the NIJ's: (1) communication plan to guide the implementation of the strategic plan; (2) method of improving organizational culture; (3) defined conditions for implementation success; and (4) compilation of completed and planned activities to demonstrate the status of its implementation of its strategic plan.

OJP also stated that the NIJ has embarked on a series of training sessions to improve its ability to effectively lead staff and to address concerns NIJ staff have raised regarding their management in the FEVS. The management training began in May 2018 with a planned completion date in December 2018. OJP provided supporting documentation listing six scheduled training sessions that included the topics of emotional intelligence, effective

leadership styles, building trust, communicating for results, and power of a leadership team.

This recommendation can be closed when we receive documentation that NIJ leadership has completed all scheduled training.

6. Ensures that the NIJ timely requests Office of Management and Budget (OMB) approval for all cooperative agreements, when required, for data collection.

Resolved. OJP agreed with the recommendation and stated the NIJ will document its process for ensuring timely requests for OMB data collection approval by March 31, 2019.

This recommendation can be closed when we receive the NIJ's procedures for ensuring timely requests for OMB data collection approval.

7. Ensures that the NIJ establishes a timeframe for awardees to provide the NIJ the necessary information to prepare requests for OMB approval for data collection.

Resolved. OJP neither agreed nor disagreed with the recommendation. NIJ stated that it will document its process for ensuring timely requests for OMB data collection approval by March 31, 2019.

This recommendation can be closed when we receive the NIJ's procedures for ensuring timely requests for OMB data collection approval.



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