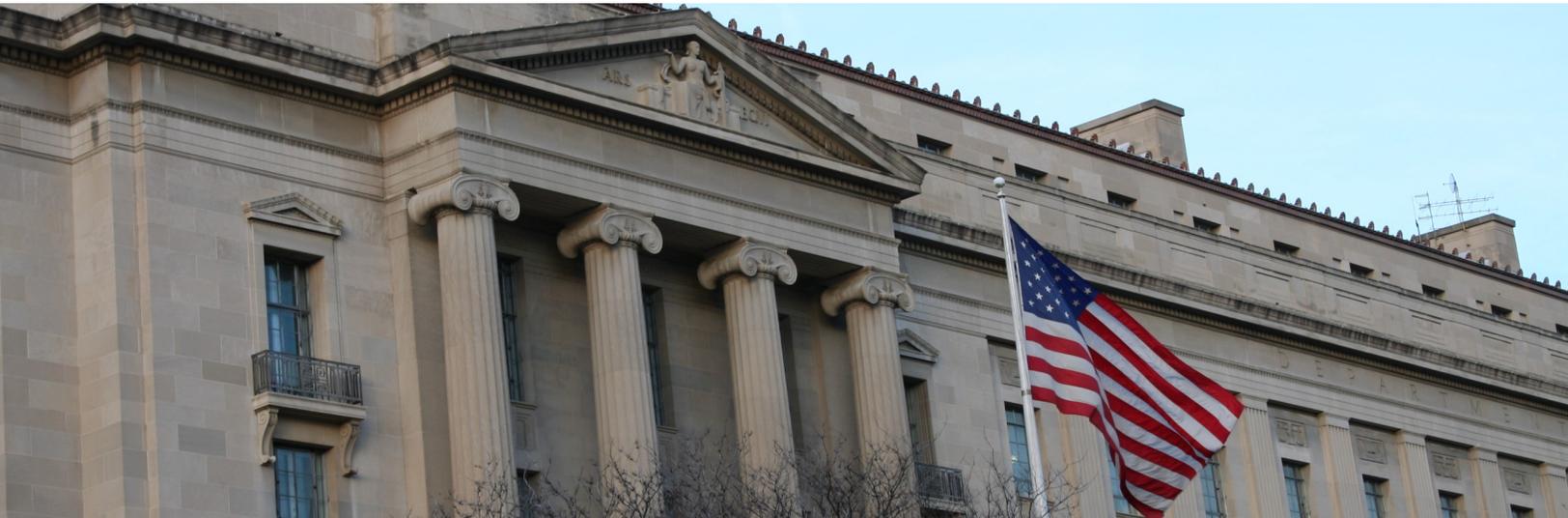




Office of the Inspector General
U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



**Audit of the Drug Enforcement
Administration's Income-Generating,
Undercover Operations**

REDACTED FOR PUBLIC RELEASE

The full version of this report contains information that the Department considered to be law enforcement sensitive and therefore could not be publicly released. To create this public version of the report, the Office of the Inspector General redacted (blacked out) portions of the full report.



Executive Summary

Audit of the Drug Enforcement Administration's Income-Generating, Undercover Operations

Objective

The objective of this audit was to assess the Drug Enforcement Administration's (DEA) management and oversight of Department of Justice (DOJ or Department) authorized income-generating, undercover operations, referred to as Attorney General Exempted Operations (AGEO). Through AGEOs, the DEA is authorized to conduct undercover financial transactions to infiltrate and dismantle drug trafficking and money laundering organizations (DTO/MLO).

Results in Brief

According to DOJ and the DEA, AGEOs target the illicit methods DTOs use to launder proceeds and have resulted in law enforcement actions that led to significant arrests, prosecutions, money and drug seizures, and disruptions of DTOs. Yet, these activities may create serious risks because of the DEA's undercover role in facilitating DTO financial transactions and benefiting from income earned to support aspects of the investigations. We found that DOJ and the DEA did not effectively oversee and manage AGEOs to ensure the DEA limited undercover activities to accomplish the DOJ-approved objectives or disrupt the original targets. The DEA also failed to comply with certain congressional and DOJ requirements, which created a deficient framework for monitoring AGEO activities. Additionally, the DEA did not adequately assess and leverage its AGEO data to identify and pursue targets involved in illicit financial networks. Further, the DEA had processes to account for AGEO funds, yet we identified instances in which it did not adequately safeguard funds from inappropriate use. While the ultimate goals of AGEOs support the DEA's mission, the collateral consequence of assisting the basic operation of DTOs does not. The DEA and DOJ must improve AGEO guidance, oversight, and management to ensure that the benefits outweigh risks of the DEA engaging in authorized illegal activities.

Recommendations

Our report includes 19 recommendations to both the Department and the DEA to improve management and oversight of the AGEOs.

Audit Results

Through AGEOs, the DEA is authorized to participate in undercover financial transactions that transfer illegal drug proceeds from the point of sale to the point of origin. These operations allow the DEA to build criminal investigative evidence against DTOs and MLOs. Through this authorized investigative technique, the DEA may also earn income that it can use to support the associated investigation.

Our audit covers DEA AGEOs active between fiscal years (FY) 2015 through 2017, through which the DEA facilitated undercover financial transactions totaling tens of millions of dollars each year. According to the DEA and Department, these AGEOs have resulted in some of DOJ's most successful money and drug-related seizures, arrests, and prosecutions. Notwithstanding these successes, it is important to recognize that these operations also pose significant risks to the U.S. government. We found that the DEA did not appropriately mitigate AGEO risks because it did not consistently implement or follow effective controls, requirements, and safeguards. In 2018, the DEA updated its policies to improve its management of AGEOs. However, these updates do not remedy all of the concerns identified in this report.

DEA Needs to Fully Comply with Statutory and Department Requirements – The DEA did not comply with several critical statutory and Department requirements; as a result, the DEA did not implement certain necessary internal controls to safeguard its operations. Specifically, the DEA did not appropriately inform the Attorney General and Congress of all of the AGEO-associated authorized illegal activities it was required to report by statute. In addition, despite highly publicized problems in undercover operations conducted in prior years by other DOJ law enforcement components, DOJ did not ensure that all DOJ components were subject to and complying with the DOJ's requirements for undercover activities. As a result, the DEA's policies and practices were not consistent with certain Department requirements. We found this problematic because DOJ previously informed the OIG that Department guidelines were being applied to all DOJ law enforcement components.



Executive Summary

Audit of the Drug Enforcement Administration's Income-Generating, Undercover Operations

The DEA also was authorized by the DOJ to operate multiple cases within certain AGEOs under a single approval, which was not consistent with Department policy. Despite historical Department approval for these structures, we found that in practice this resulted in limited oversight of cases involving certain sensitive and high-dollar undercover money laundering activities. These deficiencies affected operational and financial aspects of the DEA's AGEO structure and highlighted vulnerabilities within DEA's AGEO environment.

DEA Should More Clearly Define Operational Objectives and Assess AGEO Performance – The substantial benefits and potential risks associated with conducting AGEOs require the DEA to set appropriate and achievable objectives for each operation, which the Department must vet and approve. Yet, we found that for some AGEOs the DEA set broad initial objectives that provided significant investigative flexibility to case agents, but impaired the ability of DEA management and DOJ to oversee the true scope of activities. In turn, in the AGEOs that we reviewed, the DEA generally did not limit its undercover money laundering activities to those necessary to disrupt the initial targets of the operation. We determined that DOJ's and DEA's evaluation and monitoring of AGEOs were not appropriately rigorous to identify scope expansions and operational inconsistencies. For example, in one AGEO the DEA pursued multiple high-level DTO targets under one authorization and, over the course of a year, added other DTOs and a narco-terrorist organization. The incorporation of a narco-terrorist organization presented additional risks that the DEA should have considered for a separate authorization and Department approval.

We also found that the DEA did not always leverage AGEO information and strategically evaluate the laundering connections among AGEOs. Indeed, some AGEOs operated for many years and facilitated DTO money laundering transactions for extensive periods without the DEA consistently ascertaining what entities were complicit in DTO money laundering activities. In some instances, the DEA lacked documentation for investigative action taken to pursue entities involved in illicit financial networks. These issues are indicative of insufficient oversight and undermine the ability to assess the success of the DEA's AGEOs.

We also found that the DEA did not accurately report AGEO achievements. The DEA did not track operational achievements in a way that allowed DEA management, the Department, or Congress to understand whether AGEO operations successfully completed the initial and authorized objectives and goals, built cases that led to prosecutions, and deprived criminals of ill-gotten gains. In fact, we found inflated statistics and significant errors in the achievements that the DEA reported.

AGEO Activities Require Additional Oversight – Because the financial structures of DTOs and MLOs are extremely complex and broad, the DEA's undercover money laundering investigative activities often transcend state, continental, and virtual borders. Although the DEA stated that it coordinated with counterparts, it did not consistently document the appropriate approval to conduct authorized undercover laundering activities across jurisdictional boundaries, which could jeopardize operations and lead to legal repercussions for undercover case agents. We also noted that the DEA did not establish strict internal controls, risk mitigation techniques, and appropriate record keeping practices for AGEOs involving virtual currency, which we believe increased the potential for fraud, waste, abuse, and unauthorized investigative activity.

DEA's Controls over AGEO Financial Activities Must Be Improved – One of the unique aspects of AGEOs is that the DEA is able to use income derived from its authorized undercover illegal activity to support necessary and reasonable expenses associated with the investigation. We found that although the DEA generally maintained adequate financial records for its authorized undercover transactions and its use of project generated income (PGI), the DEA spent PGI on cases and operations that did not generate the income, in violation of law. In addition, in some instances, the DEA was lax in executing and tracking the use of PGI for travel, equipment, and information because these payments were completed outside the DEA's standard purchasing process. While these internal control deficiencies increased the potential for fraud, waste, and abuse, the DEA has since issued updated procedures to better account for authorization, use, and disposition of PGI.

AUDIT OF THE DRUG ENFORCEMENT ADMINISTRATION'S INCOME-GENERATING, UNDERCOVER OPERATIONS

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INTRODUCTION

The Drug Enforcement Administration's (DEA) 2017 National Drug Threat Assessment estimated that annual illicit drug sales in the United States totaled \$64 billion. In order to conceal the illegal origin of the proceeds, drug trafficking organizations (DTO) develop schemes or hire money laundering organizations (MLO) to launder the funds through financial networks or legitimate marketplaces. The DEA has stated that preferred laundering methods DTOs and MLOs use include bulk cash smuggling, trade-based money laundering, and structured payments through the formal banking sector. These methods may involve high-dollar financial manipulation and a large volume of transactions, thus making it difficult to distinguish and trace the illicit proceeds. The DEA employs undercover techniques authorized through investigations referred to as Attorney General Exempted Operations (AGEOs) as one of its tools to combat this activity and deprive DTOs of these funds. Through AGEOs, the DEA becomes an active participant in the money laundering schemes of DTOs and MLOs. According to DOJ and DEA officials, this technique allows the DEA to investigate, target, and disrupt illicit financial activities of these entities, and has led to significant arrests, prosecutions, and seizures. During our audit, we found that between fiscal years (FY) 2015 and 2017, the DEA managed [REDACTED] through which it documented undercover money laundering activity totaling more than [REDACTED]. Throughout our audit, DEA Special Agents emphasized that AGEOs were essential to disrupting DTOs and fulfilling the DEA's mission. According to the DEA, these undercover operations led to significant law enforcement actions including arrests and seizures of cash, assets, and illegal drugs in the United States and abroad.

DEA AGEO Activities and Associated Legal and Policy Requirements

As authorized first in FY 1985 by Public Law 98-411, the DEA can seek approval from the Attorney General to establish an AGEO, which provides the DEA the ability to conduct certain sensitive investigative activities.¹ These activities include opening and operating a commercial business, obtaining real property, depositing funds into a financial institution, and using proceeds earned to offset reasonable and necessary expenses incurred during the operation. Within that law, Congress also incorporated essential oversight and reporting responsibilities. Subsequently, the Department of Justice (DOJ or Department) established guidance for undercover operations in the Attorney General Guidelines on the Federal Bureau of Investigation's Undercover Operations (AG FBI Undercover Guidelines) and the Baseline Risk Assessment and Mitigation Policies for Law Enforcement Operations in Criminal Matters (Department Risk Mitigation Memorandum). This Department guidance provides authorization procedures and other requirements to ensure that undercover operations are properly designed and implemented. The DEA also established and disseminated AGEO guidance in various sections of its Agents Manual and correspondence from 2004 through 2015. In April 2018, the DEA promulgated a comprehensive AGEO Policy that incorporated and superseded the

¹ In 1992, Public Law 102-395 superseded previous authorities, and Section 102 of this law renewed AGEO provisions, which became in effect indefinitely under Public Law 104-132 Section 815 (d).

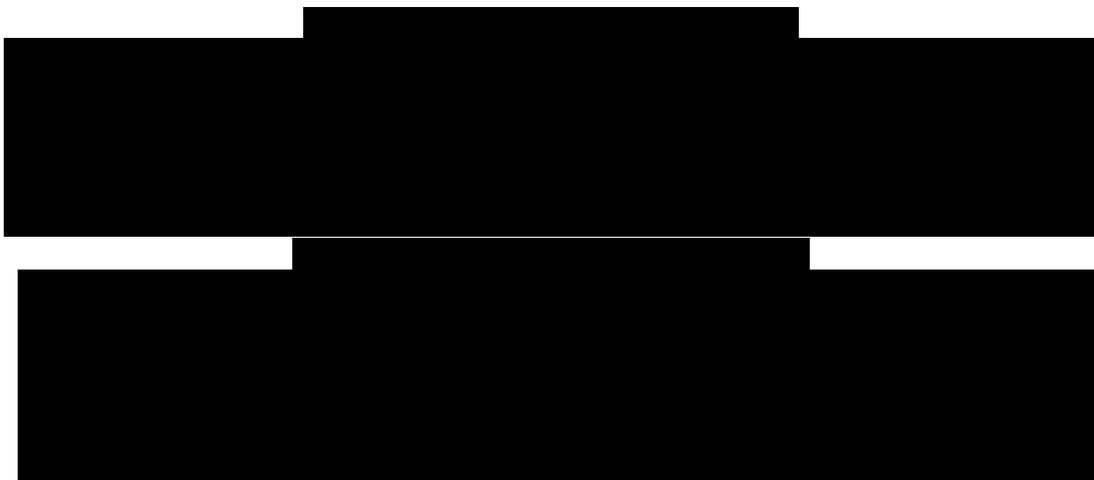
previously disseminated DEA guidance. According to the DEA, the 2018 policy formalized a wide range of ongoing and new practices, procedures, and oversight mechanisms, including defining and establishing requirements for different types of AGEOs to ensure consistency for initiating, reporting, auditing, training, managing, and closing AGEOs. This guidance was designed to assist DEA personnel in conducting complex financial investigations while maintaining strong internal controls over investigative and accounting activities. Our audit evaluated AGEOs operating during the scope of our audit, which was FY 2015 through FY 2017. As appropriate, we considered whether and to what extent DEA's April 2018 policy addressed findings associated with our audit.

Through AGEOs, the DEA often uses a confidential source (CS) or undercover agent [REDACTED]

[REDACTED]. In other instances, [REDACTED]

[REDACTED] The following figure provides an example of this undercover activity.

Figure 1



Source: OIG depiction of the DEA's undercover activity

The DEA may acquire income through its AGEO activities because it is [REDACTED]

[REDACTED] The DEA refers to revenue from these fees as Project Generated Income (PGI). Depending on the circumstances of the AGEO, the DEA either must forfeit the PGI to the Assets Forfeiture Fund or may use the PGI to offset necessary and reasonable expenses of the case in which the DEA earned the income.²

Categories of AGEOs

To qualify for and propose the use of an AGEO, DEA Special Agents must have an open case that has identified financial-related illicit narcotics activity. The

² The Assets Forfeiture Fund is a dedicated financial repository for proceeds relegated to the fund from criminal prosecutions, civil actions, or potentially prohibited items.

authorizing statute governing AGEOs requires the DEA to seek Attorney General approval when it acquires funds through investigative activity, deposits these funds into a legitimate bank account, and utilizes PGI earned from the undercover activity. In establishing its use of these sensitive investigative techniques, the public law, as well as Department and DEA policies, require the DEA to receive authorization from the Department to operate AGEOs. Between FYs 2015 and FY 2017, the DEA used three types of AGEOs: Shelf AGEOs, Full AGEOs, and Border AGEOs.

Shelf AGEOs: ██████████ operates a Shelf AGEO to facilitate investigations.³ Case agents use the Shelf when they determine that conducting limited undercover money laundering activity would help either assess the viability of a long-term financial operation or provide sufficient evidence in the short-term. According to the DEA Special Agents Manual, a single Shelf AGEO can be associated with multiple DEA cases, which are subject to an initial ██████████ laundering cap per case, and require the approval of a DEA Field Division Special Agent in Charge (SAC). The Agents Manual also stipulates that any funds generated through laundering activities associated with a Shelf AGEO cannot be spent unless the case becomes a Full AGEO.

Full AGEOs: Full AGEOs are case-specific and designed to facilitate multiple transactions executed within a single investigation with the primary goal of dismantling a specifically targeted criminal organization. These AGEOs are subject to an initial ██████████ laundering cap and must receive Department approval prior to operation. Prior to seeking approval to operate a Full AGEO, case agents generally utilize the Division's Shelf AGEO to assess the necessity of using financial investigative techniques available under Full AGEOs. The public law and the Agents Manual allow the DEA to use PGI earned in these AGEOs to offset reasonable and necessary costs of the operation.

Border AGEOs: A Border AGEO is a hybrid between a Shelf AGEO and a Full AGEO and must have a nexus to illegal activity along the Southwest Border. These AGEOs facilitate transactions for multiple, independent cases, and all cases within the AGEO are subject to an overall initial ██████████ laundering cap. The DEA may use PGI to support the individual cases. According to a Border AGEO initial authorization, inclusion of a specific case in a Border AGEO must be approved at DEA headquarters. The DEA established Border AGEOs because of the high level of criminal activity along the Southwest border of the United States, which the DEA stated required multiple money

³ During our audit review period, the DEA had 21 field offices, but in January 2018, the DEA created 2 new domestic division offices, which increased the number of field offices to 23. The DEA informed us that ██████████, bringing the total ██████████, but we did not audit the new AGEOs because they were not active during our audit review period.

laundering investigations to operate simultaneously without draining the field offices' financial resources.

From FY 2015 to FY 2017, the DEA had [REDACTED] active AGEOs in various stages of operation. Over those 3 years, the DEA spent over \$8.3 million generated from the [REDACTED] and [REDACTED] AGEOs authorized to use PGI for reasonable and necessary expenses, primarily on investigative travel, cell phones, and CS payments. The following table provides information on AGEOs that the DEA operated.⁴

Table 1
Summary of AGEOs between FY 2015 and FY 2017

AGEO Category	Number of Active AGEOs	Undercover Financial Transaction Totals	PGI Earned	PGI Expended ^a
Shelf	[REDACTED]	[REDACTED]	\$2,685,955	Not Applicable
Full	[REDACTED]	[REDACTED]	5,347,745	\$7,962,348
Border	[REDACTED]	[REDACTED]	424,470	413,015

^a The DEA expended more money than earned for Full AGEOs because it expended PGI earned prior to FY 2015.

Source: OIG Summary of DEA Data

Approval, Monitoring, and Closeout Process

The DEA's active involvement in money laundering transactions can assist DTOs in obtaining drug trafficking proceeds and contribute to the DTOs' ability to operate. While the ultimate goals of AGEOs support the DEA's mission to disrupt and dismantle DTOs, the collateral consequence of temporarily assisting the basic operation of DTOs does not. As such, the DEA Administrator and the Attorney General, by law and Department policy, must approve the establishment of all AGEOs in order to provide exemption from certain legal restrictions and authorization to conduct otherwise illegal activities. To fulfill this requirement, DEA field offices submit AGEO proposals through the DEA Sensitive Activity Review Committee (SARC). According to the DEA's Agents Manual, the SARC is comprised of both DOJ and DEA representatives. At the time of our review, the DEA representatives included the Chief of Global Enforcement, the Chief Counsel, the appropriate Office of Global Enforcement Section Chief(s), the Chief of the Undercover and Sensitive Investigations Section, relevant domestic Special Agents in Charge or Regional Directors of international offices, and case agents.⁵ The DOJ representatives on the SARC for AGEO approval are from the Criminal Division's Money Laundering and Asset Recovery Section (MLARS), Narcotic and Dangerous Drug Section (NDDS), and Office of International Affairs (OIA).

⁴ The financial information presented in this table was provided by the DEA's contracted AGEO accountant and was not audited in its entirety.

⁵ In 2019, the DEA reorganized its headquarters structure and the components responsible for overseeing sensitive activities. Our report does not reflect these changes, in particular the updated component names, because they occurred outside the scope of our audit.

For each new proposed AGEO, the SARC meets to review an overall undercover investigation proposal submitted by the case agents, and, if approved, sends the proposal through higher-level management outside the SARC. The DEA Administrator and the Deputy Assistant Attorney General (DAAG) for MLARS and NDDS, whom the Attorney General has delegated as the final approval authority for DEA's AGEOs, must review AGEO proposals that have been approved and forwarded by the SARC. In addition to the initial AGEO approval process, the DEA Agents Manual requires AGEOs to be reauthorized every 6 months by the SARC Chair. To obtain SARC reauthorization, field offices prepare and submit 6-month extension requests that document activity that has occurred and express the need to continue the AGEO.

In addition to the SARC operational oversight, various DEA policy documents include provisions that financial activities of each active AGEO are subject to multiple layers of monitoring by DEA headquarters and local management, including Group Supervisors, Assistant Special Agents in Charge, and SACs. For example, prior to conducting an undercover money laundering transaction, Special Agents must request and receive permission from the DEA headquarters Office of Global Enforcement, Financial Operations (OGF), which vets the validity of the transaction and the approvals received. OGF also assists case agents with administrative or operational requirements. Local management must review all AGEO financial activity monthly and send quarterly operational and financial reports to OGF throughout the duration of the AGEO. Specifically, when a case agent requests to expend PGI to support the investigation, local management must approve the action first. Depending on the type and total dollar amount of the expense, the office may also need OGF approval for a PGI expenditure, as is the case with equipment purchases over \$500. The DEA has also established an annual compliance review for each AGEO, examining not only the execution of undercover money laundering transactions, but also how DEA offices have used PGI to support the AGEO.

DEA Special Agents maintain responsibility for the day-to-day investigative and administrative requirements of each AGEO. Once OGF approves a money laundering transaction, case agents deconflict the investigative intelligence received from the target or CS regarding the transaction, such as target [REDACTED] [REDACTED] with information obtained through previous or other current AGEOs.⁶ After the transaction takes place, case agents prepare a report of investigation regarding the money laundering activity and complete OGF forms to document the financial aspect of each transaction, such as the amount of funds laundered and PGI earned.

When case agents determine the investigation no longer requires AGEO activity, the office submits to the SARC Chair a request to close the AGEO. The DEA's Inspection Division then conducts a final review to ensure that the responsible personnel have closed the operation appropriately by ceasing all

⁶ Deconfliction is a law enforcement procedure to ensure that in an instance where different entities may be targeting or encounter the same criminal or criminal organization there is no adverse investigative overlap, such as exposing a CS or undercover agent.

undercover financial activity, closing bank accounts and businesses, reviewing financial statements, forfeiting any unused PGI to the Assets Forfeiture Fund, and placing into service any usable inventory purchased with PGI. For additional accountability over the sensitive investigative activities authorized, the authorizing statute requires that the DEA report the number of AGEOs authorized and operating, as well as the results of any closed operation, to Congress in an annual report. The authorizing statute also requires the DEA to conduct audits of completed AGEOs and report the results of such audits to the Attorney General and Congress.

AGEO Value to the DEA

During our audit, many DEA and DOJ officials expressed to us that they believed the sensitive undercover activities executed through AGEOs were essential to the DEA's accomplishment of its mission to disrupt and dismantle DTOs. In particular, officials stated that AGEOs allow the DEA to infiltrate and reach the top echelons of these organizations. Officials recounted numerous indictments against high-level members of DTOs and a settlement against a financial institution, which resulted from AGEOs. Moreover, the DEA stated that the 16 judgmentally selected AGEOs that the OIG reviewed on-site at DEA field offices made hundreds of law enforcement actions possible. The DEA further stated that these actions contributed all, or in part, to seizures totaling \$1.4 billion in cash and assets, 83 tons of cocaine, 782 kilograms of heroin/fentanyl, 1,204 kilograms of methamphetamine, and more than 1,400 arrests in the United States and abroad. However, as discussed later in our report, we have concerns regarding errors and discrepancies with the DEA's process for tracking and reporting AGEO statistics. Nevertheless, we acknowledge the importance and value that the DEA places on the use and outcomes of its AGEOs.

Previous OIG Activity

The DOJ OIG has previously reviewed matters related to undercover operations that implemented high-risk sensitive investigative activities similar to the DEA's AGEOs. In 2012 and 2013, the OIG issued two reports related to the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) undercover operations. In 2012, the OIG reviewed ATF's Operation Fast and Furious, which highlighted serious management flaws and substantial risks ATF posed to the Department by using certain investigative strategies.⁷ In 2013, the OIG also issued an audit of AGEO activity conducted by the ATF, which recommended the Department improve the consistency of sensitive investigative activity approval across law enforcement components.⁸ Both reports contained recommendations that the Department should develop policies for all law enforcement components to conduct undercover activity with appropriate safeguards. In response to these reports, the Deputy

⁷ U.S. Department of Justice Office of the Inspector General, *A Review of ATF's Operation Fast and Furious and Related Matters*, Oversight and Review Division (September 2012, Re-issued November 2012).

⁸ DOJ OIG, *Audit of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Use of Income-Generating, Undercover Operations*, Audit Report 13-36 (September 2013).

Attorney General issued the Department Risk Mitigation Policy Memorandum. This memorandum requires Department law enforcement and prosecutorial components to implement various safeguards when conducting sensitive investigative activities, and specifically addresses income-generating, undercover operations. We used criteria from the memorandum in our audit.

In 2015, the OIG teamed with other agencies to conduct an investigation leading to a finding that a former DEA Special Agent committed criminal acts of extortion, money laundering, and obstruction during an undercover investigation on the Dark Web.⁹ The team determined that, while in an undercover capacity, the former DEA Agent both solicited and accepted the proceeds from illegal activity in the form of virtual currency payments and deposited the amounts into a personal account. We used information from this investigation to evaluate certain risks associated with virtual currency investigations.

Additionally, confidential sources play a critical role in developing AGEOs. In July 2015 and September 2016, the OIG issued two audit reports related to the DEA's CS program.¹⁰ These reports are relevant because the OIG recommended the DEA establish stricter internal controls to ensure that payments made to CSs are consistently, accurately, and completely recorded.

OIG Audit Approach

Our objective was to assess the management and oversight of the DEA's AGEOs, including the initiation and classification of these operations, the controls over and use of funds during operations, and the disposal of proceeds at the conclusion of these operations. To accomplish this objective, we conducted over 80 interviews with Department and DEA headquarters officials, as well as field office Special Agents and Task Force Officers. We also interviewed 13 Assistant United States Attorneys (AUSA) who had participated or collaborated with the DEA on various AGEOs.

We conducted site visits at the DEA's offices in [REDACTED]. [REDACTED] During these site visits, we reviewed operational reporting and associated accounting documentation of 16 judgmentally selected AGEOs. The AGEOs we reviewed on-site engaged in undercover money laundering activities totaling approximately 31 percent of the overall total AGEO activity, earned around \$2.1 million in PGI, and spent over \$2.2 million in PGI during our review period. We also reviewed various aspects of the [REDACTED] total AGEOs active during FY 2015 through FY 2017. Because some were open for significant periods of time, our review of these AGEOs

⁹ DOJ press release, "Former DEA Agent Sentenced for Extortion, Money Laundering and Obstruction Related to Silk Road Investigation," posted October 19, 2015.

¹⁰ DOJ OIG, *Audit of the Drug Enforcement Administration's Confidential Source Policies and Oversight of Higher-Risk Confidential Sources*, Audit Division 15-28 (July 2015) and *Audit of the DEA's Management and Oversight of its Confidential Source Program*, Audit Division 16-33 (September 2016).

was not limited to the FY 2015 through FY 2107 timeframe. Additional information about our approach to this audit is included in Appendix 1.

AUDIT RESULTS

DEA and Department officials told us that AGEOs provide the DEA with an effective undercover methodology for infiltrating DTOs' financial structure, thereby depriving DTOs of illicit proceeds. Further, AGEOs have resulted in successful prosecutions of members of DTOs, settlements with banking institutions, and seizures of illicit drugs, all of which further the DEA's mission to disrupt drug trafficking. Despite these stated achievements, we identified significant weaknesses in the DEA's oversight of AGEO compliance with applicable laws and policies, operational performance, and financial management. We found that the DEA did not comply with several critical requirements in both the authorizing statute and Department guidance that would have resulted in stronger internal controls and better oversight of the operations. In addition, we identified various deficiencies related to DEA and Departmental oversight for evaluating and monitoring the risks presented by AGEOs, as well as measuring the achievement of goals and objectives. We found that DOJ and DEA officials downplayed the risk of allowing illicit funds to "walk" and filter through legitimate and illegal financial channels. Moreover, the DEA did not consistently document all of its AGEO activities nor sufficiently record its follow through on potential and known illegal activity of businesses and entities involved in money laundering. The DEA also did not consistently ensure that it obtained and documented appropriate approval for AGEO activity that transcended national, transnational, and virtual landscapes. Further, the DEA's internal controls over financial AGEO activity did not account adequately for the risk of mismanagement associated with the use of PGI. Together, these issues not only undermine the DEA's use and oversight of its AGEOs, but also increase risks associated with the safety and security of DOJ equities, [REDACTED], and public safety. Overall, we made 19 recommendations, 4 to the Department and 15 to the DEA, to improve the DEA's use and oversight of its AGEOs.

The Department Must Clarify Policy Matters and the DEA Must Fully Comply with Statutory and Department Requirements

Undercover operations afford law enforcement agencies, including the DEA, a mechanism to infiltrate criminal enterprises and obtain information about criminal tactics and techniques. DOJ and DEA officials told us that a significant risk of AGEOs is that the DEA provides DTOs with resources and tools to sustain operations and further their illicit drug trafficking activities. In addition, these operations provide the DEA with the extraordinary ability to benefit from authorized undercover illegal activities, because it can use income generated from them to offset costs of investigations. In order to provide oversight of the use of these authorities, Congress established reporting requirements and the Department instituted policies and approval processes as discussed below. However, we found instances in which the DEA was not in compliance with these requirements, or its internal policies and practices were not consistent with Department guidance.

In 2012, the Attorney General established the Risk Assessment Working Group (RAWG), in part, because of the risk management issues identified in the

ATF's Operations Fast and Furious and Wide Receiver and the findings and recommendations of the OIG's report on these sensitive investigative operations.¹¹ The RAWG, which was comprised of participants from DOJ litigating and law enforcement components, evaluated the Department's procedures for assessing risk in law enforcement investigations and operations and prompted the issuance of the Department's Risk Mitigation Policy Memorandum. This policy required relevant law enforcement components, including the DEA, to conduct a review of previously established policies and procedures to ensure that they reflected the baseline principles outlined in the Department's Risk Mitigation Policy Memorandum. According to the memorandum, law enforcement agents and prosecutors should be mindful of whether the investigative intelligence and results of undercover operations outweigh the risks associated with these endeavors. The memorandum specifically states that these officials should consider whether "benefits of any operation ... outweigh the potential public safety risks as the investigation moves forward."

In addition, during the OIG's 2016 follow-up review of recommendations associated with its report on Operations Fast and Furious and Wide Receiver, the Department represented to the OIG that the Attorney General decided that all of the DOJ law enforcement components should comply with the AG FBI Undercover Guidelines.¹² However, Department officials stated that revising the AG FBI Undercover Guidelines document to specify that it applies to all DOJ law enforcement components, not just the Federal Bureau of Investigations (FBI), was not warranted because the RAWG confirmed that DOJ law enforcement components' undercover policies complied with these guidelines. However, we found that the DEA was unaware that it was subject to the AG FBI Undercover Guidelines. In fact, DEA officials stated that they believed the AG FBI Undercover Guidelines only applied to the FBI and did not extend to the DEA. Further, despite the Department's belief that all DOJ components had policies compliant with the AG FBI Undercover Guidelines, we determined that DEA policies and procedures related to its AGEOs were not fully consistent with Department policies.

In September 2018, the Acting DAAG responsible for Department oversight of AGEOs stated that the AG FBI Undercover Guidelines informed his decisions related to authorizing DEA's AGEOs and acknowledged that the Department should clarify whether these Guidelines apply to all DOJ law enforcement components. When we discussed this matter in October 2019 with officials in the Office of the Deputy Attorney General (ODAG), they stated that there is a lack of clarity as to whether the specific requirements in the AG FBI Undercover Guidelines apply to the DEA and other Department components. These officials acknowledged that DOJ must make a formal determination and establish what specific Department guidance applies to the DEA's undercover activities, in particular its AGEOs.

¹¹ DOJ OIG, *A Review of ATF's Operation Fast and Furious and Related Matters*, Oversight and Review Division (September 2012, Re-issued November 2012).

¹² DOJ OIG, *A Review of DOJ's and ATF's Implementation of Recommendations Contained in the OIG's Report on Operations Fast and Furious and Wide Receiver*, Oversight and Review Division (February 2016).

Given the risks and sensitivities associated with AGEOs and the frequency with which they are used, we believe that it is essential for the Department to have an appropriately rigorous body of policy to help ensure that the risks are mitigated consistently and adequately by all DOJ law enforcement components. As such, although we acknowledge the lack of clear and formalized guidance attributing the requirements in the AG FBI Undercover Guidelines to the DEA, we still evaluated where the DEA did not exercise risk mitigation strategies and requirements contained in this Department guidance. The following examples demonstrate instances where the DEA's policies and procedures were, at times, less stringent than the measures and controls in the AG FBI Undercover Guidelines.

- The AG FBI Undercover Guidelines include a requirement to submit to the Attorney General, Deputy Attorney General, and the Assistant Attorney General for the Criminal Division an annual report on the undercover review committee's approval and, in some cases, assessment of proposed undercover operations. The DEA confirmed that it only sent an annual report to the Attorney General addressing the number of AGEOs, which is not consistent with the guideline to provide an annual report of the undercover review committee's activities.
- The AG FBI Undercover Guidelines include a requirement that the undercover review committee approve each individual investigation that establishes, acquires, and utilizes a business entity; or conducts money laundering transactions involving an aggregate amount exceeding \$1 million. The DEA's policies and Department-approved authorizations did not align with these requirements for cases operating within its Border and Shelf AGEOs. This is discussed in greater detail in the *AGEO Activities Require Additional Oversight* section of this report.

Further, we found other instances where DEA policy and practice did not follow statutory requirements and Department policy:

- Public Law 102-395 requires the DEA to submit an annual report to Congress regarding the number and results related to initiated, active, and closed undercover operations. Although the DEA has provided reports to the Attorney General, it had not provided these reports to Congress since at least 2006. The DEA acknowledged in a January 2012 briefing to the Department that it was unable to confirm that the required congressional reporting had been satisfied. When we requested evidence of DEA's congressional reporting over 6 years later in July 2018, DEA informed us that reports were not submitted to Congress during this timeframe.
- Public Law 102-395 also requires the DEA to conduct a detailed financial audit of each undercover investigative operation and submit the results in writing to the Attorney General and Congress within 180 days of closing an operation. The DEA has no record of ever reporting any financial audit activity to Congress or the Attorney General, and, during our scope, did not complete audits within such a timeframe.

- The Department's Risk Mitigation Policy Memorandum requires the DAAG to reauthorize investigations involving PGI every 6 months. Although all of the DEA's AGEOs earn PGI, we found that the DEA has generally only sought DAAG approval for the initiation and monetary cap increase of AGEOs, as discussed in detail in the following section of the report: *The DEA Should More Clearly and Accurately Define Operational Objectives, Assess AGEO Performance, and Report AGEO Results*.
- The authorizing statute and the Department's Risk Mitigation Policy Memorandum also institute specific safeguards over the use of PGI. One of those safeguards is a requirement that the DEA expend PGI only in the AGEOs and cases that generated the income. We found numerous instances where the DEA violated this requirement. The DEA also did not conduct timely headquarters reviews of Full and Border AGEOs, as prescribed by the Department policy. These noncompliance issues contributed to an overall internal control structure that was not always effective and efficient, which we describe in further detail in the *AGEO Financial Activities* section of this report.

We are concerned about the DEA's lack of adherence to policies and oversight requirements given the Department's recent efforts to focus on evaluating law enforcement components and ensuring that they employ necessary risk mitigation controls and measures for undercover operations. Moreover, because the DEA has not provided reports to Congress, there is limited Congressional insight into the DEA's use of this investigative technique involving certain authorized undercover illegal activities and the benefits it provides to the American taxpayer.

We recommend that the Department make a formal determination as to whether the policies within the AG FBI Undercover Guidelines apply, in their entirety or in specific instances, to all DOJ law enforcement components; or if the Department must issue new guidance to govern undercover operations that are initiated by DOJ law enforcement components outside of the FBI. Once the Department makes a determination, we recommend that the Department coordinate with the DEA to ensure that the DEA's policies reflect necessary measures and controls stipulated in applicable Department guidance for undercover activities.

In addition, we recommend that the DEA formalize a procedure to develop and monitor the dissemination of all required AGEO financial and performance reports to Congress and the Attorney General, as outlined in the authorizing statute.

The DEA Should More Clearly and Accurately Define Operational Objectives, Assess AGEO Performance, and Report AGEO Results

Through the Department Risk Mitigation Policy Memorandum, the Department advises its law enforcement agents and prosecutors to remain mindful throughout each undercover operation of whether the benefits of an operation continue to outweigh the potential public safety and investigative risks. As an

acknowledgment of these risks, the DEA's Agents Manual states that authorized undercover operations may continue for the time necessary to achieve the established objectives. However, in the AGEOs that we reviewed, we found that the DEA generally did not limit its undercover money laundering activities to the minimum necessary to disrupt the initial targets of the operations. As a result, some of these operations lasted for several years. During these extensive operations, the DEA did not consistently follow the trail of illicit funds and the leads generated by AGEOs, follow up on money laundering transactions, or sufficiently document investigative actions taken on these potential illegal activities. The DEA also relied upon CSs to establish and sustain AGEOs, but did not employ adequate procedures for vetting and monitoring CSs' financial activities in these high-risk operations. Finally, we found inadequacies in the DEA's reporting of AGEO achievements including imprecise statistics that could have affected the Department's evaluation of the benefits and impacts of an AGEO.

The DEA and DOJ Must Improve the Review of AGEO Objectives, Scope, and Duration

According to the DEA's Agents Manual, to initiate a Full AGEO, DEA field offices must develop a formal proposal that conveys specific objectives and targets, and submit this proposal to the DEA SARC and the DAAG.¹³ This proposal must also contain a summary of the case, factual predicates for the case, accomplishments to date, and an investigative action plan, as well as additional information. In addition, because of the sensitivity of undercover activities and potential for negative outcomes, the AG FBI Undercover Guidelines, the DEA Agents Manual, and the Department's Risk Mitigation Policy Memorandum all emphasize the importance of realistic objectives and appropriate timeframes for undercover operations. For example, the DEA Agents Manual requires AGEOs to achieve their objectives in the least amount of time possible and to submit 6-month extension requests to the SARC Chairperson when they determine that undercover activity should continue beyond the initial 6-month SARC approval.¹⁴ Similarly, the Department Risk Mitigation Policy Memorandum requires the DEA to seek and obtain DAAG approval every 6 months for AGEOs.

During our review, we found that some investigative objectives recounted in Full AGEO proposals appeared similar from one AGEO to another and, at times, particularly far-reaching. For instance, multiple Full AGEO proposals had a stated objective of "completely disrupting and dismantling the criminal network whose existence enables the targeted organization to regenerate." Another common objective was to "identify, arrest, and prosecute domestic and international drug traffickers, money launderers, and currency couriers." While these objectives are compelling and consistent with the DEA's mission, the lack of specificity, including the lack of estimated timeframes and targets, hinders the DEA's ability to manage

¹³ As noted, the SARC is a DEA-led committee with representatives from various DEA offices, as well as DOJ that has the responsibility for examining certain operational proposals to ensure the plans for proposed sensitive investigative activities are well-founded and all issues of concern are sufficiently addressed.

¹⁴ The SARC Chairperson is the DEA's Chief of Enforcement Operations.

and assess the operations. When we brought this issue to the DEA's attention, DEA officials told us that greater specificity could stifle the operation and would not allow the DEA the investigative flexibility necessary to follow leads generated, such as the identification of new targets or different DTO trends. However, we believe more specific goals would allow for greater oversight and ensure that DEA headquarters, the SARC, and the DAAG are continually aware of the AGEOs' progress and strategic direction.

Additionally, we evaluated the DEA's process for monitoring and assessing the benefits of the AGEOs and the status of the initial objectives of the operation. As discussed, the DEA monitors and evaluates ongoing AGEOs through the SARC's review and approval of AGEO 6-month extension requests. In practice, the DEA includes DOJ Criminal Division SARC representatives in this process, but does not comply with the Department Risk Mitigation Policy Memorandum's requirement that the DEA seek and obtain DAAG approval every 6 months for AGEOs. In contrast, the DEA seeks reauthorization from the DAAG if a reauthorization includes a request for approval to launder money above initially designated thresholds. By not incorporating DAAG approval in its reauthorization process, the DEA limited critical Departmental oversight of its AGEOs and reduced the DEA's accountability for achieving the intended result. The DEA stated that it received Department oversight through the inclusion of its three Criminal Division SARC representatives, which include attorneys from NDDS, OIA, and MLARS. While we agree that these representatives provide substantive oversight and coordination, there is no delegation that their role on the SARC replaces the requirement in the Department Risk Mitigation Policy Memorandum that the delegated authority to approve these operations is the DAAG.

To determine whether the 6-month extension requests addressed the goals, including disrupting the initially authorized targets, we judgmentally selected 10 AGEOs for review. We found that the extension requests discussed how extending the AGEO authority would continue the investigation, but did not specifically address the status of completing objectives or consistently report the investigative status of targets. Instead, field offices used these requests as a way to convey to the SARC deviations in the initially approved AGEO proposal, including changes in the scope of the operations. The SARC continued to approve AGEO operations despite a general absence of written information tied directly to accomplishing the original objectives or disrupting the original targets. DEA officials stated that this type of information may be communicated through further discussion with case agents. Although we acknowledge the DEA's authority to direct investigations, AGEOs contain sensitive investigative activities that require Department and Congressional oversight. Because these changes were not consistently presented to the DAAG, as required, the DAAG was not able to assess whether an AGEO was placing the Department at unnecessary risk. The following examples highlight incidents related to AGEO changes that we believe should have required additional oversight and evaluation of risk.

Change in Scope

In one Full AGEO that operated from January 2011 to April 2017, the SARC and DAAG initially approved the AGEO to target several subjects within two high-level DTOs. In the first two 6-month extension requests (submitted to the SARC but not the DAAG), the DEA identified three additional high-level targets within different DTOs, one of whom was a narco-terrorist. Over the 6-year life of this AGEO, the DEA generated over \$1.7 million in PGI and reported that it laundered almost \$20 million for DTOs (including the DTOs that were not initial targets authorized by the DAAG). The addition of a narco-terrorist was inconsistent with the initial DTOs targeted by the AGEO. In addition to the Department Risk Mitigation Policy requirement that the DEA submit 6-month extension requests to the DAAG, the AG FBI Undercover Guidelines has a requirement that the headquarters review committee evaluate whether a change in scope of an AGEO necessitates a new authorization from the DAAG. Because of the sensitivity and additional risks involved in investigating narco-terrorists, we believe that the addition of this target should have immediately alerted the SARC that this target did not fall within the initial scope of approved activity and should have been considered for a separate AGEO with specific oversight of the atypical objective. We also believe that the SARC should have considered making the DAAG aware that the risks associated with this operation had changed.

Change in Target

For an AGEO that operated from April 2011 to January 2017, we found that the initial intent of the AGEO was to disrupt a specific money laundering network. According to case information, the initial targets were apprehended by October 2013. However, the AGEO case agents [REDACTED] to pursue different money launderers and maintained the AGEO through the original authorized proposal because: (1) the targets had an investigative connection, (2) the AGEO was already established, and (3) the AGEO contained excess PGI that the case agents could spend. An overview of the new targets was included in a 6-month extension request to the SARC, but the changes in this AGEO were never presented to the DAAG because the reauthorization followed the DEA's process of approval through the SARC Chair. We believe that once the purpose of the AGEO, as originally authorized, was achieved, the SARC should have required the field office to end the AGEO and submit a new proposal to facilitate a thorough assessment of the new objective, investigative action plan, and associated risks.

Length of AGEOs

We found two instances where AGEOs were open for many years—one for 11 years and one for 10 years—each with lengthy periods during which money laundering activities did not occur yet the use of PGI continued. The 11-year AGEO was a closed Border AGEO that operated between May 2006 and August 2017. The DEA did not use this AGEO for any undercover money laundering activity between FYs 2015 and 2017. Prior to that, the AGEO was not used between December 2007 and July 2011. The 10-year AGEO was a Full AGEO that operated between April 2005 and February 2015 and had two lengthy gaps in activity between November 2005 and April 2007 and between September 2011 and February 2015. During these times, no undercover money laundering activities took place. The duration of these operations highlights the problem that these AGEOs were operating longer than necessary to achieve the investigative objective(s).

Within the first two examples above (“Change in Scope” and “Change in Target”), the DEA realized significant achievements: the first AGEO attained sanctions on DTOs, indictments of high-level drug-traffickers, and actionable intelligence on a narco-terrorism organization; while the second example dismantled a money laundering cell operating in Latin America, the United States, and Europe. However, the SARC did not document when the field office exceeded the original DAAG-approved purposes of these AGEOs by either completely changing or continuously expanding the targets. Although the general goals of the AGEOs did not change, the addition of targets and different organizations impacted the direction and duration of the AGEOs. Thus, in both cases we found that the

DEA's practice was less stringent than the AG FBI Undercover Guidelines requirement that a headquarters review committee (i.e., the DEA's SARC) determine whether a new AGEO is necessary if there is a significant change in either the direction or objectives of an undercover operation. In fact, according to senior DEA officials, the DEA defines a change in scope in AGEOs as the addition of a sensitive investigative activity [REDACTED] that has not already been approved by the SARC or an increase in the money laundering cap for the AGEO. According to the SARC Chair, the DEA believes that because AGEOs relate to the same criminal conspiracy of transporting drugs into the United States, the inclusion or removal of individual targets generally does not affect the original authorized purpose. This interpretation does not contemplate the intent of the AG FBI Undercover Guidelines requirement to evaluate the impact new targets may have on the direction or balance of risks in a particular operation. Further, the Acting DAAG told us that it would be important to review changes in the scope of AGEOs and new operational plans where the DEA adds high-level targets because these changes require an updated review of risks versus the reward of the operation.

In the AGEO policy it issued in April 2018, the DEA incorporated a new requirement for initial proposals to contain information on the targets and their role in the same criminal conspiracy. According to the policy, "these requirements are designed to prevent a situation in which multiple money laundering operations, targeting members of completely separate trafficking cells, are conducted under the authority of one AGEO." Although this policy is an improvement to the DEA's previous control environment, it does not require the DEA to define additional target relationships in subsequent approvals by the SARC to reevaluate the reward versus the risk of potentially significant scope changes to AGEO operations, which is a requirement in the AG FBI Undercover Guidelines. It also does not address the necessity for DAAG approval on the 6-month extension requests, as required by the Department Risk Mitigation Policy Memorandum.

To ensure prudent use of the sensitive investigative activities of AGEOs, we recommend that the DEA implement a process through which: (1) DEA field offices establish specific, actionable, and measurable goals for each AGEO that are clearly presented to the SARC; and (2) the SARC documents its robust examination of each AGEO's duration, any significant periods without undercover activity, and accomplishment of goals. In addition, we recommend that the DEA ensure that the DAAG reviews and approves all 6-month extension requests, as required by the Department. The DEA should also develop a process for field offices to submit formal requests for SARC evaluation and seek DAAG approval for any change in either the direction or objectives of an approved undercover operation, including the addition or removal of high-level AGEO targets, which would be consistent with Department guidance issued in the AG FBI Undercover Guidelines.

Increased Oversight of Following and Documenting Investigative Leads and Actions is Necessary to Maximize Operational Outcomes and Reduce Risks

As recognized publicly, DTOs are not only involved in drug trafficking, but also participate in violent crimes and have been linked to terrorism. This elevates

the risks that the DEA's involvement in money laundering activity may inadvertently support particularly egregious criminal activity. Despite these risks, officials in the DEA and in the Department conveyed the idea that allowing money to "walk" is not as inherently risky as letting drugs or guns "walk." DEA and Department officials recognized that AGEOs have resulted in successful prosecutions and settlements with banking institutions, and further stated that allowing these illegal activities to occur generates leads and provides the DEA with necessary information to disrupt DTOs. However, AGEO case agents and DEA headquarters personnel stated that they did not always follow or seize the money

[REDACTED]

The DEA stated that this investigative discretion was important to build actionable cases. Therefore, the DEA, in coordination with the assigned AUSA for the case, would use investigative discretion to determine what [REDACTED].

To document and track its undercover money laundering activities, the DEA recorded AGEO transactions into its DEA Analysis and Response Tracking System (DARTS). The DEA uses the information in DARTS not only to trace dollars [REDACTED], but also to [REDACTED].

Throughout our review, we found instances where information in DARTS was not current, accurate, or complete. We determined that the DEA had not performed any specific reliability testing for the data in the money laundering module of DARTS. DEA officials further stated that the reliability of DARTS information was entirely dependent on what case agents entered into the system and OGF staff members making any corrections discovered by individuals involved in AGEO activities.

We are concerned that the DEA does not have a formal process in place to identify deficiencies in its AGEO data. The lack of reliable data in DARTS could detrimentally impact the DEA's process for deconflicting case information and identifying businesses that may be contributing to DTOs' criminal activities, including money laundering enterprises. In fact, a DEA financial investigator told us that the same entities have received funds through DEA undercover financial transactions for many years through multiple AGEOs, yet the DEA had not identified or taken action to determine if these entities were complicit in drug trafficking activities. AGEO case agents and DEA headquarters personnel also stated that the DEA does not always have the resources, wherewithal, or time to follow the path of the laundered money beyond documenting account information and determining who or what entity received the money that the DEA laundered. In particular, because of the high volume of outgoing money laundering transactions, there is a significant number of entities receiving funds through the DEA's AGEO activities. Case agents told us that, as a result of this volume, generating leads on all of the entities that receive laundered funds could result in substantial investigate and administrative burden.

Although we found issues related to DARTS, it is the only repository for AGEO-transaction data that the DEA maintains. We therefore used DARTS to obtain and analyze information on entities that were involved in the DEA's undercover movement of funds in four specific AGEOs.¹⁵ We found that according to DARTS, the DEA completed undercover money laundering transactions of approximately [REDACTED] into approximately [REDACTED] entities through the four AGEOs we selected. We also found that fewer than 4 percent of these entities received approximately 31 percent of the total amount. Moreover, certain entities received undercover DEA-laundered funds through more than one AGEO.

We asked the DEA to provide documentation related to what, if any, enforcement or follow-up action was taken against a total of 15 specific entities.¹⁶ The following figure provides a summary of our review of the DEA's data and documentation related to these businesses.

¹⁵ We judgmentally selected these AGEOs based upon the timing of the operations, as well as the number and amount of transactions. Appendix 1 provides an overview of our audit objectives, scope, and methodology.

¹⁶ Each business entity had an associated bank account into which the DEA laundered funds. For our selection, we identified [REDACTED]

[REDACTED]. This selection equated to a total of 15 business entities that we reviewed.

Table 2
AGEO Account Investigative Activity

Business Accounts	AGEOs Involved	Received Funds from multiple AGEOs	[REDACTED]	Dollars Seized	DEA Synopsis of Law Enforcement Action Taken	DEA Provided Documentation of Enforcement Action
Account 1	AGEO 1	No	[REDACTED]	\$4,000,000	DEA pursued legal action	Yes
Account 2	AGEO 1	No	[REDACTED]	0	Foreign law enforcement action	Yes
Account 3	AGEO 1	No	[REDACTED]	0	Foreign law enforcement action	Insufficient Documentation
Account 4	AGEO 2	Yes	[REDACTED]	0	No Follow-up Action Identified	
Account 5	AGEO 2	No	[REDACTED]	0	No Follow-up Action Identified	
Account 6	AGEO 2	Yes	[REDACTED]	0	DEA seized aircraft associated with laundered funds	Yes
Account 7	AGEO 3	No	[REDACTED]	0	No Follow-up Action Identified	
Account 8	AGEO 3	No	[REDACTED]	912,126 ^a	DEA seized funds	Yes
Account 9	AGEO 3	No	[REDACTED]	370,000	DEA seized funds	Yes
Account 10	AGEO 4	No	[REDACTED]	0	No Follow-up Action Identified	
Account 11	AGEO 4	Yes	[REDACTED]	0	DEA interviewed person of interest	Yes
Account 12	AGEO 4	Yes	[REDACTED]	0	DEA seized aircraft associated with laundered funds	Yes
Account 13	AGEOs 2 & 4	Yes	[REDACTED]	0	DEA pursued legal action	Insufficient Documentation
Account 14	AGEOs 2 & 4	Yes	[REDACTED]	0	No Follow-up Action Identified	
Account 15	AGEOs 2 & 4	Yes	[REDACTED]	0	No Follow-up Action Identified	

^a The DEA seized more money than laundered into this account because the account had additional funds already present when the investigation began.

Source: OIG Analysis of DARTS and DEA-Provided Documentation

As depicted above, the DEA relayed to us that follow-up actions, such as seizures of funds or foreign counterpart investigations were pursued for nine of the entities involved in DEA undercover money laundering activities. However, for two of these nine entities, the DEA could not provide historic documentation to support the follow-up action that purportedly occurred. In addition, for the remaining six entities, the DEA could not provide any documentation or context for what, if any, follow-up investigative action was taken. Moreover, the DEA did not consistently follow-up on entities receiving the most significant amount of laundered funds in any of the AGEOs reviewed.

Based on our review, we believe that the DEA has not adequately assessed and leveraged its AGEO data to ensure that it identifies and pursues businesses contributing to the illicit financing networks of DTOs. When we spoke to DEA officials about this concern, they told us that investigative follow-up on each account into which funds are laundered is not warranted in all cases. Specifically, DEA officials stated that not all entities or persons receiving laundered funds play significant roles in the money laundering enterprises. While we acknowledge that certain entities receiving AGEO funds are not high-risk, we also believe that the DEA should be assessing entities or persons that receive a substantial amount of funds associated with DEA undercover activity to determine what role, if any, they have in the illicit operations of DTOs.

Moreover, we believe the DEA should determine what, if any, action was taken on AGEO transactions that result in a DTO's purchase of high-risk items, such as vehicles, real estate, and aircraft, that facilitate DTO illicit activities. We found that between FY 2011 and FY 2017 eight separate AGEOs [REDACTED] associated with the DTOs' subsequent purchase of aircraft. Given the inherent risk of the DEA's AGEO activity furthering illegal drug trafficking through monetary support and facilitating the DTOs' purchase of aircraft, we evaluated two AGEOs involved in that activity. We found that these two AGEOs [REDACTED]. Accordingly, we requested that the DEA provide us with documentation of what, if any, action was taken to mitigate the risk of the DTO's use of these aircraft to perpetuate their crimes.

According to the DEA, of these [REDACTED], the DEA seized [REDACTED] and seized the funds associated with [REDACTED]. During our review of the DEA's support for these seizures, we found discrepancies in the adequacy of the documentation. In particular, although the DEA told us that a foreign partner conducted certain seizures, it did not have specific documentation to support the seizure, such as the verification that the aircraft had been seized and the date the seizure had occurred. In addition, upon reviewing information based upon the OIG inquiry, the DEA found another instance from 2016 of an [REDACTED]. However, the DEA officials responsible for this AGEO at the time of our audit could not find any documentation that agents responsible at the time the funds had been laundered had conducted investigative matters related to the aircraft. Our inquiries renewed the DEA's investigative interest in the aircraft.

While the DEA needs investigative flexibility to follow leads and evaluate investigative information, it also has a duty to ensure that the ultimate outcomes of the investigations outweigh the risks of its activities that contribute to DTOs' ability to traffic illegal drugs. In fact, AUSAs from the Southern District of New York (SDNY) told us that they had expressed concern to the DEA in 2015 that entities were not held accountable or investigated for their potential involvement in criminal money laundering schemes. According to these AUSAs, the DEA had not pursued this line of investigation because the DEA was focused on the results of individual AGEOs and not on identifying overlapping AGEO activity. These AUSAs told us that they approached the DEA to establish an initiative to identify the entities associated

with accounts that received substantial amounts of money via DEA undercover financial transactions.

In 2017, 2 years after the initial discussion, SDNY AUSAs partnered with the DEA's SOD and other federal law enforcement components to pursue potential prosecutions of complicit businesses involved in DTO money laundering activities. However, according to the AUSAs involved in this initiative, they have found that the AGEO case files do not always contain sufficient evidence supporting the connection of these entities to the underlying illicit drug trafficking. When we spoke with DEA officials about whether the DEA has evaluated this initiative to determine if and how it can incorporate a focus on the entities receiving laundered funds, they stated that in FY 2019 one DEA office coordinated with OGF and initiated investigations into several businesses suspected to be complicit in money laundering.

Although these efforts indicate that the DEA is striving to improve, the inconsistencies in investigative follow-up actions and formalized documentation noted above are indicative of insufficient oversight and can undermine the success of the DEA's AGEOs. We believe that the DEA should develop and execute a plan to strategically exploit its investigative information and evaluate connections between and among AGEOs to ascertain what businesses and entities were complicit in DTO money laundering activities in order to identify targets. To facilitate this, the DEA should improve its process for ensuring that its AGEO data is accurate, complete, and consistent in DARTS. In addition, the DEA should evaluate its current structure and determine its need for enhanced investigative resources and oversight of AGEOs to leverage DARTS information. Finally, the DEA should ensure that it sufficiently documents the actions and outcomes of significant AGEO-related investigative actions, especially when they involve a law enforcement partner.

The DEA Needs to Mitigate Risks associated with the Potential Overreliance on Confidential Sources in AGEOs

Throughout our audit, the DEA told us that CS involvement in AGEOs was critical to establishing connections and discerning the targets and structure within MLOs and DTOs. We found that DEA documentation associated with AGEO proposals indicated that the information provided and money laundering activities ██████████ to the development of cases that result in the establishment of Full AGEOs. We also noted that case agents emphasized the contribution of CS information in several AGEOs. For instance, a case agent explained that the initiation of one AGEO was the result of a CS ██████████. In another AGEO, the case agent informed us that the AGEO ██████████. In a third AGEO, the case agent told us that the strategy for the investigation was to not focus on a specific money laundering or drug trafficking target, but rather ██████████. We also found that the DEA ██████████ in order to further the operations and infiltrate the criminal enterprise.

Given the lack of consistent investigative follow-through on money laundering transactions and the risk that CSs may themselves be part of criminal conspiracies to launder drug proceeds, we believe that there is an enhanced potential that CSs may nefariously [REDACTED] personally benefit the CSs. For instance, we found an example where the DEA relied upon a CS who was an integral part of illicit money laundering networks. The SARC noted the following risks associated with using this CS: (1) the CS had previously committed multiple crimes, (2) the CS was under consideration for prosecution at the time the DEA used him as a CS, and [REDACTED] without prior DEA approval. The DEA agents presented this information to the SARC but also told the SARC that they had admonished the CS for the unauthorized illegal activity and that they would obtain corroborating evidence to reduce the likelihood of the CS having to testify in any subsequent prosecution. As a result, the SARC ultimately approved the proposed sensitive activities.

While these are just a few examples, we believe that the DEA's AGEO strategy may be overly reliant on CSs [REDACTED] inherently risky investigations. Historically, to determine if CSs were suitable for AGEO work the DEA relied on its standard CS vetting process, which does not include a review of financial accounts. However, in its April 2018 AGEO Policy, the DEA incorporated a requirement for case agents to perform financial checks on CSs involved in AGEOS and provide the results of the query to OGF. According to OGF officials, OGF keeps lists of CSs involved in each AGEO and monitors the financial information during their involvement with the AGEO. In addition, beginning in 2018, the DEA enhanced its annual AGEO compliance review process with a requirement for the overseers to interview CSs who worked on AGEOS to ensure that the AGEO is appropriately reporting CS involvement. We acknowledge the DEA's efforts to improve internal controls in this area, and recommend that the DEA formalize its CS-related AGEO processes in policy.

The DEA Must Accurately Track and Report AGEO Achievements

As required by Public Law 102-395, the DEA must document and submit a report to the Attorney General and Congress annually that conveys the number of initiated, active, and closed AGEOS. As previously noted, the DEA did compile and submit to the Attorney General an annual report, entitled "Annual Report on AGEOS" that contained a list of open, active, and closed AGEOS and an outline of closed AGEO enforcement statistics. However, the DEA could not provide evidence of sending the annual reports to Congress. An official in the DEA's Congressional Affairs Section stated that it was operating under the impression that the Office of the Deputy Attorney General (ODAG) had been submitting the DEA's reports to Congress; however, the OIG found that ODAG had not submitted the reports. Moreover, in a DEA memorandum to ODAG regarding the 2016 AGEO activities, the DEA stated, "DEA will transmit this report to Congress in 30 days." Based upon our audit finding of this reporting deficiency, in July 2018 the DEA submitted its 2017 Annual Report on AGEOS to Congress.

We reviewed the 2017 Annual Report, as well as the 2015 and 2016 Annual Reports on AGEOs that the DEA submitted to the Attorney General. We found that each of the reports contained inaccurate information. We compared a judgmental sample of accomplishments conveyed within the 2015, 2016, and 2017 reports on AGEOs to DEA internal documentation to verify the enforcement statistics related to the amount of drugs seized by type, the amount of assets seized, and the number of arrests that the DEA attributed to the AGEO.¹⁷ We found that the DEA's methodology for compiling AGEO enforcement statistics was inconsistent and imprecise because the DEA does not distinguish whether accomplishments resulted directly or indirectly from the AGEO. In compiling and reporting AGEO enforcement statistics, the DEA combined the results of the AGEO-specific activity with results that occurred in what DEA officials referred to as [REDACTED]

[REDACTED]
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We discussed this with the DEA SARC Chair, who stated that seizures are meant to deprive criminals of illicit proceeds, and therefore any seizure of illicit proceeds connected to the AGEO should be counted in the enforcement achievements. While we agree with the DEA regarding the importance of depriving criminals of ill-gotten gains and the inclusion of results from AGEO leads, we disagree with the way the information was presented because it had the potential to give a false impression of direct DEA investigative achievements and AGEO benefits.

In addition to the concerns identified above, we found specific instances of erroneous and duplicative AGEO achievement statistics reported in the annual report to the Attorney General between FY 2015 and FY 2017. The following examples highlight our concerns.

¹⁷ We selected a sample of six AGEOs to verify the accuracy of the information reported in the annual reports. Appendix 1 contains more details of our sample methodology.

¹⁸ [REDACTED]

Double-Counting

We identified that the DEA reported the seizure of the same aircraft valued at \$580,000 in two separate AGEOs. As described above, both AGEOs [REDACTED].

We established through discussions with case agents that the AGEOs had substantial interaction regarding the aircraft. When we reviewed seizure documentation, we found that this seizure was not a joint endeavor and was conducted within only one of these associated cases. Consequently, by double-counting this statistic, the DEA misrepresented enforcement actions of an AGEO. This duplicative statistic also demonstrates the investigative overlap between AGEOs and the need for greater coordination and review of reporting accomplishments.

Foreign Seizures

For an AGEO that operated from August 2012 to November 2017, the DEA reported that it laundered over \$10 million and seized almost \$13 million. However, a foreign government seized approximately

\$7 million of that amount. For another AGEO that operated from May 2012 to August 2017, the DEA reported that it laundered over \$19 million and seized more than \$107 million worth of assets. However, of the \$107 million, over \$52 million was connected to a foreign government's seizure of real estate and high value antiquities. The DEA's annual report regarding these achievements did not distinguish between direct DEA seizures and leads passed to other jurisdictions. As a result, these statistics could cause annual report readers to interpret the information as the DEA having seized more than the total amount of undercover transactions, whereas in reality the DEA seized only a portion of the funds laundered.

Calculation Error

In an AGEO that operated from October 2010 to April 2016, the DEA reported that it had seized over 115,000 kilos of cocaine. Yet, when we attempted to verify this, the DEA acknowledged that it misreported this figure by 100,000 kilos and attributed the mistake to a typographical error.

Significant Results

In an AGEO that operated from January 2011 to April 2017, the DEA reported 58 arrests. However, according to documentation we reviewed, several of those arrests were of designated, high-impact targets and there was no differentiation to identify this significant investigative accomplishment.

Given that the overarching goal of AGEOs is to gather evidence for the prosecution of high-level money launderers and drug traffickers identified as AGEO targets, we believe that reporting not only arrests, but also indictments of targets is relevant for Department officials and Congress to evaluate the success of the operations. During discussions with several AUSAs, we found that while the DEA or another law enforcement entity [REDACTED]

[REDACTED]. In particular, these AUSAs told us that when [REDACTED], Special Agents and lead AUSAs for AGEOs [REDACTED]

[REDACTED] However, because arrests alone may only briefly interrupt an individual's criminal activity, the action may do little to contribute to the AGEO's overarching purpose of disrupting and dismantling the noted targets. Therefore, the inclusion of arrest statistics should be accompanied by information describing prosecutorial action to increase the reliability and usefulness of the information in annual reports.

To effectively monitor its undercover activities and measure and report on AGEO success, we recommend that the DEA enhance the requirements for reauthorization of ongoing AGEOs to include transparency in the identification of

amounts laundered and specificity in the reporting of seizures and arrests. We believe that these requirements should include identifying the relationship between the funds laundered and the amounts seized (i.e., direct seizure, lead passed, foreign counterpart seizure). Moreover, with assistance from the USAOs, the DEA should begin tracking investigative and legal outcomes of the undercover activities performed during the authorized operation, including the results of prosecutorial referrals and [REDACTED]. Finally, we recommend that the DEA institute a method to verify enforcement statistics that must be reported to the Attorney General and Congress.

AGEO Activities Require Additional Oversight

As noted, AGEO activity necessitates an enhanced level of oversight because of the substantial risks associated with conducting authorized undercover illegal activities. The DEA's use of this authority is widespread and prolonged, especially in the Shelf and Border AGEOs. In fact, the DEA's AGEO undercover money laundering activities transcend state, continental, and virtual borders, of which the DEA must ensure relevant authorities are aware. The DEA must obtain concurrences and approvals from various entities across the Department, federal government, [REDACTED] for these activities. Yet, as discussed below, we found that the DEA did not ensure that these activities consistently received the necessary oversight and approvals. Moreover, the DEA did not develop an adequate framework to ensure that nuanced and emerging AGEO techniques involving virtual currency were implemented and managed appropriately.

The DEA and DOJ Need to Evaluate the DEA's Approval Structure for Cases in Shelf and Border AGEOs

As previously detailed, the DEA maintains Shelf AGEOs to provide its field offices the ability to conduct undercover money laundering transactions for investigations benefitting from this technique on a short-term basis. The DEA received Attorney General approval for its initial Shelf AGEO in 1996, and has used these documents as a template for the Shelf AGEOs active during our scope. As documented in the 1996 request, the DEA wanted a mechanism to, with approval at the Special Agent in Charge level, conduct a limited number of transactions within a [REDACTED] laundering cap. The DEA noted that this type of AGEO was necessary to appropriately respond to the sophistication and breadth of DTOs' illegal money laundering activities, as well as the need for the DEA field offices to respond quickly to investigative opportunities. In 2006, the DEA requested and received approval from the Criminal Division to broaden the authority of Shelf AGEOs. This approval removed the limitation on the number of transactions and, with DEA headquarters approval, allowed field offices to exceed the [REDACTED] laundering cap. According to the DEA, at approximately the same time, the DEA also initiated Border AGEOs to address bulk cash smuggling along the Southwest United States border. With approval from the SARC chair these AGEOs, which operate like Shelf AGEOs in that they can incorporate multiple cases, can use PGI to sustain the operations.

As discussed in the section entitled *The DEA Needs to Fully Comply with Statutory and Department Requirements*, we reviewed the consistency of the DEA's

AGEO operations with Department requirements for undercover operations within the AG FBI Undercover Guidelines. As such, we sought to determine whether the DEA's policies covering its Shelf and Border AGEOs, and activities occurring within them, were in line with the AG FBI Undercover Guidelines. We found that the previously approved structure of these AGEOs does not fit within the construct of the AG FBI Undercover Guidelines. Specifically, the AG FBI Undercover Guidelines establish enhanced approval thresholds for certain financial and sensitive aspects of undercover operations that do not align with the structure of these AGEOs, which involve multiple investigations. For example, the AG FBI Undercover Guidelines requires that the undercover review committee (i.e., DEA's SARC) approve each individual investigation that establishes, acquires, and utilizes a business entity; or conducts money laundering transactions involving an aggregate amount exceeding \$1 million. In contrast, the DEA's policies allow field offices to add investigations to the Shelf and Border AGEOs (which means those investigations would be utilizing banking institutions and business entities) with only internal DEA approval. The DEA policies also allow DEA headquarters to approve field offices to conduct up to [REDACTED] in money laundering transactions for investigations included in Shelf AGEOs, and the DEA does not impose specific limits on investigations within Border AGEOs, as the monetary cap for Border AGEOs is shared among all of the investigations in the Border AGEO.

In addition to this difference in approval requirements, the most recent Department approval for the Shelf and Border AGEO concepts specified that the SARC would conduct quarterly reviews of each of these AGEOs, which would include assessing the use of the accounts and the investigation inclusion requests. We found that the SARC Chair, a DEA employee, receives quarterly reports, but the DEA policy does not ensure that the full SARC (including Department representatives) reviews this information. In turn, the full SARC does conduct 6-month extension reviews for Shelf and Border AGEOs. However, despite the varying structures and nuances of the various types of AGEOs, DEA's policy for extensions does not differentiate Full AGEOs from Shelf or Border AGEOs. As a result, there is no policy that requires Shelf or Border AGEO extension requests to include information on the duration or transaction history specific to individual investigations.

The 2006 Shelf agreement with the Department stated that these AGEOs "are intended to be used on a short-term basis in order to allow for the initial assessment and accommodation of targets of opportunity." While DEA field offices generally used Shelf AGEOs for cases that required short-term financial-related undercover transactions, we also found instances of long-term and high-dollar investigations that were incorporated into both Shelf and Border AGEOs. The following table outlines these AGEOs, by type, that were active between FY 2015 and FY 2017 with high-dollar, long-lasting case activity.¹⁹

¹⁹ In performing this analysis we used the AG FBI Undercover Guidelines-designated thresholds of \$1 million and 1 year because, when conducted by the FBI, those operations require greater oversight.

Table 3
Shelf and Border AGEO Activity

DEA Field Division Operating the AGEO	FY Initiated	Total Years Active as of 09/2017	Cases incorporated in AGEO Between FYs 2015 and 2017			
			Active within AGEO	Transactions totaling over \$1 million	Open more than 1 year	Unique Cases over Thresholds ^a
Shelf AGEOs						
██████████	1995	22	█	█	3	5
██████████	2000	17	█	█	3	4
██████████	1997	20	█	█	1	4
██████████	1997	20	█	█	3	4
██████████	1999	18	█	█	1	2
██████████	1998	19	█	█	0	2
██████████	2000	17	█	█	1	1
██████████	2000	17	█	█	0	1
██████████	1999	18	█	█	1	1
██████████	2000	17	█	█	0	1
Totals			█	█	13	25
Border AGEOs						
██████████	2007	10	█	█	1	1
██████████	2006	11	█	█	0	1
Totals			█	█	1	2

^a Some DEA cases met or exceeded both the dollar and time thresholds depicted.

Source: OIG Analysis of DEA Border AGEO Data in DARTS

When we discussed the inconsistency between the AG FBI Undercover Guidelines and Shelf and Border AGEOs with the Acting DAAG in September 2018, this official indicated that case-specific information for AGEOs could provide the Department with useful insight into the effectiveness of these types of operations. Given the statement from the acting DAAG regarding the prudence of reviewing cases within Shelf and Border AGEOs, as well as the expansion of these AGEOs over the last 22 years, we believe that the Department must reevaluate whether the mid-2000s exemptions should remain and coordinate with the DEA on the results.

The DEA and DOJ Should Establish a Formalized Process to Ensure USAO Coordination and Concurrence for Cross-Jurisdictional AGEO Activities

According to the DOJ Risk Mitigation Policy Memorandum, USAOs are required to have a process for coordinating with other prosecutorial offices when sensitive investigative activities are likely to span jurisdictional boundaries. In our discussions with lead AUSAs assigned to some of the DEA's AGEOs, we were told that although these AUSAs were aware of cross-jurisdictional AGEO undercover activities, they generally did not coordinate with AUSAs in other USAOs. While the AUSAs may not have been doing the cross-jurisdictional coordination required by the DOJ Risk Mitigation Policy Memorandum, the DEA had a procedure in place to

obtain agreements, referred to as no-objection letters, from USAOs that might be impacted by an AGEO but for which the USAO was not leading the investigation.

To determine if the DEA obtained no-objection letters, we reviewed a judgmentally selected sample of 20 AGEOs where the DEA conducted undercover money laundering activities in [REDACTED]—districts that did not have any Full AGEOs operating within the jurisdiction but for which DEA documentation illustrated there was operational activity connected to AGEOs originating in other locations. We found that for AGEOs with activity [REDACTED], only 38 percent of the AGEOs had a documented no-objection letter from the USAO of the [REDACTED]. Similarly, for AGEOs with activity in [REDACTED], only 8 percent had a documented no-objection letter from the USAO of the [REDACTED]. We discussed this matter with AUSAs in both of these USAOs. These individuals stated that it was important for them to be aware of authorized undercover money laundering activity that was authorized to occur in their jurisdictions.

The DEA's April 2018 AGEO Policy formally incorporates the requirement that the DEA obtain no-objection letters and include these agreements in the documentation packages given to the SARC for initial and extension AGEO requests. However, according to DEA officials responsible for overseeing the SARC process, the SARC does not require field offices to provide the no-objection letters during requests for 6-month reauthorizations. Further, DEA case agents told us that they had a difficult time obtaining no-objection letters from USAOs outside the assigned jurisdiction of the AGEO. Given the requirement in the Risk Mitigation Policy Memorandum, we recommend that the Department determine whether the USAOs have implemented a formal process for coordinating with other prosecutorial offices when sensitive investigative activities, such as DEA AGEOs, are likely to span jurisdictional boundaries, as required by the Department Risk Mitigation Policy Memorandum.

The DEA Should Obtain Proper Written Concurrences for Transnational Activity

According to the DEA, DTO money laundering activities are inherently transnational. As such, with appropriate approval and coordination, the DEA may conduct undercover money laundering activities [REDACTED]. According to the DEA Agents Manual, prior to conducting an undercover transaction [REDACTED]

²⁰ In fact, the DEA policy notes that any [REDACTED]

²⁰ Although the DEA Agents Manual includes a process to initiate [REDACTED], DEA and DOJ officials told us that the Department [REDACTED]

[REDACTED], which requires SARC approval and can be considered illegal activity [REDACTED].

To verify that the DEA obtained appropriate concurrence, we selected a judgmental sample of 49 undercover money laundering transactions [REDACTED] associated with AGEOs that were active between FY 2015 and FY 2017.²¹ We found that the DEA did not ensure that its case agents maintained written concurrences in any of the AGEO files we reviewed as required and, therefore, did not have the concurrences readily available to review. When the DEA provided us with documentation, we found that for only one of these transactions, the DEA obtained written concurrence from the [REDACTED], which provided sufficient evidence that the DEA notified and received necessary approvals to conduct [REDACTED]. However, for the remaining 48 transactions, we found that the DEA relied on internal correspondence from DEA personnel [REDACTED] to the DEA AGEO case agents attesting to [REDACTED].

When we discussed the requirement for written concurrence with a Criminal Division official who assists the Department [REDACTED], we were informed that the Criminal Division considers the written approval requirement so important that it insisted on the inclusion of template language to obtain such concurrence in all AGEO proposals. According to this official, the decision of whether to approve an AGEO initiation or extension is, in part, based upon the Criminal Division's reliance on the DEA's attestation that it has obtained and documented all subsequent and necessary [REDACTED].

When we asked DEA officials about the suitability of the documentation we reviewed and the verification of concurrence, these officials stated that the internal correspondence from DEA personnel [REDACTED] were sufficient to comply with the requirements within the DEA Agents Manual. Yet, according to a Criminal Division official, sufficient documentation of these approvals should entail a formal record of conversation or memorandum that the DEA would maintain in the AGEO file. We believe the risks involved in conducting undercover illegal activity [REDACTED], including potential [REDACTED], demand that DEA personnel attempt to obtain direct evidence of concurrence and authorization to conduct such undercover activities, or develop and maintain thorough documentation memorializing the approvals.

Indeed, the DEA Inspections Division found several instances where DEA field offices had failed to obtain [REDACTED] undercover money laundering transactions. DEA Inspections Division officials told us that they have identified inadequate

²¹ We selected a judgmental sample of 22 percent of the [REDACTED]. Appendix 1 contains more details of our sample selection methodology.

documentation for [REDACTED] as a pervasive issue and conveyed to field offices the expectation for appropriate documentation.

We believe that the DEA should incorporate a formal process to account for approval from [REDACTED] when conducting undercover money laundering transactions [REDACTED]. DEA officials stated that it can be difficult to obtain written documentation from [REDACTED]

[REDACTED]. For this reason, it is the DEA's practice to accept and document verbal approval in the case file. While we understand that there are practical difficulties to overcome, the absence of formal written approval puts DEA special agents at substantial risk of being subject to [REDACTED]. The DEA may also unknowingly compromise [REDACTED]. Therefore, we recommend that the DEA enhance its process for transnational activity to ensure it maintains adequate documentation of required approvals and, thereby, protects DEA assets [REDACTED] when conducting [REDACTED].

Virtual Currency-Related Activities Need More Structured Procedures and Increased Oversight

Historically, the DEA's AGEO techniques have centered on traditional money laundering schemes involving bulk cash delivery and mainstream banking transfers. More recently, the DEA has identified that laundering of virtual currency is an emerging threat in the drug trafficking arena. According to a DEA official, in the past few years the DEA has seen an exponential increase in cases that involve virtual currency. To combat this emerging threat, [REDACTED] virtual currency transactions in these cases. In FY 2017, the DEA expanded these investigations into [REDACTED] Dark Web operations. During our review of virtual currency activity in AGEOS, we found that the DEA's management of virtual currency-related activities was insufficient due to inadequate headquarters management, lack of policies, inadequate internal control procedures, insufficient supervisory oversight, and lack of training. This deficiency occurred more than 2 years after a former DEA Special Agent was convicted of stealing \$700,000 in virtual currency during a joint task force investigation of the Dark Web marketplace Silk Road. While this investigation was not an AGEO, we are concerned that following this incident the DEA did not implement additional internal controls specifically related to investigations involving virtual currency.²²

We evaluated the full SARC review of the [REDACTED] AGEO proposals. Prior to approval, the DAAG received a briefing on cases involving virtual currency. According to documentation from the review of one proposal, the DAAG required the DEA to provide assurance on the specific Dark Web activities [REDACTED]. The DAAG expressed concern that through an AGEO, the DEA could conduct investigative activity involving virtual currency for

²² DOJ press release, "Former Secret Service Agent Sentenced to 71 Months in Scheme Related to Silk Road Investigation," posted December 7, 2015.

individuals who were not involved in the drug trade. The DEA acknowledged that there was no way to confirm that an individual [REDACTED] through the DEA AGEO was a drug trafficker or money broker. The DEA noted that if they determined at any point that an individual was not an appropriate "target," then the DEA would cease investigative activity and alert other appropriate law enforcement, if necessary. In response, the DAAG required the DEA to update an approved AGEO's operational plans to ensure that the authority provided under the Full AGEO involving virtual currency did not expand beyond the approved investigative activity. When we discussed this with the case agents, they stated that they remained cognizant of this requirement throughout their transactions.

We found the DEA devoted only two DEA headquarters employees within OGF to the DEA's Virtual Currency Initiative, which monitors and guides all cases and AGEOs that interact with virtual currency. According to Special Agents responsible for performing these transactions, there was no formal guidance to follow when [REDACTED]. As a result, they relied upon peers with previous experience for insight. In addition, Special Agents at one site told us that their DEA supervisor did not have access to [REDACTED] to monitor [REDACTED].

Moreover, despite the unique challenges of virtual currency laundering schemes, such as unknown fees and spontaneous currency fluctuations that are not present in traditional money laundering, the DEA did not create new processes and forms to conduct and document these undercover activities. Instead, the AGEO case agents used DEA forms designed for traditional money laundering transactions to document undercover [REDACTED] and evidence. Because [REDACTED] such as [REDACTED], there was significant potential for inconsistent handling. As a result, when we attempted to verify undercover [REDACTED], we could not reconcile this information because the AGEO case agents had not documented in sufficient detail all of the activities and transactions that had occurred. Additionally, we found that the DEA had not updated its DARTS module to accommodate the type of critical information [REDACTED]. When we spoke with the DEA about these issues, OGF indicated that the DEA was working internally to add these fields to DARTS in order to enhance [REDACTED]. While the additional fields would be an improvement to the DEA's oversight of this activity, we still believe that [REDACTED] without proper controls substantially increases the risk of fraud, waste, and abuse and detrimentally impacts DEA's investigative efforts.

In February 2018, the DEA promulgated a Virtual Currency Investigative Guide, which provides an overview of virtual currency and the Dark Web marketplaces, investigative techniques, and certain best practices to implement on internal controls. However, according to the DEA's Virtual Currency Staff Coordinator, this Guide is not meant to be policy, but rather guidance that can be swiftly updated to account for the volatile environment of Dark Web activity. We found that this Guide does not contain relevant and necessary information for how nuances [REDACTED], translate to the

historic, standardized OGF forms. We recommend that the DEA evaluate the resources devoted to administrative oversight of investigations involving virtual currency and establish policies setting firm internal controls, risk mitigation and deconfliction techniques, and appropriate record keeping practices.

AGEO Financial Activities

Because of the potential for fraud, waste, and abuse, the DEA's actions to conduct undercover money laundering transactions and acquire, collect, and use proceeds from these undercover activities require strong internal controls, such as complete financial records and an auditable trail of money movement. AGEO case agents told us that they believed some AGEO administrative requirements were overly burdensome, duplicative, and without obvious value. These requirements included quarterly activity reports, PGI acquisition and expenditures tracking and documentation, physical inventory procedures, and [REDACTED] measures. These requirements are necessary to the internal control process; however, without sufficient resources and appropriately designed procedures to perform and manage this work, the administrative demands may impact the effectiveness of operational aspects of the investigation. For instance, case agents expressed concern that balancing both administrative requirements and investigative work was challenging. Consequently, we believe that this may elevate the risk that agents are not pursuing leads or developing additional investigative strategies that contribute to the success of the AGEO. Through use of AGEOS, the DEA's records indicate that it generated over \$8 million in PGI and expended \$8.7 million between FYs 2015 and 2017. In general, we found that the DEA expended PGI we reviewed prudently, but the DEA's financial structure and controls were not adequate to deter and detect mismanagement of PGI. In addition, we found that the DEA conducted financial reviews of AGEO activities, but did not submit the audit results to the Attorney General or Congress as required by statute.

The DEA Should Implement Better Controls over AGEO Financial Activities

The DEA relied on an independent contractor to perform reconciliations of all AGEO-related financial activities and to compile monthly accounting records for each AGEO. This process was the cornerstone of the DEA's AGEO financial management and oversight processes, and the independent contractor has performed this accounting activity for more than 20 years. The DEA places great value on the work of the independent contractor. We found that the contractor had successfully accounted for the banking activity of all of the AGEOS that we reviewed, and we found no instances of unaccounted funds.

However, we also found that the independent contractor did not always receive complete details about the financial transactions that occurred. This resulted in inconsistent record keeping, improper accounting entries, and an inadequate audit trail within the financial records. Therefore, we could not always reconcile the independent contractor's financial records with the specific transaction information within the AGEO files.

In addition to the internal controls achieved through the use of independent bookkeeping, the DEA employed other controls and processes to oversee the financial activities of the AGEOs. However, the DEA's implementation of these controls and requirements were not completely effective in deterring and identifying the misuse of funds and inappropriate recordkeeping, as identified below.

Use of PGI

The DEA's ability to use PGI for reasonable and necessary expenses enhances the DEA's ability to support complex, transnational cases. By using funds for expenses such as undercover travel, sources of information, and equipment, AGEO case agents are able to further their investigations. We reviewed a judgmental sample of 12 AGEOs that were active during our review period and found that PGI expenditures were generally associated with the aforementioned categories of investigative costs. However, we identified a broader issue related to the DEA's management of PGI because we found instances where the DEA did not comply with the statutory and DOJ requirement to spend PGI only for operational expenses associated with the case that earned the PGI. Examples of this noncompliance are detailed below.

Transfer: We found that the DEA transferred more than \$221,000 in PGI from a closing AGEO to a new Full AGEO. According to the Special Agents responsible for this case, the new AGEO was related to the closing AGEO and they believed that it was appropriate to transfer the unused PGI. Further, information about the plan to transfer the PGI was included in the SARC proposal for the new AGEO, which was approved by the SARC and the DAAG. However, the transfer still did not comply with the authorizing statute and the Department's Risk Mitigation Policy Memorandum.

Misappropriations: We found two examples where field offices mistakenly spent PGI acquired from one AGEO on expenses associated with a different AGEO. In the first example, we found that a field office used PGI from one AGEO to pay expenses for two different Full AGEOs. In the other example, we found that a field office used PGI from a Full AGEO to pay expenses associated with a different Full AGEO and a case included in the Shelf AGEO.

Commingling: For Border AGEOs, the DEA did not always distinguish PGI earned in each case that was operating within the account. As a result, we found two examples where a field office continued to use PGI earned from cases that had already closed. For one Border AGEO, we identified a single bank account that contained more than \$66,000 in PGI at the end of FY 2017, yet the account included only one active case at the time and the DEA's records indicated it had earned approximately \$8,000. Therefore, the \$58,000 difference was associated with PGI earned in previous investigations and should have been forfeited. For another Border AGEO, we found that the field office deposited PGI earned from four different cases into a single bank account and did not distinguish the case that earned the PGI from the case that used the PGI.

Unauthorized Use: Once the DEA deems AGEO activity no longer necessary for the investigation, the field office also must no longer maintain PGI in an undercover bank account or use PGI for operational expenses. In turn, the DEA is required to forfeit these funds. We reviewed all AGEOs closed during our audit review period and found that 10 AGEOs maintained PGI in undercover bank accounts and expended a total of approximately \$200,000 in PGI after AGEO authorization ended.

We believe that the prohibition for the shared use of PGI among AGEOs is clear within the authorizing statute and the Department's Risk Mitigation Policy Memorandum. The DEA's Office of Chief Counsel also reiterated this policy in a February 2013 memorandum, which stated, "Expenses may be paid with the proceeds of the exempted operation if they are 'necessary and reasonable' and are incurred during the course of that AGEO..."

Because the aforementioned instances of PGI misuse occurred after the DEA's Chief Counsel disseminated this guidance and occurred in AGEOs operating throughout various field offices, we believe the DEA's internal controls to detect PGI-related noncompliance with laws and Department requirements are inadequate. Although the authorizing statute allows the DEA to use this income, Congress and the Department established restrictions to ensure that AGEOs were not conducting authorized undercover illegal activity solely to generate income.

In the April 2018 AGEO policy, the DEA recognized and corrected certain deficiencies and incorporated stronger requirements to prohibit the commingling of PGI within cases, enforce the establishment of separate PGI accounts, and specify that case agents can only use PGI under the specific case file that generated the PGI. Additionally, DEA officials told us that they were aware of the issues surrounding the expenditure of PGI after the expiration of AGEO authority and have been working with the SARC to obtain limited, authorized AGEO extensions in order to ensure its compliance with the authorizing statute. Indeed, if the DEA updates its practices to ensure that authorization is extended throughout the close-out period of the AGEO, this practice will comply with the law. Therefore, the DEA should update its AGEO oversight procedures to review PGI activity and confirm that PGI is not commingled, transferred, or misappropriated. In addition, the DEA should implement an internal control to ensure the use of PGI ceases when AGEO authorization expires.

Accountability for PGI Expenses

According to DEA financial information, between FYs 2015 and 2017 the DEA spent approximately \$8.3 million of PGI earned in Full and Border AGEOs. Of that amount, the DEA spent approximately [REDACTED]

[REDACTED] expenses. In general, we found that DEA headquarters identified and corrected inappropriate travel payments during its Annual Review process, and found that PGI expenses for the remaining categories were generally allowable.

However, we did find issues in the recordkeeping for both confidential source (CS) payments and equipment.

CS Payments: DEA utilizes its Confidential Source System Concorde (CSSC) to manage and record payments to CSs. When the DEA used PGI to pay CSs, these transactions required manual entry into the CSSC and we found this method to be insufficient to account for these payments. We reviewed all CS payment activity during our audit review period for a judgmentally selected sample of AGEOs; this activity amounted to 337 transactions totaling more than \$930,000. Almost 50 percent of the \$930,000 we reviewed were either not recorded or inaccurate in CSSC. This deficiency affects the DEA's ability to track annual (\$100,000) and lifetime (\$200,000) payment caps for its CSs. We believe that this is significant given that CS payments represent a high expense category in AGEOs and the OIG's previous findings associated with deficiencies in the DEA's tracking and oversight of payments to CSs.²³

Equipment: DEA and Department policy require that field offices maintain an inventory of property purchased with PGI for each AGEO. We found that there was not adequate control over items purchased. For example, DEA personnel informed us that one closed Full AGEO remained open from December 2015 to November 2017 because the DEA could not properly account for the almost 200 items purchased for the AGEO, which affected the DEA's requirement to forfeit these items. Additionally, we found that three AGEOs' inventory lists were incorrect or incomplete because they did not contain purchase of equipment that should have been recorded. We also found inventory items that were outdated and unused, yet had not been forfeited. Specifically, we found a Border AGEO that kept surplus equipment and property purchased with PGI from a previously closed investigation in a filing cabinet. We also found a Full AGEO that maintained 19 cell phones, but we were unable to verify the serial numbers because the phones were not activated. Without appropriate controls over inventory, the DEA heightens its risk of lost, stolen, or unnecessary purchases.

We believe these discrepancies resulted, in part, from the DEA inadequately implementing several internal controls that ensure its Special Agents understand and are complying with AGEO requirements. For example, although both the AG FBI Undercover Guidelines and the DEA Agents Manual require AGEO proposals to the SARC to include a detailed budget of how PGI will be expended, the SARC proposals we reviewed did not contain this information. As a result, the SARC did not have the opportunity to understand how the field office planned to use PGI to support the investigation. We also found that the DEA often did not conduct the DOJ-required review and training of financial administrative policies within the first 90 days after the SARC and the DAAG approve a Full AGEO. We reviewed the DEA's documentation of eight 90-day reviews and found that they occurred

²³ DOJ OIG, *Audit of the DEA's Confidential Source Policies and Oversight of Higher-Risk Confidential Sources*, Audit Division 15-28 (July 2015) and *Audit of the DEA's Management and Oversight of its Confidential Source Program*, Audit Division 16-33 (September 2016).

between 118 and 232 days after the Full AGEO was approved. In addition, the DEA did not have a formal requirement for conducting 90-day reviews for cases within the Border AGEOs. Finally, although the Department Risk Mitigation Policy Memorandum specifically requires DOJ components to have headquarters units conduct a quarterly review of AGEO expenses, the DEA did not comply with this requirement. Instead, DEA headquarters reviewed AGEO financial activity on an annual basis and field supervisors performed a monthly review of expenses.

We believe that the DEA must improve its processes for reviewing AGEO activity and training personnel on PGI requirements, in particular tracking PGI used to pay CSs and appropriately managing AGEO inventory. Without adequate internal control procedures to account for PGI purchases and expenditures, the DEA is susceptible to fraud, waste, and abuse. According to the DEA, it has updated its annual review process to incorporate additional controls over the use of PGI. While we acknowledge this improvement, we recommend that the DEA implement the preventative and detective internal controls over PGI (developing PGI spend plans, timely 90-day reviews, and quarterly headquarters examination of financial activity) as prescribed by the Department's Risk Mitigation Policy Memorandum, the AG FBI Undercover Guidelines, and the DEA's Agents Manual.

The DEA Needs to Improve Compliance with Requirements for Safeguarding Undercover Information

In undercover operations, the DEA [REDACTED] This law enforcement technique is called [REDACTED]

[REDACTED] We found that the DEA did not always take adequate measures to [REDACTED].

We examined the establishment, maintenance, and oversight of [REDACTED] of selected AGEOs to determine if the DEA appropriately complied with requirements and safeguards to [REDACTED]. Through our review of this information and our review of expenditures, we found four AGEOs where [REDACTED]. These payments were reimbursements for expenses, primarily travel-related, [REDACTED] incurred during the course of AGEO activity. [REDACTED]

[REDACTED]. Similarly, we found one AGEO where a Supervisory Special Agent used [REDACTED] to complete an application for an [REDACTED]. By using [REDACTED]

Finally, in one Border AGEO, we identified an [REDACTED] for which there was [REDACTED]

[REDACTED] After we alerted the DEA of this deficiency, the Supervisory Special Agent took appropriate steps to [REDACTED]

[REDACTED] are safeguarded against loss and misuse.

In addition to the issues we identified, we found that annual DEA inspections of AGEOs have identified non-compliance issues associated with [REDACTED]. To correct this issue, the DEA's April 2018 AGEO policy includes enhanced controls for [REDACTED], including requiring a specific headquarters unit to manage these matters. We believe that the updated policies and procedures are an improvement to the DEA's administration of its [REDACTED] for AGEOs.

CONCLUSION AND RECOMMENDATIONS

According to DOJ and the DEA, money is the lifeblood of DTOs, and adequately disrupting and dismantling these organizations often requires targeting and infiltrating DTOs' financial infrastructures through AGEOs. According to the Department, these AGEOs have resulted in some of the most successful drug-related seizures, arrests, and prosecutions. Despite these reported successes, it is important to recognize that the DEA's active involvement in authorized undercover illegal activity to assist DTOs in laundering drug trafficking proceeds can contribute to DTOs' basic ability to operate. While the ultimate goals of prosecuting drug traffickers and dismantling DTOs support the DEA's mission, the collateral consequence of assisting the basic operation of DTOs does not. The DEA estimates that the drug trafficking industry in the United States accounts for \$64 billion in annual activity and in the last 3 years, [REDACTED]. While this amount is a small percentage of overall activity, any contribution to these DTOs connects the DEA to potentially violent and corrupt transnational entities that further the flow of drugs into the U.S. Although AGEOs can be an effective law enforcement tool, the DEA and DOJ must improve guidance, oversight, and management of AGEOs to ensure that the benefits outweigh the risk of the DEA engaging in authorized illegal activities.

We found that the DEA did not appropriately mitigate risks associated with its AGEO activities because it did not consistently comply with statutory and Department requirements to implement effective controls, safeguards, and oversight. Although the DEA attests to having a robust risk assessment process related to its AGEOs, we found that the DEA did not appropriately document its assessment of the substantial risks of laundering activity with DTOs and did not consistently employ important risk mitigation techniques. In fact, various Department and DEA officials conveyed the idea of letting money "walk" is not as inherently risky as letting drugs or guns "walk." Consequently, we identified risks associated with limited investigative and prosecutorial follow-up on the investigative information obtained through AGEOs to identify, monitor, and investigate entities involved in illicit money laundering schemes.

Moreover, we found that the DEA lacked appropriate approval methods for AGEO operations, which limited the Department's ability to perform adequate oversight of AGEO activity to ensure that the DEA was not overextending its authority or placing its personnel, assets, or the Department in a perilous situation unnecessarily. For instance, the DEA's process for identifying and reviewing substantial changes in the scope of AGEO activity that would necessitate Department evaluation and support was inconsistent with existing Department policy for undercover operations. Additionally, although the DEA did report enforcement statistics to the Attorney General, we found that the DEA implemented a flawed process for tracking and compiling enforcement statistics, which affected the accuracy and legitimacy of these statistics, and did not send its reports to Congress, as required by public law. We also identified that the DEA's controls and processes for ensuring that its activities receive necessary concurrence from USAOs [REDACTED], when appropriate, were not effective. As a result, the

DEA may have unnecessarily compromised the safety of its personnel, the effectiveness of the operations, [REDACTED].

Further, while the AGEO authorizing statute grants the DEA the ability to use the income generated from authorized undercover activity to support the operations in the AGEO in which the income was earned, we found that the DEA inappropriately allocated PGI to cases and operations that did not generate the income, which the statute prohibits. We also noted that the DEA did not prudently maintain records for PGI expenditures.

The totality of these deficiencies highlight significant concerns related to the adequacy of the practices and oversight associated with the DEA's AGEOs. We believe that that the DEA should review its AGEOs as a program to effectively and consistently manage these sensitive investigative operations. The DEA needs to enhance oversight and management of AGEOs to ensure that the investigations are properly targeted, undercover activities are appropriately safeguarded, and financial requirements are adequately implemented. Throughout the course of our audit work, we informed DEA officials about our findings and concerns, and make the following recommendations for the DEA to improve its oversight and management of its AGEOs.

We recommend that the DEA:

1. Formalize a procedure to develop, verify, and disseminate all required AGEO financial and performance reports to Congress and the Attorney General, as outlined in the authorizing statute, to bring it in compliance with the law. In addition, these reports should provide appropriate context for the statistics associated with AGEOs so that direct and indirect accomplishments are clearly identified and can be assessed separately.
2. Implement a process through which field offices establish specific, actionable, and measurable goals for each AGEO that are clearly presented to the SARC.
3. Implement a process through which the SARC documents its robust examination of each AGEO's duration, any significant periods without undercover activity, and accomplishment of goals.
4. Ensure that AGEO 6-month reauthorization requests are submitted to the DAAG for review and approval, as required by the Department.
5. Develop a process for field offices to submit formal requests for SARC evaluation and DAAG approval for any change in either the direction or objectives of an approved undercover operation, including the addition or removal of high-level AGEO targets.
6. Evaluate DARTS to ensure that AGEO data is accurate, complete, and consistent and determine the need for enhanced investigative resources and oversight of AGEOs to leverage DARTS information.

7. Develop and execute a plan to strategically exploit investigative information and evaluate connections between and among AGEOs to identify additional investigative targets (i.e., businesses and entities complicit in DTO money laundering activities).
8. Ensure that DEA personnel sufficiently document the actions and outcomes of significant AGEO-related investigative actions, especially when these actions involve a law enforcement partner.
9. Formalize in policy additional vetting procedures and oversight processes of CSs used in AGEOs.
10. Enhance the requirements for reauthorization requests of ongoing AGEOs to include transparency in the identification of amounts laundered and specificity in the reporting of seizures, including the relationship between the funds laundered and the amounts identified as seized (i.e., direct seizure, lead passed, foreign counterpart seizure).
11. Begin tracking investigative and legal outcomes of the undercover activities performed during the authorized operation, including the results of prosecution referrals resulting from investigative leads.
12. Enhance the process related to transnational activity to ensure it maintains adequate documentation of required approvals.
13. Evaluate the resources devoted to administrative oversight of investigations involving virtual currency and establish policies setting firm internal controls, risk mitigation and deconfliction techniques, and appropriate record keeping practices.
14. Update AGEO oversight procedures to review PGI activity and confirm that PGI is not commingled, transferred, or misappropriated. In addition, the DEA should implement an internal control to ensure the use of PGI ceases when AGEO authorization expires.
15. Implement the preventative and detective internal controls over PGI (developing PGI spend plans, timely 90-day reviews, and quarterly headquarters examination of financial activity) as prescribed by the Department's Risk Mitigation Policy Memorandum, the AG FBI Undercover Guidelines, and the Agents Manual.

We recommend that the Department:

16. Formally determine whether the policies within the AG FBI Undercover Guidelines apply, in their entirety or in specific instances, to all DOJ law enforcement components; or if the Department must issue new guidance to govern undercover operations that are initiated by DOJ law enforcement components outside of the FBI.

17. Ensure that the DEA's policies reflect necessary measures and controls stipulated in applicable Department undercover guidance.
18. Evaluate and determine whether the 2006 DAAG exemptions for Shelf and Border AGEOs, given requirements in Department-wide guidance on undercover operations, should remain and coordinate with the DEA on the results.
19. Determine whether the USAOs have implemented a process for coordinating with other prosecutorial offices when sensitive investigative activities, such as DEA's AGEOs, are likely to span jurisdictional boundaries, as required by the Department Risk Mitigation Policy Memorandum.

STATEMENT ON INTERNAL CONTROLS

As required by *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 DEA's internal controls was *not* made for the purpose of providing assurance on its internal control structure as a whole. DEA management is responsible for the establishment and maintenance of internal controls.

Throughout our audit, we identified deficiencies in the DEA's internal controls that are significant within the context of the audit objectives. Based upon the audit work performed, we believe the deficiencies identified adversely affect the DEA's ability to ensure that AGEOs are appropriately and adequately managed. These matters are discussed in detail in the Audit Results section of this report.

Because we are not expressing an opinion on the DEA's internal control structure as a whole, this statement is intended solely for the information and use of the DEA. This restriction is not intended to limit the distribution of this report, which is a matter of public record. However, we are limiting the distribution of this report because it contains sensitive information that must be appropriately controlled.²⁴

²⁴ A redacted copy of this report with sensitive information removed will be made available publicly.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices, to obtain reasonable assurance that the DEA's management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. DEA's management is responsible for ensuring compliance with applicable federal laws and regulations. In planning our audit, we identified the following laws, regulations, and Department policies that concerned the operations of the DEA that were significant within the context of the audit objectives:

- Public Law 102-395
- Attorney General Guidelines on the FBI's Undercover Operations
- Baseline Risk Assessment and Mitigation Policies for Law Enforcement Operations in Criminal Matter

Our audit included examining, on a test basis, DEA's compliance with the aforementioned laws, regulations, and Department policies that could have a material effect on DEA's operations. We did so by examining DEA's policies and procedures and comparing DEA's practices to the laws and regulations. We also interviewed DEA and DOJ personnel, assessed internal control procedures and management practices, and reviewed AGEO files at DEA headquarters and on-site at eight field offices.

As noted in the Audit Results section of this report, we found that the DEA did not comply with all the requirements in the authorizing Public Law nor the Department's policies. We outline the specific requirements that DEA did not adhere to in Appendix 2.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to evaluate the management and oversight of the Drug Enforcement Administration's (DEA) Attorney General Exempt Operations (AGEO), to include the initiation and classification of these operations, the controls over and use of funds during operations, and the disposal of proceeds at the conclusion of these operations. To accomplish these objectives, we conducted over 80 interviews with Department of Justice (Department or DOJ) and DEA personnel, including task force officers. We also interviewed 13 Assistant United States Attorneys who have participated or collaborated with the DEA on various AGEOs.

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

We identified and reviewed the [REDACTED] AGEOs that were active between fiscal years (FY) 2015 and 2017; we reviewed activity throughout the life of these AGEOs. We conducted an assessment to perform detailed audit tests on AGEOs we considered high-risk based on several factors, including:

- the materiality of money laundered,
- the project generated income (PGI) identified by DEA,
- the type of AGEO (Shelf, Full, or Border),
- whether the AGEO was reported closed to the Attorney General,
- findings identified during reviews performed by the DEA Inspections Division, and
- the prevalence of high-risk or sensitive activities, such as the use of confidential sources.

Our selection resulted in our review of AGEOs and performance of audit fieldwork in the [REDACTED]

[REDACTED] We performed evaluations of legal and regulatory compliance and functionality of AGEO processes, specifically over the proper initiation of AGEOs, the required performance and financial reporting, the approval and recordkeeping of undercover money laundering activity, the use of PGI, and the activities to close out the operations. We provided the DEA with information associated with specific AGEOs we reviewed, but did not include these details in the report due to the sensitivity of these operations.

To determine whether the DEA appropriately developed and used its AGEO authority, we evaluated the DEA's establishment of the types of AGEOs in comparison to the requirements in the legal statute. We also reviewed the activities of the Sensitive Activities Review Committee (SARC) for all AGEOs presented before the SARC between FY 2015 and 2017. Further, we selected a judgmental selection of seven AGEOs to review the proposal submitted to the SARC to gain an understanding of the goals and objectives of these AGEOs.

To evaluate the required performance and financial reports, we reviewed reported quarterly and semi-annual information for accuracy and appropriateness to ensure those charged with oversight had adequate insight into the operations. Additionally, we reviewed the DEA's Annual Reports submitted to the Attorney General for Calendar Year (CY) 2015 through 2017 to assess the methods the DEA implemented to compile and report AGEO success.

In order to ensure that undercover money laundering activity obtained the appropriate approval, we reviewed information in the DEA's Analysis and Response Tracking System (DARTS), which tracks qualitative and quantitative data associated with the DEA's undercover money laundering transactions. Specifically, we reviewed information regarding case activity and origin of money laundering transactions for AGEOs operating within our review period. We evaluated certain individual cases included in Shelf and Border AGEOs to ensure that those cases were approved at an appropriate level. We also reviewed specific money laundering activity of those AGEOs operating across jurisdictional boundaries. We also selected two prosecutorial districts to evaluate the DEA's documented coordination with the United States Attorneys' Offices. Additionally, we selected a judgmental sample of 22 percent of the [REDACTED] [REDACTED] during our review period to ensure that the DEA documented approval internally from the DEA, [REDACTED].

We also performed a review of the DEA's financial AGEO information. We conducted a cursory examination of DEA AGEO financial information related to our scope. We selected transactions within certain AGEOs to evaluate the adequacy of financial statements, the traceability of transactions, PGI expenditures, and whether offices used appropriate [REDACTED]. Specifically, we reviewed total PGI expenses for certain AGEOs for FY 2015 to FY 2017 to determine whether the PGI expenses were reasonable and necessary to the case and whether the information was accurately recorded and tracked. However, we did not design our sample using a statistical method that would have allowed a projection of the test results to the universe of AGEOs. Therefore, we reported our results from specific instances of occurrence only.

Throughout our audit, we obtained information from DARTS. We assessed the reliability of data contained within the money laundering module of DARTS by: (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing auditee officials knowledgeable about the data. We selected a judgmental sample of almost five percent of the authorized undercover money

laundering transactions in our review period to test the reliability of the data. The results of our testing showed that the data elements key to our review contained a moderate percentage of errors. Therefore, we determined that the data was not sufficiently reliable for the purposes of determining the characterization of DEA's exact authorized undercover money laundering activity, the PGI earned, or the amount seized. As a result, whenever we used data in DARTS, we sought corroborating audit evidence prior to making conclusions.

Finally, we evaluated the AGEO close-out process to ensure that the DEA appropriately disposed of assets to the Assets Forfeiture Fund and closed out financial and legal entities associated with the AGEO.

Consolidated Listing of DEA Non-Compliance or Inconsistency with Statutory and Department Requirements

Source	Requirement	Issue	Page Number
PL 102-395, Section 102(b)3	“As soon as the proceeds from an undercover operation with respect to which an action is authorized and carried out...are no longer necessary for the conduct of such an operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.”	Instances of non-compliance	33
PL 102-395, Section 102(b)(5)(A)	The DEA “shall conduct a detailed financial audit of each undercover investigative operation which is closed...[and] (i) submit the results of such audit in writing to the Attorney General, and (ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.”	Not reported to the Attorney General or Congress	11
PL 102-395, Section 102(b)(5)(B)	The DEA shall “also submit a report annually to the Congress specifying as to [its] undercover investigative operations – (i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period preceding the period for which such report is submitted, (ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and (iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained.” ²⁵	Not reported to Congress	11
Department Risk Mitigation Policy Memorandum	Any extension shall be “for no more than 6 months at a time, and must be approved by the Attorney General, or his/her designee. The extension review and approval process should evaluate those additional objectives to be accomplished through the extension.”	DAAG approval not consistently sought	12

²⁵ “With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the [AG FBI Undercover Guidelines], such report shall contain a detailed description of the operation and related matters, including information pertaining to (I) the results, (II) any civil claims, and (III) identification of such sensitive circumstances involved that arose at any time during the course of such undercover operation.” PL 102-395, Sec. 102(b)(5)(B).

Department Risk Mitigation Policy Memorandum	"A requirement that agency headquarters conduct a review of an investigation involving PGI within 90 days after income was first generated."	Not conducted within required time frame	35
Department Risk Mitigation Policy Memorandum	"A requirement that agency headquarters review PGI financial reports on a quarterly basis, to include documentation supporting all PGI proceeds and approved expenditures."	Not conducted within required timeframe	36
Department Risk Mitigation Policy Memorandum	"A training requirement for all personnel participating in investigations involving PGI - personnel at both headquarters and the field operations level - that covers the agency's PGI policies and guidelines."	Not required for all Special Agents conducting AGEOS	35
AG FBI Undercover Guidelines	Submit to the "Attorney General, the Deputy Attorney General, and the Assistant Attorney General in charge of the Criminal Division a written report annually summarizing: (a) the types of undercover operations approved and disapproved together with the reasons for disapproval; (b) the major issues addressed by the Committee in reviewing applications and how they were resolved; and (c) any significant modifications to the operations recommended by the Committee."	Not reported to the Attorney General or Congress	11
AG FBI Undercover Guidelines	Inclusion of a statement in the application to Headquarters of the "period of time for which the operation would be maintained."	Not included	13
AG FBI Undercover Guidelines	Review by the Undercover Review Committee if there is significant change in either the direction or objectives of an undercover operation previously approved to determine whether a new authorization is necessary.	Not documented	15
AG FBI Undercover Guidelines	Undercover Review Committee must approve each individual investigation that establishes, acquires, and utilizes a business entity; or conducts money laundering transactions involving an aggregate amount exceeding \$1 million.	Not conducted for Shelf and Border AGEOS	11

THE DRUG ENFORCEMENT ADMINISTRATION'S RESPONSE TO THE DRAFT REPORT



U. S. Department of Justice
Drug Enforcement Administration

www.dea.gov

Washington, D.C. 20537

May 22, 2020

MEMORANDUM

TO: Carol S. Taraszka
Regional Audit Manager
Chicago Regional Audit Office
Office of the Inspector General

FROM: Mary B. Schaefer *Mary B. Schaefer*
Chief Compliance Officer
Office of Compliance

SUBJECT: DEA's Response to the OIG's Report: "*Audit of the Drug Enforcement Administration's Income-Generating, Undercover Operations*"

The Drug Enforcement Administration (DEA) has reviewed the Department of Justice (DOJ) Office of the Inspector General's (OIG) report entitled, "*Audit of the Drug Enforcement Administration's Income-Generating, Undercover Operations.*" DEA appreciates the OIG's assessment of this critical tool in the fight against drug trafficking organizations. While the report rightly identifies areas for improvement, we believe that it is also important to highlight the positive progress that DEA has made in the last several years to improve its Attorney General Exempted Operations (AGEO) program, to include enhanced oversight of this valuable enforcement tool.

Beginning on or about 2017, DEA engaged in an evaluation of its AGEO program. That review resulted in clearer policy, improved protocols, and additional oversight. In April 2018, DEA disseminated a new AGEO policy that codified a wide range of practices, procedures, and oversight mechanisms. The policy clarified and delineated protocol for most aspects of the AGEO program including: step by step guidance on the AGEO proposal, renewal, and closing process; management oversight and documentation requirements; quarterly and bi-annual reporting requirements; and annual audits and corrective actions, to include external auditing by contract accountants. In addition to this policy implementation, DEA also initiated a series of regular AGEO training conferences for investigators. These conferences are held at least annually and are used to highlight policy and process and to discuss best practices.

Consequently, while DEA acknowledges a need for improvement in the areas noted in the OIG's report, it is important to note that the audit review period (FY 2015-FY 2017) selected by the OIG is prior to many of the changes that DEA put in place in early 2018. Indeed, significant progress has been made in recent years and that effort continues today. DEA recently finalized an update to the April 2018 AGEO policy. The April 2020 policy continues to build upon the progress DEA has made to improve its AGEO program and addresses several of the recommendations made by the OIG in this report. Multiple new initiatives are also being developed to enhance the Sensitive Activity Review Committee (SARC) process, improve reporting, utilize AGEO data more efficiently, develop investigative leads, and facilitate enforcement operations. These policy updates and initiatives to improve DEA's AGEO program are discussed in each response to the OIG recommendations below.

OIG made a total of nineteen recommendations in this report, in which fifteen recommendations were directed to DEA. DEA provides the following responses to OIG's recommendations:

Recommendation 1. Formalize a procedure to develop, verify, and disseminate all required AGEO financial and performance reports to Congress and the Attorney General, as outlined in the authorizing statute, to bring it in compliance with the law. In addition, these reports should provide appropriate context for the statistics associated with AGEOs so that direct and indirect accomplishments are clearly identified and can be assessed separately.

DEA RESPONSE

DEA concurs with the recommendation. The Deputy Chief of Operations (OD), Office of Domestic Operations will be responsible for ensuring that all required AGEO financial and performance reports are submitted to Congress and the Attorney General in accordance with PL-102-395, hereafter called "the AGEO statute." The AGEO statute was permanently codified in 1996 as part of the Antiterrorism and Effective Death Penalty Act. The Financial Investigations Section (ODF), in collaboration with the Sensitive Activity Review Section (ODN), will submit the appropriate reports to OD for his review, approval, and submission to both Congress and the Attorney General. Indeed, DEA's most recent annual report was submitted to Congress and to the Attorney General in January 2020. The revised AGEO policy incorporates the mechanisms (deadlines for field reporting to Headquarters, report submission to OD, and report dissemination to Congress and the Attorney General) by which ODF will insure both the complete and timely reporting to Congress and the Attorney General. Beginning in January of 2019, ODF also implemented a new module to track enforcement statistics. ODF will be responsible for reviewing these submissions and drawing all statistical data needed to aid in preparing the report to Congress and the Attorney General.

Recommendation 2. Implement a process through which field offices establish specific, actionable, and measurable goals for each AGEO that are clearly presented to the SARC.

DEA RESPONSE

DEA concurs with the recommendation. AGEO proposals now require additional information,

including specific, actionable, and measurable goals. DEA will consult with DOJ and determine if any additional protocols should be added regarding the establishment of the parameters of proposed AGEO operations and provide OIG with documentation of the revised process.

Recommendation 3. Implement a process through which the SARC documents its robust examination of each AGEO's duration, any significant periods without undercover activity, and accomplishment of goals.

DEA RESPONSE

DEA concurs with the recommendation. The SARC conducts bi-annual reviews of all AGEOs. Each member of the SARC conducts a review of the AGEO with respect to his/her area of expertise and responsibility. This includes a review by DEA's Office of Inspections, Office of Chief Counsel, and ODF. Any concerns raised by the SARC are addressed directly with the field office, and when appropriate, documented within the reauthorization request. DEA will consult with DOJ and determine if any additional protocols should be added that enhance oversight and document the progress of the specific goals of the investigations. DEA will provide provide OIG with documentation of this consultation and any revised processes.

Recommendation 4: Ensure that AGEO 6-month reauthorization requests are submitted to the DAAG for review and approval, as required by the Department.

DEA RESPONSE

DEA concurs with the recommendation. DEA has consulted with the Deputy Assistant Attorney General (DAAG), who is working with DOJ members of the SARC and the Office of the Deputy Attorney General (ODAG) to develop internal guidance addressing the review of AGEO bi-annual reauthorization requests. The three sections of the Criminal Division responsible for overseeing AGEOs will coordinate with the DAAG and provide updated DOJ guidance on the review of AGEO 6-month extensions. DEA will implement the new guidance and provide OIG with documentation of the revised process.

Recommendation 5. Develop a process for field offices to submit formal requests for SARC evaluation and DAAG approval for any change in either the direction or objectives of an approved undercover operation, including the addition or removal of high-level AGEO targets.

DEA RESPONSE

DEA concurs with the recommendation. DEA is currently consulting with the DAAG and members of the SARC, who are coordinating with ODAG, to assess the process of evaluating changes in the direction or objectives of approved undercover operations, including the addition or removal of high-level AGEO targets. DEA will implement any new guidance developed as a result of these deliberations and provide OIG with documentation of the assessment or revised process.

Recommendation 6. Evaluate DARTS to ensure that AGEO data is accurate, complete, and consistent and determine the need for enhanced investigative resources and oversight of AGEOs to leverage DARTS information.

DEA RESPONSE

DEA concurs with the recommendation. Since September 2019, ODF has been working with the DEA Office of Information Systems (TC) and has requested several changes to DARTS. These changes will help minimize inaccuracies and ensure ODF Staff Coordinators have complete and accurate information in order to provide improved oversight in undercover investigations. The overall DARTS portal is undergoing significant changes. In the short term, TC has proposed making immediate fixes in DARTS; in the long term, ODF will collaborate with TC on a plan to upgrade the module. DEA also concurs with the need for enhanced investigative resources and increased leverage of DARTS information.

Recommendation 7. Develop and execute a plan to strategically exploit investigative information and evaluate connections between and among AGEOs to identify additional investigative targets (i.e., businesses and entities complicit in DTO money laundering activities).

DEA RESPONSE

DEA concurs with this recommendation. In October 2019, ODF organized a meeting of DEA personnel and other members of the DOJ law enforcement community to discuss strategic enforcement initiatives based upon the OIG's recommendations and properly address them going forward. DEA will provide the OIG with a list of initiatives implemented as a result of this collaboration.

Recommendation 8. Ensure that DEA personnel sufficiently document the actions and outcomes of significant AGEO-related investigative actions, especially when these actions involve a law enforcement partner.

DEA RESPONSE

DEA concurs with this recommendation. ODF has developed a new module that delineates seizures stemming from various enforcement activities. This new module will be included in all bi-annual reauthorization applications, all reports, and will help standardize statistical reporting across the program. In addition, beginning in 2020, DEA will sponsor two annual AGEO Administrative Conferences in which guidance on documentation of enforcement actions involving a law enforcement partner will be provided to the field.

Recommendation 9. Formalize in policy additional vetting procedures and oversight processes of [Confidential Sources] (CSs) used in AGEOs.

DEA RESPONSE

DEA concurs with this recommendation. The April 2018 AGEO policy requires the group managing the investigation to perform quarterly checks on all CSs. The Office of Inspections (IN) then verifies this information. IN also reviews all information and conducts independent reviews of account information. The DEA will continue to review this process and will apprise the OIG of any additional policy changes made to further formalize the CS vetting and oversight process.

Recommendation 10. Enhance the requirements for reauthorization requests of ongoing AGEOs to include transparency in the identification of amounts laundered and specificity in the reporting of seizures, including the relationship between the funds laundered and the amounts identified as seized (i.e., direct seizure, lead passed, foreign counterpart seizure).

DEA RESPONSE

DEA concurs with the recommendation. The statistical summaries for reauthorization requests and quarterly reports now break seizures down by the investigating group and other distinguishing criteria. The DEA will provide documentation of this change to the OIG.

Recommendation 11. Begin tracking investigative and legal outcomes of the undercover activities performed during the authorized operation, including the results of prosecution referrals resulting from investigative leads.

DEA RESPONSE

DEA concurs with this recommendation. The new module referenced within the response to Recommendations 8 will also require reporting of prosecutorial outcomes in addition to enforcement statistics. In addition, DEA will disseminate detailed guidance on this matter to the field during its two AGEO Administrative Conferences to be held this year.

Recommendation 12. Enhance the process related to transnational activity to ensure it maintains adequate documentation of required approvals.

DEA RESPONSE

DEA concurs with this recommendation. Under the recently updated AGEO policy, written documentation of all required approvals must be obtained prior to authorization of all operations. The written documentation for all operations must be maintained in the transaction file for the approved operation and IN will verify that this was done during their periodic reviews. A written sample of the format will be disseminated to the field by ODF. In addition, DEA disseminated this updated policy directly to all Office Heads to ensure the offices are cognizant of the policy and the need to maintain proper documentation of approvals received. These changes will also be addressed during the two AGEO Administrative Conferences referenced above.

Recommendation 13. Evaluate the resources devoted to administrative oversight of investigations involving virtual currency and establish policies setting firm internal controls, risk mitigation and deconfliction techniques, and appropriate record keeping practices.

DEA RESPONSE

DEA concurs with this recommendation. In 2018, the DEA conducted a review of its cyber investigative needs, to include virtual currency investigations. In January 2019, DEA established a cyber-section that works to coordinate across all cyber-enabled components within headquarters and in the field. The section has received staffing authority to meet DEA's needs. DEA will provide the OIG with documentation of this section and its responsibilities. DEA has also developed appropriate methodologies to control and audit undercover transactions as they relate to virtual currency. For several years, DEA has maintained a series of standard operating procedure guides that address various aspects of investigations involving virtual currency. As advancements in technology have occurred over the years, these guides have been updated. The most recent updates were completed in June and October 2019, respectively. To complement this guide, an overarching policy is currently being developed and will ultimately be incorporated into the DEA AGEO Policy. The DEA will provide documentation of these changes once they are complete.

Recommendation 14. Update AGEO oversight procedures to review PGI activity and confirm that PGI is not commingled, transferred, or misappropriated. In addition, the DEA should implement an internal control to ensure the use of PGI ceases when AGEO authorization expires.

DEA RESPONSE

DEA concurs with this OIG recommendation. The AGEO policy published in April 2018 addresses presumptively reasonable and necessary expenses. It also prohibits commingling of AGEO PGI between cases or operations. Additionally, the recently updated AGEO policy requires a final audit by IN prior to closure. This mechanism will ensure that field divisions rectify PGI expenditures prior to the operation being closed. The DEA will provide proof of this change under separate cover to the OIG to close this recommendation.

Recommendation 15. Implement the preventative and detective internal controls over PGI (developing PGI spend plans, timely 90-day reviews, and quarterly headquarters examination of financial activity) as prescribed by the Department's Risk Mitigation Policy Memorandum, the AG FBI Undercover Guidelines, and the Agents Manual.

DEA RESPONSE

DEA concurs with this OIG recommendation. As part of the newly updated AGEO policy, ODF will receive quarterly reports for each undercover operation as well as a consolidated expense reports. These reports list all the PGI expenses paid during the specified quarter. An ODF

Section Chief or Deputy Section Chief will be required to review and sign the reports documenting the expenditures were "reasonable and necessary" to the AGEO operation. Signed copies of these reviews will be maintained on the share drive and IN will use this baseline to verify all financial activity during the 90-day reviews and annual inspections.

Thank you for the opportunity to respond and address the OIG's concerns. If you have any questions regarding this response, please contact DEA's Audit Liaison Team at 202-307-8200.

**OFFICE OF THE DEPUTY ATTORNEY GENERAL'S
RESPONSE TO THE DRAFT REPORT**



U.S. Department of Justice

Office of the Deputy Attorney General

Bradley Weinsheimer
Associate Deputy Attorney General

Washington, D.C. 20530

MEMORANDUM

TO: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Bradley Weinsheimer *G. Bradley Weinsheimer*
Associate Deputy Attorney General
Office of the Deputy Attorney General

DATE: June 2, 2020

SUBJECT: Department's Response to Draft Audit Report, "The Drug Enforcement Administration's Income-Generating, Undercover Operations"

The Office of the Deputy Attorney General appreciates the review undertaken by the Office of the Inspector General (OIG) and the opportunity to comment on the OIG's final draft report, "The Drug Enforcement Administration's Income-Generating, Undercover Operations" (Report). The Report contains 19 recommendations. Recommendations 16 through 19 are directed to the Department of Justice (Department); recommendations 1 through 15 are directed to the Drug Enforcement Administration (DEA). The Department agrees with all of the recommendations and provides below comments on each of the recommendations directed to the Department. The DEA has commented separately on the Report and to the recommendations directed specifically to the DEA. The Department agrees with the DEA's comments as well.

Recommendation 16: Formally determine whether the policies within the AG FBI Undercover Guidelines apply, in their entirety or in specific instances, to all DOJ law enforcement components; or if the Department must issue new guidance to govern undercover operations that are initiated by DOJ law enforcement components outside of the FBI.

Response: The Department concurs with this recommendation. The Department has already initiated meetings with DEA to address the applicability of the AG FBI Undercover Guidelines to DEA and, more generally, will assess the application of these Guidelines to DOJ law enforcement components.

Recommendation 17: Ensure that the DEA’s policies reflect necessary measures and controls stipulated in the applicable Department undercover guidance.

Response: The Department concurs with this recommendation. As noted above, the Department has already initiated meetings with the DEA to discuss the applicability of the AG FBI Undercover Guidelines to DEA. We further note that the DEA has undertaken several significant steps—both as part of its 2018 revisions to its Attorney General Exempted Operations (AGEO) policies and in response to this audit—to ensure that the risks associated with AGEOs are appropriately managed. As the preceding recommendation sets forth, the “applicable” guidelines remain for the Department to determine. The Department will ensure that DEA policies are in compliance.

Recommendation 18: Evaluate and determine whether the 2006 DAAG exemptions for Shelf and Border AGEOs, given requirements in Department-wide guidance on undercover operations, should remain and coordinate with the DEA on the results.

Response: The Department concurs with this recommendation. Shelf and Border AGEOs are essential to DEA’s ability to identify and develop money laundering targets for investigation and prosecution. The Department will confer internally and with DEA to determine whether the 2006 DAAG exemptions for Shelf and Border AGEOs should remain.

Recommendation 19: Determine whether the USAOs have implemented a process for coordinating with other prosecutorial offices when sensitive investigative activities, such as DEA’s AGEOs, are likely to span jurisdictional boundaries, as required by the Department Risk Mitigation Policy Memorandum.

Response: The Department concurs with this recommendation. With respect to AGEOs, the Criminal Division participants on the Sensitive Activity Review Committee, including the Deputy Assistant Attorney General to whom the authority to approve AGEOs has been delegated, have reviewed the process by which so-called “no-objection” letters have traditionally been obtained in AGEOs that span jurisdictional boundaries, and are in the process of formulating a new and more efficient process for coordinating AGEOs that span multiple jurisdictions.

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 to the Drug Enforcement Administration (DEA) and to the Department of Justice Office of the Deputy Attorney General (ODAG). The DEA's response is incorporated in Appendix 3 of this final report, while ODAG's response is incorporated in Appendix 4. In response to our audit report, the DEA and the Department concurred with our recommendations and discussed the actions these entities will implement in response to our findings. In its response, the DEA noted various updates to its policy and oversight procedures for AGEOs that occurred subsequent to our review period of Attorney General Exempt Operations (AGEO) active between fiscal years (FY) 2015 and 2017. However, as we stated in the introduction of this report, we considered whether and to what extent the DEA's April 2018 policy addressed findings associated with our audit. In addition, as reflected throughout the DEA's response, the more recent updates and initiatives it has taken to improve its oversight of AGEOs occurred in late 2019, following the OIG's identification of findings associated with AGEOs during this audit. Moreover, following the issuance of our draft report, the DEA stated that it issued an updated AGEO policy in April 2020 to address the OIG's recommendations. We acknowledge the DEA's recent initiative to enhance its processes, improve reporting, and utilize data more efficiently for its AGEOs. The following provides the OIG's analysis of the responses and a summary of actions necessary to close the report.

Recommendations for the DEA:

- 1. Formalize a procedure to develop, verify, and disseminate all required AGEO financial and performance reports to Congress and the Attorney General, as outlined in the authorizing statute, to bring it in compliance with the law. In addition, these reports should provide appropriate context for the statistics associated with AGEOs so that direct and indirect accomplishments are clearly identified and can be assessed separately.**

Resolved. The DEA concurred with this recommendation. In its response, the DEA stated that it has assigned the Deputy Chief of Operations, Office of Domestic Operations responsibility for ensuring that all required reports are submitted to Congress and the Attorney General in accordance with the AGEO statute. According to the DEA, the AGEO policy directs the DEA's Sensitive Activity Review Section (ODN) and Financial Investigations Division (historically OGF, now ODF) to collaborate and submit these reports to the Deputy Chief of Operations for review, approval, and submission to both Congress and the Attorney General. The DEA noted that ODF will be responsible for reviewing all submissions and drawing all statistical data needed to aid in preparing the report to Congress and the Attorney General.

We believe that the DEA's updated policy incorporates a process to ensure that required reports are submitted to Congress and the Attorney General. However, the DEA must also ensure that this process incorporates a mechanism to verify the accuracy of the information, as well as the appropriate context for AGEO statistics to ensure that direct and indirect accomplishments are appropriately delineated.

This recommendation can be closed when the DEA provides evidence that a formal procedure has been established to ensure that all required AGEO financial and performance reports are developed, verified, and disseminated to the Attorney General and Congress, as required by statute. Additionally, the DEA must provide evidence that these reports provide appropriate context for the statistics associated with AGEOs so that direct and indirect accomplishments are clearly identified and can be assessed separately.

2. Implement a process through which field offices establish specific, actionable, and measurable goals for each AGEO that are clearly presented to the Sensitive Activities Review Committee (SARC).

Resolved. The DEA concurred with this recommendation. In its response, the DEA stated that AGEO proposals will now require additional information, including specific, actionable, and measurable goals. In addition to these updates, the DEA stated that it will coordinate with the Department to determine whether any additional protocols should be added regarding the establishment of the parameters of proposed AGEO operations.

This recommendation can be closed when the DEA provides evidence that it has implemented its updated process through which field offices establish specific, actionable, and measurable goals for each AGEO that are clearly presented to the SARC.

3. Implement a process through which the SARC documents its robust examination of each AGEO's duration, any significant periods without undercover activity, and accomplishment of goals.

Resolved. The DEA concurred with this recommendation. The DEA stated that the SARC conducts bi-annual reviews of all AGEOs, which include a review by the DEA's Office of Inspections, Office of Chief Counsel, and Financial Investigations Section. If the SARC raises any concerns, the DEA stated that the responsible field office will address them directly and, when appropriate, update the reauthorization request. Additionally, the DEA will consult with the Department to determine if any additional protocols should be added that enhance oversight regarding documenting progress towards the specific goals of the investigations.

This recommendation can be closed when we receive evidence that the DEA has implemented a process through which the SARC documents its robust

examination of each AGEO's duration, any significant periods without undercover activity, and accomplishment of goals.

4. Ensure that AGEO 6-month reauthorization requests are submitted to the DAAG for review and approval, as required by the Department.

Resolved. The DEA concurred with this recommendation. In its response, the DEA stated that it is working with the Deputy Assistant Attorney General (DAAG), who is also coordinating with ODAG and Department representatives who sit on the SARC, to develop internal guidance for the review of AGEO bi-annual (6-month) reauthorization requests. Once that guidance is developed and provided to the DEA, the DEA will implement it and provide the OIG with documentation of the revised process.

This recommendation can be closed when the DEA provides evidence that it has ensured that AGEO 6-month reauthorization requests are submitted to the DAAG for review and approval, as required by the Department.

5. Develop a process for field offices to submit formal requests for SARC evaluation and DAAG approval for any change in either the direction or objectives of an approved undercover operation, including the addition or removal of high-level AGEO targets.

Resolved. The DEA concurred with this recommendation. The DEA stated that it is coordinating with the DAAG and members of the SARC, who are coordinating with ODAG, to assess procedures for evaluating changes in the direction or objectives of approved undercover operations, including the addition or removal of high-level AGEO targets. Following the outcome of this coordination, the DEA stated that it will implement any new guidance developed and provide the OIG with documentation of the assessment or revised process.

This recommendation can be closed when the DEA provides evidence that it has developed a process for field offices to submit formal requests for SARC evaluation and DAAG approval for any change in either the direction or objectives of an approved undercover operation, including the addition or removal of high-level AGEO targets. If, upon further assessment it is determined that no changes are necessary, then the DEA must provide documentation formalizing the DEA and Department's determination.

6. Evaluate DEA Analysis and Response Tracking System (DARTS) to ensure that AGEO data is accurate, complete, and consistent and determine the need for enhanced investigative resources and oversight of AGEOs to leverage DARTS information.

Resolved. The DEA concurred with this recommendation. The DEA stated that since September 2019, its Financial Investigations Section coordinated with its Office of Information Systems and requested necessary

improvements, immediate fixes, and long-term solutions to DARTS. According to the DEA, these ongoing and requested changes will help minimize inaccuracies and ensure that the Financial Investigations Section has complete and accurate information in order to provide improved oversight in undercover investigations. In addition, DEA acknowledged the need for enhanced investigative resources and increased leverage of DARTS information.

This recommendation can be closed when the DEA provides evidence of its evaluation of DARTS to ensure that AGEO data is accurate, complete, and consistent, as well as documentation associated with changes of the DARTS portal. In addition, the DEA should provide information regarding action taken in response to the need for increased resources to leverage DARTS information so that investigations and oversight of AGEOs could be enhanced.

- 7. Develop and execute a plan to strategically exploit investigative information and evaluate connections between and among AGEOs to identify additional investigative targets (i.e., businesses and entities complicit in Drug Trafficking Organization (DTO) money laundering activities).**

Resolved. The DEA concurred with this recommendation. The DEA stated that in October 2019 the Financial Investigations Section organized a meeting between DEA personnel and other members of the DOJ law enforcement community to discuss and implement strategic enforcement initiatives based on our recommendations. The DEA stated that it will provide the OIG with a list of initiatives implemented as a result of this collaboration.

This recommendation can be closed when we receive evidence of the development and execution of a plan to strategically exploit investigative information and evaluate connections between and among AGEOs to identify additional investigative targets (i.e., businesses and entities complicit in DTO money laundering activities).

- 8. Ensure that DEA personnel sufficiently document the actions and outcomes of significant AGEO-related investigative actions, especially when these actions involve a law enforcement partner.**

Resolved. The DEA concurred with this recommendation. The DEA stated that it has developed a new module that delineates seizures stemming from various enforcement activities, which will be included in all bi-annual reauthorization applications and reports. The DEA expects this module to help standardize statistical reporting across the program. Additionally, the DEA stated that beginning in 2020, it will hold two annual AGEO Administrative Conferences to disseminate to field offices guidance on documenting enforcement actions involving a law enforcement partner.

This recommendation can be closed when we have evidence that the new module is operational and that its use ensures that DEA personnel are sufficiently documenting the actions and outcomes of significant AGEO-related investigative actions, including those actions involving a law enforcement partner.

9. Formalize in policy additional vetting procedures and oversight processes of Confidential Sources (CSs) used in AGEOs.

Resolved. The DEA concurred with this recommendation. The DEA stated that the April 2018 AGEO policy requires all CSs utilized under AGEOs to undergo quarterly financial checks that will be verified by the Office of Inspections. Although we noted that the DEA has included quarterly financial checks in its April 2018 AGEO policy, there is no requirement for the Office of Inspections to ensure compliance. The DEA's response also stated that it will continue to review the process and will apprise the OIG of any additional policy changes made to further formalize the CS vetting and oversight process.

This recommendation can be closed when we receive evidence that the DEA has formalized, in policy, the additional oversight processes for CSs used in AGEOs.

10. Enhance the requirements for reauthorization requests of ongoing AGEOs to include transparency in the identification of amounts laundered and specificity in the reporting of seizures, including the relationship between the funds laundered and the amounts identified as seized (i.e., direct seizure, lead passed, foreign counterpart seizure).

Resolved. The DEA concurred with this recommendation. The DEA stated that it has started including into its AGEO reauthorization requests and quarterly reports statistical summaries that break down seizures by the investigating group and other distinguishing criteria.

This recommendation can be closed when we have evidence that the DEA has implemented the updated 6-month AGEO reauthorization requests to include transparency in the identification of amounts laundered and specificity in the reporting of seizures, including the relationship between the funds laundered and the amounts identified as seized (i.e., direct seizure, lead passed, foreign counterpart seizure).

11. Begin tracking investigative and legal outcomes of the undercover activities performed during the authorized operation, including the results of prosecution referrals from investigative leads.

Resolved. The DEA concurred with this recommendation. In its response, the DEA stated that the new AGEO module, referenced in Recommendation Numbers 8 and 10, will require reporting of prosecutorial outcomes. The DEA stated that it will disseminate to the field detailed guidance on this matter during the two AGEO Administrative Conferences it intends to hold during 2020.

This recommendation can be closed when we receive evidence that through the new AGEO module, the DEA has begun tracking investigative and legal outcomes of the undercover activities performed during the authorized operation, including the results of prosecution referrals from investigative leads.

12. Enhance the process related to transnational activity to ensure it maintains adequate documentation of required approvals.

Resolved. The DEA concurred with this recommendation. The DEA stated that it has updated the AGEO policy and mandated that written documentation of all required approvals be obtained prior to the authorization of all operations. The DEA will maintain these approvals in the transaction file for the approved operation and the Office of Inspections will verify the documents during its periodic reviews. Additionally, the DEA stated that it disseminated the updated policy directly to all office heads and will address the new policy changes during the two AGEO Administrative Conferences that are supposed to occur in 2020.

This recommendation can be closed when the DEA provides evidence that its updated AGEO policy, training, and reviews have enhanced its process to ensure it maintains adequate documentation of required approvals.

13. Evaluate the resources devoted to administrative oversight of investigations involving virtual currency and establish policies setting firm internal controls, risk mitigation and deconfliction techniques, and appropriate record keeping practices.

Resolved. The DEA concurred with this recommendation. The DEA stated that in 2018 the DEA conducted a review of its cyber investigative needs, to include virtual currency investigations, and established a cyber-section in January 2019. The DEA also stated that this section has received staffing authority to meet its needs to coordinate across all cyber-enabled components within headquarters and in the field. Moreover, the DEA stated that it has developed appropriate methods to control and audit undercover transactions as they relate to virtual currency. The DEA has also maintained a virtual currently-related standard operating procedure that was most

recently updated in October 2019. The DEA noted that an overarching policy is currently being developed and will ultimately be incorporated into the DEA AGEO policy.

This recommendation can be closed when the DEA provides evidence that it has evaluated resources for investigations involving virtual currency, and that it has formalized and disseminated policies setting firm internal controls, risk mitigation and deconfliction techniques, and appropriate record keeping practices.

- 14. Update AGEO oversight procedures to review PGI activity and confirm that PGI is not commingled, transferred, or misappropriated. In addition, the DEA should implement an internal control to ensure the use of PGI ceases when AGEO authorization expires.**

Resolved. The DEA concurred with this recommendation. The DEA stated that the April 2018 AGEO policy addresses presumptively reasonable and necessary expenses and prohibits commingling of AGEO PGI among cases or operations. The DEA also stated that its April 2020 AGEO policy now requires the Inspections Division to review AGEOs with a final audit to rectify any PGI expenditure prior to the operation being closed.

This recommendation can be closed when the DEA provides evidence that the updated AGEO policy contains oversight and internal control procedures to review PGI activity and confirm that PGI is not commingled, transferred, misappropriated, or used after AGEO authorization expires.

- 15. Implement the preventative and detective internal controls over PGI (developing PGI spend plans, timely 90-day reviews, and quarterly headquarters examination of financial activity) as prescribed by the Department's Risk Mitigation Policy Memorandum, the AG FBI Undercover Guidelines, and the Agents Manual.**

Resolved. The DEA concurred with this recommendation. The DEA stated that the April 2020 AGEO policy includes a process for the Financial Investigations Section to receive and review quarterly consolidations of the monthly expense reports for all AGEOs to verify that all expenditures were reasonable and necessary to the operation. The DEA stated that signed copies of these reviews will be maintained internally and reviewed by the Inspections Division to verify all financial activity during the 90-day reviews and annual inspections. However, the DEA's response does not address the requirement for developing PGI spend plans.

This recommendation can be closed when the DEA provides the updated AGEO policy that incorporates preventative and detective internal controls over PGI (developing PGI spend plans, timely 90-day reviews, and quarterly headquarters examination of financial activity) as prescribed by the Department's Risk Mitigation Policy Memorandum, the AG FBI Undercover

Guidelines, and the Agents Manual. The DEA should also provide evidence that these requirements have been implemented.

Recommendations for the Department

- 16. Formally determine whether the policies within the AG FBI Undercover Guidelines apply, in their entirety or in specific instances, to all DOJ law enforcement components; or if the Department must issue new guidance to govern undercover operations that are initiated by DOJ law enforcement components outside of the FBI.**

Resolved. The Department concurred with this recommendation. The Department stated that it has initiated meetings with the DEA to address the applicability of the AG FBI Undercover Guidelines to the DEA, and more generally, will assess the application of these Guidelines to DOJ law enforcement components.

This recommendation can be closed when we receive evidence that the Department formally determined whether the policies within the AG FBI Undercover Guidelines apply, in their entirety or in specific instances, to all DOJ law enforcement components; or if the Department must issue new guidance to govern undercover operations that are initiated by DOJ law enforcement components outside of the FBI.

- 17. Ensure that the DEA's policies reflect necessary measures and controls stipulated in applicable Department undercover guidance.**

Resolved. The Department concurred with this recommendation. The Department reiterated that it is determining the applicability of the AG FBI Undercover Guidelines to the DEA. The Department stated that it will ensure that DEA policies are in compliance and noted that the DEA has undertaken significant steps to ensure risks associated with AGEOs are appropriately managed.

This recommendation can be closed when ODAG provides evidence that it has ensured that the DEA's policies reflect necessary measures and controls stipulated in applicable Department undercover guidance.

- 18. Evaluate and determine whether the 2006 DAAG exemptions for Shelf and Border AGEOs, given requirements in Department-wide guidance on undercover operations, should remain and coordinate with the DEA on the results.**

Resolved. The Department concurred with this recommendation. The Department stated it will confer internally and with the DEA to determine whether the 2006 DAAG exemptions for Shelf AGEOs should remain.

This recommendation can be closed when we receive evidence that the Department has evaluated and determined whether the 2006 DAAG exemptions for Shelf and Border AGEOs, given requirements in Department-wide guidance on undercover operations, should remain and coordinate with the DEA on the results.

- 19. Determine whether the USAOs have implemented a process for coordinating with other prosecutorial offices when sensitive investigative activities, such as the DEA's AGEOs, are likely to span jurisdictional boundaries, as required by the Department Risk Mitigation Policy Memorandum.**

Resolved. The Department concurred with this recommendation. The Department stated that the Criminal Division participants on the SARC, including the DAAG, have reviewed the process to obtain "no objection" letters for AGEOs that span jurisdictional boundaries, and are formulating a new and more efficient process for coordinating these AGEOs.

This recommendation can be closed when the Department provides evidence that, as a result of the Criminal Division's review and updates, the USAOs have implemented a process for coordinating with other prosecutorial offices when sensitive investigative activities, such as DEA's AGEOs, are likely to span jurisdictional boundaries, as required by the Department Risk Mitigation Policy Memorandum.



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U.S. DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL

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