



**AUDIT OF THE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
TECHNOLOGY PROGRAM GRANT AWARDED TO
THE CITY OF CHICAGO POLICE DEPARTMENT
CHICAGO, ILLINOIS**

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

GR-50-13-012
August 2013

**AUDIT OF THE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
TECHNOLOGY PROGRAM GRANT AWARDED TO
THE CITY OF CHICAGO POLICE DEPARTMENT
CHICAGO, ILLINOIS**

EXECUTIVE SUMMARY

The Office of the Inspector General, Audit Division has completed an audit of the Office of Community Oriented Policing Services (COPS) Technology Program grant number 2007-CK-WX-0034 in the amount of \$5,913,720 awarded to the city of Chicago, Illinois, Police Department (Chicago PD). The COPS Technology Grant Program is designed to assist state, local, and tribal law enforcement agencies to procure technology that enhances the ability to share information with regional, state, and federal partners. Grants are intended to help facilitate the sharing of information across multiple jurisdictions, with the ultimate objective of increasing public safety.

COPS OFFICE GRANT AWARDED TO THE CHICAGO PD

GRANT AWARD	AWARD START DATE	AWARD END DATE	AWARD AMOUNT
2007-CK-WX-0034	09/01/2007	02/28/2013 ¹	\$5,913,720
Total:			\$5,913,720

Source: COPS Office

Specifically, the primary purpose of grant number 2007-CK-WX-0034 was to provide funding to enhance the Chicago PD's Citizen and Law Enforcement Analysis and Reporting (CLEAR) System.

The purpose of this audit was to determine whether reimbursements claimed for costs under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the grant, and to determine program performance and accomplishments. The objective of our audit was to review performance in the following areas: (1) internal control environment, (2) drawdowns, (3) grant expenditures, (4) budget management and control, (5) matching costs, (6) property management, (7) program income, (8) financial status and progress reports, (9) grant requirements, (10) program performance

¹ The award end date includes several no-cost extensions granted by the COPS Office. The original grant end date was August 31, 2010.

and accomplishments, and (11) monitoring of contractors and subgrantees. We determined that payroll, tangible accountable property, indirect costs, program income, and monitoring of subgrantees were not applicable to this grant.

As of June 30, 2012, the grantee had drawn down \$5,874,793 in grant funds and had recorded federal grant expenditures of \$5,512,964 in its grant accounting records. The majority of grant funds were paid to one COPS-approved, sole-source vendor used to develop or improve CLEAR program software. This vendor was utilized in the creation of the original CLEAR program in Chicago. Based upon our examination of the Chicago PD's grant accounting records, required reports, and operating policies and procedures as of June 2012, we found:

- Based upon the accounting records, grant-related documents, and information provided by the city of Chicago (City) prior to the completion of our draft report, we determined that the City's paid expenditures for contracting and other costs were properly reviewed, classified, and adequately supported by invoices and other documentation regarding services rendered. However, in its response to our draft audit report, the City provided new information not disclosed during our audit fieldwork, which indicates there may have been material misstatements in the grant accounting records provided to us during our audit and upon which we formed the conclusions in this report.²
- The financial status and progress reports were generally submitted in a timely manner.
- The Chicago PD was in the process of meeting its match expenditure requirement.
- The Chicago PD received several grant extensions with the most recent grant end date of February 28, 2013. While Chicago PD staff stated it should be possible to complete the award by that date, the grant is now over 5 years old.

However, we identified several weaknesses in grant management. Our audit revealed the following:

² This new information indicates that the report statement above may no longer be fully applicable, but the City did not provide documentation to substantiate its new assertions. This issue is discussed in further detail in footnote 3 and Appendix V.

- Throughout 2011 and 2012, the Chicago PD continued to use and pay for on-going services being provided under a vendor's contract that had expired on December 31, 2010. A staff person with the COPS Office stated that this activity would not have been approved if the COPS Office had been aware of the situation.
- COPS Technology Program Guidelines require that advances drawn down by grantees should not be greater than what is needed for 10 days. The Chicago PD took an excessive drawdown of \$1,401,628 on December 23, 2010. Grantee officials informed us that the drawdown was taken in order to encumber funds on the contract that expired on December 31, 2010. Prior to the City entering into a new 1-year contract effective May 30, 2012, the City had spent \$1,039,799 under the expired contract. We question these costs. In addition, as of June 30, 2012, \$361,829 still remained on hand from the above described excess drawdown, and this portion of the questioned costs should be returned to the COPS Office and drawn down as expended.³
- Although the above noted advanced funds were held in an interest-bearing account, the City did not track or report interest earned. The grantee should calculate the interest earned and coordinate

³ In its response to our draft report, the City indicated that the grant accounting records provided to the OIG during the audit (dated June 2012) did not accurately reflect its activities surrounding the December 2010 drawdown of \$1.4 million. As noted throughout our report, the Chicago PD's grant accounting records indicated that the cumulative federal grant expenditures at the time of the aforementioned \$1.4 million drawdown totaled \$4,473,165. Including the December 2010 drawdown, the Chicago PD's cumulative drawdowns equaled \$5,874,793. Thus, we concluded that the grantee took an excessive drawdown of grant funds representing an advance of funds. We also found that the grantee used those funds for transactions paid out over the following 18 months, and that those transactions were executed against a contract that expired on December 31, 2010. We presented this information to the grantee on multiple occasions prior to the issuance of our draft report, and City officials informed us that the drawdown was taken with the specific purpose of encumbering the funds for use against the expired contract. However, the City's January 2013 response to our draft report, which is shown in Appendix III, provided an entirely different explanation for the December 2010 drawdown. Specifically, the City indicated that it discovered that several transaction postings were erroneous. Not only was this explanation not suggested previously, the City's response also indicated that it had not yet taken action to make corrections to its grant accounting records. After receiving the City's response, we made multiple inquiries to the City about any actions that the City had taken. On July 12, 2013, we received a response from the City that did not clearly indicate whether or when corrections may have been made. Further, we requested from the City but were not provided with any revised ledgers as evidence of any adjustments. Because the only documentation we received from the City substantiates the information in our report, we have not modified our findings. Appendix V contains a full discussion of these issues and the status of our recommendations.

with the COPS Office to remedy the situation and put these funds to better use.

- Government Accounting Standards Board Statement Number 51 requires intangible assets be classified as capital assets. Accordingly, existing authoritative guidance related to the accounting and financial standards for reporting capital assets should be applied to the intangible assets. Software development or improvement as well as connectivity improvements to enhance the CLEAR project costing over \$7 million were expensed rather than capitalized on the city's records.⁴ In response to our inquiries, the City began taking corrective action in March 2012 to properly capitalize the intangible assets.

Our report contains five recommendations to address the preceding issues, which are discussed in detail in the Findings and Recommendations section of the report. Our audit objective, scope, and methodology are discussed in Appendix I.

⁴ Expenses are written off immediately and directly impact the income statement, whereas capitalization delays the recognition of expenses by recording the expense as a long-term asset, which is depreciated over time. In other words, the costs are spread out over a specified period of time thereby reducing the immediate negative affect against revenues.

TABLE OF CONTENTS

INTRODUCTION	1
Background.....	2
Our Audit Approach.....	2
FINDINGS AND RECOMMENDATIONS	4
Accounting and Internal Control Environment.....	4
Grant Drawdowns	6
Budget Management and Control	8
Transaction Testing	9
Matching Costs	10
Grant Reporting.....	10
Compliance with Grant Requirements	11
Program Performance and Accomplishment.....	11
Monitoring Contractors	12
Views of Responsible Officials	13
Recommendations	13
APPENDIX I: OBJECTIVE, SCOPE, AND METHODOLOGY	14
APPENDIX II: SCHEDULE OF DOLLAR-RELATED FINDINGS	16
APPENDIX III: AUDITEE RESPONSE	17
APPENDIX IV: U.S. DEPARTMENT OF JUSTICE RESPONSE	35
APPENDIX V: OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT	38

INTRODUCTION

The Office of the Inspector General (OIG), Audit Division has completed an audit of the Office of Community Oriented Policing Services (COPS) Technology Program grant number 2007-CK-WX-0034 in the amount of \$5,913,720 awarded to the city of Chicago, Illinois, Police Department (Chicago PD). The COPS Technology Grant Program is designed to assist state, local, and tribal law enforcement agencies to procure technology that enhances the ability to share information with regional, state, and federal partners. Grants are intended to help facilitate the sharing of information across multiple jurisdictions, with the ultimate objective of increasing public safety.

Specifically, the primary purpose of grant number 2007-CK-WX-0034 was to provide funding to enhance the Chicago PD's Citizen and Law Enforcement Analysis and Reporting (CLEAR) System. The CLEAR System is a comprehensive web-based information infrastructure originally created in 1996 for the Chicago PD and designed to facilitate multijurisdictional data sharing to identify incipient crime patterns, apprehend offenders, and prevent crime. The CLEAR System now serves 405 criminal justice agencies in Illinois, Indiana, Iowa, Minnesota, and Wisconsin. Overall, the goal of the CLEAR program enhancement funded through this grant was to assist members of the Chicago PD and its partner organizations in identifying criminals, coordinating joint law enforcement operations, detecting emerging crime patterns, informing operational resource deployment decisions, sharing terrorist threat information, creating emergency response plans, communicating in real-time with partners during major critical events, tracking DNA evidence, and solving crimes through advanced data-linking.

The purpose of this audit was to determine whether reimbursements claimed for costs under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the grant, and to determine program performance and accomplishments. The objective of our audit was to review performance in the following areas: (1) internal control environment, (2) drawdowns, (3) grant expenditures, (4) budget management and control, (5) matching costs, (6) property management, (7) program income, (8) financial status and progress reports, (9) grant requirements, (10) program performance and accomplishments, and (11) monitoring of contractors and subgrantees. However, we determined that payroll, tangible accountable property, indirect costs, program income, and monitoring of subgrantees were not applicable to this grant. As shown in Table 1, the Chicago PD was awarded \$5,913,720 in federal grant funds to implement the program.

TABLE 1. COPS OFFICE GRANT AWARDED TO THE CHICAGO PD

GRANT AWARD	AWARD START DATE	AWARD END DATE	AWARD AMOUNT
2007-CK-WX-0034	09/01/2007	02/28/2013 ⁵	\$5,913,720
Total:			\$5,913,720

Source: COPS Office

Background

The COPS Office was established as a result of the Violent Crime Control and Law Enforcement Act of 1994 to assist law enforcement agencies in enhancing public safety through the implementation of community policing strategies in jurisdictions of all sizes across the country. Community policing represents a shift from more traditional law enforcement in that it focuses on the prevention of crime and the fear of crime on a local basis. Community policing puts law enforcement professionals on the streets and assigns them to a beat so they can build mutually beneficial relationships with the people they serve.

In 2011 the city of Chicago (City) had a population of over 2.7 million people, and its legal jurisdiction covered 227 square miles. The Chicago PD is the second largest law enforcement agency in the United States, and it had budgeted for over 13,500 sworn positions and had an operating budget of \$1,403,611,788 for fiscal year (FY) 2011.

Our Audit Approach

We tested compliance with what we consider the most important conditions of the grant. Unless otherwise stated in our report, the criteria we audit against are contained in the COPS Technology Program Grant Owner's manuals, grant award documents, and relevant Office of Management and Budget (OMB) Circulars, and the Code of Federal Regulations (CFR).

In conducting our audit, we performed sample testing in the areas of: (1) drawdowns, and (2) grant expenditures. In addition, we reviewed the timeliness and accuracy of Federal Financial Reports (FFR) and progress reports, evaluated performance to grant objectives, and reviewed the internal controls related to the financial management system. We also performed limited work and confirmed that the Chicago PD did not purchase

⁵ The award end date includes several no-cost extensions granted by the COPS Office. The original grant end date was August 31, 2010.

tangible accountable property, did not receive reimbursement for indirect costs, did not generate or receive program income, and did not award funds to sub-grantees. We, therefore, performed no testing in these areas. Our audit objective, scope, and methodology are discussed in Appendix I.

FINDINGS AND RECOMMENDATIONS

We determined that the Chicago PD was accomplishing and making progress in fulfilling the objectives of the grant even though it has not spent all of its grant funds and the grant end date had been extended several times. However, our audit revealed some weaknesses in grant management and accounting issues, including: (1) an excessive drawdown of funds totaling \$1,401,628 was made on December 23, 2010, of which expenditures totaling \$1,039,799 were made against an expired contract and should be remedied; (2) \$361,829 of the previously noted amount remained unobligated as of June 30, 2012, and should be returned; and (3) untracked and unreported interest income on the excess drawdown. Finally, as of June 30, 2012, the project cost over \$7 million for software development to enhance the Citizen and Law Enforcement Analysis and Reporting (CLEAR) System, and the transactions were expensed rather than capitalized as required by Government Accounting Standards Board Statement Number 51.

Accounting and Internal Control Environment

We reviewed the most recent Single Audit Report and the auditee's accounting system to assess its risk of non-compliance with the laws, regulations, guidelines, and terms and conditions of the grant. We interviewed Chicago PD and City employees responsible for areas such as purchasing and accounts payable, and we observed accounting activities to further assess risk.

Single Audit

According to OMB Circular A-133, recipients of federal funds are required to perform a Single Audit annually if they expend more than \$500,000 in federal funds in any year. Single Audits are to be completed no more than 9 months after the end of the entity's fiscal year. We determined that the City was required to have a Single Audit performed in 2010 and that its fiscal year-end date was December 31, 2010.

The Single Audit Report was prepared and issued timely under the provisions of OMB Circular A-133. We reviewed the independent auditor's assessments, which disclosed no weaknesses, noncompliance issues, or cross-cutting findings related to Chicago PD's grant management.⁶

Financial Management System

We reviewed aspects of the Chicago PD's financial management system and found there was sufficient separation of duties and the operating procedures were documented. The operations we observed at both the Chicago PD and City Comptroller's Office included an adequate control structure, including experienced and qualified personnel, active communication among staff and management, and relatively low turnover. However, as discussed later in this report, we identified weaknesses related to drawdown requests and contract transactions.

Accounting Records

According to COPS Office Guidelines, grant recipients are required to establish and maintain accounting and internal control systems to account accurately for funds awarded to them. Further, the accounting system should ensure, among other things, the identification and accounting for receipt and disposition of all funds, funds applied to each budget category included in the approved award, and non-federal matching contributions.

The Grant Administrator was a full-time employee of the Chicago PD. His responsibilities were to oversee the contractors, monitor grant progress, submit progress reports, and ensure that the grant objectives were being met. The Chicago PD's Finance Department reviewed and approved invoices before submitting them to the City Comptroller's Office. The City

⁶ We noted one finding related to the City Comptroller's Office not tracking interest earned on Byrne Justice Assistance grant cash advances. The City Comptroller's Office and Treasurer's Office worked together to identify funds needing to be kept in segregated accounts where interest earned is calculated by the Treasurer's Office and allocated by General Accounting. Although the City reported that this process was implemented in 2011, interest income was not tracked and reported on over \$1.4 million in advance funds drawn down by the Chicago PD on grant number 2007-CK-WX-0034 because these funds were improperly reported by the Chicago PD as an encumbrance. See additional discussion under the Grant Drawdowns section of the report.

In addition, a second finding related to the City Comptroller's Office reporting fund balances using improper cutoff dates. This weakness might cause grant transactions to not be reported in the Single Audit in the correct time period. It was not possible to confirm whether corrective action was taken as the Single Audit for 2011 was not yet due and had not been submitted at the time of our review. In our opinion, this finding has no impact on the Chicago PD's administration of the DOJ grant.

Comptroller's Office tracked the budget, requested drawdown of funds, processed invoices, and maintained the official accounting records.

The official accounting records for the Chicago PD were created and maintained by the City Comptroller's Office. Government Accounting Standard Board (GASB) Statement Number 51, effective in June 2009, requires intangible assets, such as software purchases, be capitalized in the same manner as the grantee capitalizes tangible assets in its financial statements. As of June 30, 2012, payments on the CLEAR project exceeded \$7 million. Chicago PD staff confirmed that CLEAR project costs incurred through 2011 had been expensed rather than capitalized.⁷ As a result of our inquiries, the city began taking corrective action in March 2012 to properly account for intangible assets.

Grant Drawdowns

COPS Technology Program Guidelines establish methods under which the awarding agency makes payments to grantees. The methods and procedures for payment established by the federal government are designed to minimize the time elapsed between the transfer of funds by the government and the disbursement of funds by the grantee. Recipients should time drawdown requests to ensure that federal cash on hand is the minimum needed to pay for actual or anticipated costs within 10 days.

Chicago PD Finance Department staff stated that drawdowns were based on actual expenditures in the accounting records. As shown below, we compared drawdowns to actual expenses recorded in the Chicago PD accounting records as of June 2012 and found that the City requested a drawdown in December 2010 for \$1,401,628 and that this expenditure was not supported by any expenditure records for that time period.

⁷ Expenses are written-off immediately and directly impact the income statement, whereas capitalization delays the recognition of expenses by recording the expense as a long-term asset, which is depreciated over time. In other words, the costs are spread out over a specified period of time, thereby reducing the immediate negative effect against revenues.

TABLE 2. DRAWDOWNS VERSUS ACCOUNTING RECORDS

DATE OF DRAWDOWN PER THE COPS OFFICE	AMOUNT DRAWN PER THE COPS OFFICE	GRANT EXPENDITURES FOR DRAWDOWN PERIOD PER ACCOUNTING RECORDS	CUMULATIVE DRAWDOWNS PER THE COPS OFFICE	CUMULATIVE EXPENDITURES PER ACCOUNTING RECORDS	DIFFERENCE (CUMULATIVE DRAWDOWNS MINUS CUMULATIVE EXPENSES)
10/01/2008	\$1,303,711	\$1,303,711	\$1,303,711	\$1,303,711	\$0
06/04/2009	656,008	656,008	1,959,719	1,959,719	0
12/03/2010	2,513,446	2,513,446	4,473,165	4,473,165	0
12/23/2010	1,401,628	0	5,874,793	4,473,165	1,401,628
11/30/2011	0	515,189	5,874,793	4,988,354	886,439
03/31/2012	0	271,041	5,874,793	5,259,395	615,398
06/30/2012	0	253,569	5,874,793	5,512,964	361,829
TOTAL	\$5,874,793	\$5,512,964	\$5,874,793	\$5,512,964	\$361,829

Source: Chicago PD and COPS Office

According to the Chicago PD Grant Administrator, the City only makes payments on open contracts or for existing expenses. We were told that the December 23, 2010, drawdown of \$1,401,628 was made in order to encumber funds against a contract that expired on December 31, 2010.⁸ However, in violation of COPS Technology Program Guidelines, there were no corresponding federal expenditures needing immediate payment.

Chicago PD officials stated that the police department may not enter into large contracts such as this on its own but rather that it must request the contracts be bid, approved, and issued by the City. This involves the City procurement, contract, and legal departments, and awarding new contracts can be a lengthy process. As a result of the length of time it takes to award a new contract, the grantee processed funds in this way in order to comply with the City's requirement that payments should be made, or pending, on open contracts.

⁸ The Chicago PD received permission from the COPS Office to award a software contract to a sole source vendor. This vendor had developed the original CLEAR program software for the Chicago PD. The Chicago PD utilized an existing City contract to this major software vendor to upgrade its CLEAR system. Over the life of the project, this vendor would be paid 90 percent of the approved costs budgeted for the audited grant. From the time the City's contract expired on December 31, 2010, through June 30, 2012, the Chicago PD had paid an additional \$1,039,799 to the vendor. There were no federal expenditures during June 2012.

Further, a City official stated that this was not the first time this procedure was utilized and that all departments were informed by the Mayor's Office that it was no longer an acceptable practice to encumber funds and make payments on expired contracts. Although requested, City officials were unable to provide documentation of this instruction, which they stated occurred around June 2011. While the grantee was not specifically required to notify the COPS Office that it was utilizing the approved sole source vendor after the contract expired, a staff person with the COPS Office stated that this activity would not have been approved if the COPS Office had been aware of it.

During our review, the City subsequently entered into a new 1-year contract effective May 30, 2012. Prior to entering into the new contract, the Chicago PD had expended \$1,039,799 under the expired contract. We question as unallowable the entire amount expended while the contract was expired. We also question as unsupported the excess drawdown of \$361,829, which remained on hand as of June 30, 2012.

Further, a staff person in the City Comptroller's Office stated that the excess drawdown was held in an interest-bearing account and the funds did earn interest. However, because it was improperly coded as an encumbrance and not an advance, the staff person could not readily determine the amount of interest earned-to-date. According to COPS Technology Program Guidelines, state and local entities receiving federal financial assistance are allowed to retain up to \$100 in interest earned on funds held in interest-bearing accounts. The grantee should calculate the amount of interest earned on this substantial, long-held excess drawdown, and the COPS Office should ensure that these funds are put to better use.

Budget Management and Control

The grant award's total project costs were identified as \$7,884,960, including \$5,913,720 in federal funds and local match of \$1,971,240. The bulk of the budget was to provide the Chicago PD with funding to enhance and support the Chicago PD's CLEAR system.

We assessed the grantee's expenditures in the budget categories as indicated in the accounting records we received dated June 2012 and determined that the Chicago PD adhered to the grant requirement to spend grant funds within the approved budget categories. Table 3 identifies each of the budget categories and the amount that the Chicago PD had spent as of June 30, 2012.

TABLE 3. BUDGET MANAGEMENT AND CONTROL

COST CATEGORY	GRANT BUDGET	ACTUAL EXPENDITURES (AS OF 6/30/2012)
Personnel	\$0	\$0
Fringe Benefits	0	0
Travel	7,218	6,084
Equipment	0	0
Supplies	0	0
Construction	0	0
Contracts/Consultants	5,996,742	5,506,881
Other	1,881,000	1,747,158 ⁹
TOTAL DIRECT COSTS	7,884,960	7,260,122¹⁰
Indirect Costs	0	0
TOTAL	\$7,884,960	\$7,260,122
FEDERAL FUNDS	\$5,913,720	\$5,512,964
LOCAL MATCH	\$1,971,240	\$1,747,158

Source: COPS Office and Chicago PD

Transaction Testing

We reviewed the general ledger account designated for the grant and found that as of June 2012, the records indicated there were a total of 39 grant-funded transactions totaling \$4,988,354 from September 1, 2007, through November 30, 2011. We selected for review 18 grant transactions totaling \$3,541,509, or 71 percent of the grant expenditures as of November 30, 2011, and found that the expenditures were properly reviewed, approved, classified, supported, and charged to the grant.¹¹ As

⁹ The "Other" category included contractor licensing and maintenance costs, as well as the purchase of software licenses. As of June 30, 2012, Other costs have all been paid for with local matching funds.

¹⁰ The sum of the individual numbers is greater than the total shown due to rounding.

¹¹ Our findings relevant to expenditures made against the expired contract are discussed in the Grant Drawdowns section of this report. In addition, in its response to our draft audit report, the City indicated that there were material misstatements in the grant accounting records provided for audit and upon which we formed these conclusions. The City's response has been included in our report as Appendix III. Appendix V contains our analysis of the City's response and a detailed discussion of the impact of the City's statements.

shown in Table 3, as of June 30, 2012, grant expenditures were \$5,512,964, which was 76 percent of the total program expenditures.

Matching Costs

Under grant number 2007-CK-WX-0034, the Chicago PD was required to provide \$1,971,240 in local matching funds, which represents 25 percent of the total project budget of \$7,884,960. According to the accounting records dated June 30, 2012, the match contribution was \$1,747,158, which represented 24 percent of total expenditures. The Chicago PD was meeting its match requirement by paying a portion of the contractor billings for the CLEAR project for which they were not reimbursed. We reviewed three matching transactions totaling \$864,886 for allowability and supporting documentation and found no discrepancies.

Grant Reporting

According to COPS Technology Program Guidelines, award recipients are required to submit both financial and program progress reports. These reports describe the status of the funds and the project, compare actual accomplishments to objectives, and report other pertinent information.

Federal Financial Reports

The COPS Office requires grantees to submit Federal Financial Reports (FFR) no later than 30 days after the end of each quarter. As shown in Table 4, we reviewed the last six filed FFRs and determined that they were submitted timely.

TABLE 4. FEDERAL FINANCIAL REPORT TIMELINESS

No.	REPORT PERIOD FROM - TO DATES	FFR DUE DATES	DATE SUBMITTED	DAYS LATE
1	10/01/2010 to 12/31/2010	01/30/11	01/05/2011	0
2	01/01/2011 to 03/31/2011	04/30/11	04/11/2011	0
3	04/01/2011 to 06/30/2011	07/30/11	07/19/2011	0
4	07/01/2011 to 09/30/2011	10/30/11	10/19/2011	0
5	10/01/2011 to 12/31/2011	01/30/12	01/12/2012	0
6	01/01/2012 to 03/31/2012	04/30/12	04/19/2012	0

Source: COPS Office and OIG Analysis

We also reviewed the last six FFRs for accuracy and found that the reports accurately reflected grant-funded expenditures for the reporting periods.

Program Progress Reports

According to COPS Technology Program Guidelines and responses to Frequently Asked Questions, progress reports are due annually to the COPS Office 30 days after being requested. We reviewed the three most recent progress reports and found that the 2009 and 2011 progress reports were submitted timely, and the 2010 progress report was submitted 1 day late. A Chicago PD grant official stated that the grantee attempted to file on time but was unable to because the COPS Office was experiencing technical problems with its website. The COPS Office Grant Manager confirmed that the COPS Office website was experiencing problems at that time; therefore, we do not consider the 2010 progress report to be late.

The reports we reviewed appeared to be acceptable in form and content; reports were completed in a survey format rating a series of program performance statements on a scale of 1 to 10. The reports we reviewed were completed fully and appeared relevant to performance of the grant-funded program.

Compliance with Grant Requirements

We reviewed the special conditions of the grant award as well as COPS Technology Program Guidelines and identified two key requirements: (1) attendance at the COPS Office's technical assistance "kickoff" conference by the grantee, and (2) scheduling a technical assistance site visit through a COPS Office-funded National Technical Assistance Program. We found that Chicago PD employees attended the COPS Office's technical assistance "kickoff" conference in December 2007. In 2010, Office of Justice Programs (OJP) staff made a site visit to the Chicago PD and reviewed grant compliance for all OJP and other open DOJ awards. In the report, OJP noted that the Chicago PD had not had a technical site visit as required. The Chicago PD took immediate corrective action and, prior to our review, a technical on-site visit was made in 2011.

Program Performance and Accomplishment

According to the Chicago PD, it is committed to protecting the lives, property, and rights of all people; to maintaining order; and to enforcing the law impartially. In addition, the Chicago PD states that it is incurring higher homeland security expenses because the City has many identifiable targets, and non-terrorist threats to public safety continue to emerge while at the same time the City is experiencing lower than anticipated revenues.

The CLEAR system is a comprehensive web-based information infrastructure originally created in 1996 for the Chicago PD and designed to facilitate multi-jurisdictional data sharing to identify incipient crime patterns, apprehend offenders, and prevent crime. Some critical information technology infrastructure areas needing development or expansion being paid for by the grant included:

- Updating the Hot Desk System so that it would have interconnectivity between various law enforcement databases. On all police stops and contacts in the field, officers make multiple queries in order to develop a comprehensive history for an individual.
- Creating regional threat profiles within a centralized system to report and record suspect and terrorist subject information that is crucial to the development of a regional capacity for effective emergency response and communication.
- Expanding the Facility Information Management System to allow for external Internet access so that businesses, utilities, schools, and other community members in the Chicago area can voluntarily provide information to law enforcement officials.
- Providing an automated evidence tracking and retrieval information sharing component to the Illinois State Police DNA database for specimen analysis and classification.

We obtained a report on the status of the CLEAR enhancement project, and it showed that the Chicago PD had completed several modules of the project. The project manager stated that the Chicago PD is still working on two modules due to data routing problems caused by the Chicago PD's reorganization and reduction in the number of districts and area offices. We randomly selected and interviewed a Chicago Police Detective, a Cook County Deputy Chief of Staff, and an Illinois State Police Program Management Director. All three users stated they were satisfied with the CLEAR system. Finally, we also toured the emergency response center, as well as observed modules of the CLEAR system in operation. We believe that the CLEAR system has been enhanced through the provision of the audited grant.

Monitoring Contractors

The Chicago PD overall Grant Project Manager stated that the City's legal department and purchasing process covers the pre-award evaluation of

contractors' financial management systems and associated policies, procedures, and internal controls. Currently, the Chicago PD overall Grant Project Manager monitors the major contractor's performance through regular meetings with the contractors, working closely together, and reviewing status reports. Additionally, the Chicago PD Information Technology staff confirmed that the completed grant modules are working as required before being provided to police officers. Finally, the contractor invoices are reviewed by an officer in the Chicago PD Finance Department. Contractor employee time cards are also verified to confirm the work billed was performed and that all expenses were allowable and reasonable. Invoices were also reviewed by the City Comptroller's Office prior to payment. In our opinion, the contractor oversight appeared to be adequate even though the contract was expired.

Views of Responsible Officials

We discussed the results of our review with grantee officials throughout the audit and at a formal exit conference. We have included their comments as appropriate.

Recommendations

We recommend that the COPS Office:

1. Confirm that the city of Chicago has complied with GASB 51 on the capitalization of intangible assets relating to the CLEAR project.
2. Require the grantee to implement procedures to ensure that grant drawdowns are not in excess of immediate grant needs.
3. Remedy the \$1,039,799 in unallowable questioned costs for expenditures made under an expired contract.
4. Remedy the \$361,829 in unsupported costs resulting from an excessive drawdown of grant funds.
5. Remedy the funds to better use from interest earned on the excessive advance drawdown of COPS Office funds.

OBJECTIVE, SCOPE, AND METHODOLOGY

The purpose of this audit was to determine whether reimbursements claimed for costs under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the grant, and to determine program performance and accomplishments. The objective of our audit was to review performance in the following areas: (1) internal control environment, (2) drawdowns, (3) grant expenditures, (4) budget management and control, (5) matching costs, (6) property management, (7) program income, (8) financial status and progress reports, (9) grant requirements, (10) program performance and accomplishments, and (11) monitoring of contractors and subgrantees. However, we determined that payroll, tangible accountable property, indirect costs, program income, and monitoring of subgrantees were not applicable to this grant.

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 objective. This was an audit of a COPS Technology Program grant number 2007-CK-WX-0034 awarded to the Chicago PD for \$5,913,720. According to the grant accounting records provided to us, the Chicago PD had a total of \$5,874,793 in drawdowns through June 30, 2012. Our audit concentrated on, but was not limited to, the inception of the grant on September 1, 2007, through November 30, 2011, and included such tests as were considered necessary to accomplish our objective. We also obtained updated accounting ledgers as well as reports submitted through June 30, 2012. Our audit conclusions and recommendations are based upon these grant records.

In conducting our audit, we reviewed FFRs and progress reports, and we performed sample testing of grant expenditures. We tested invoices associated with transactions shown in the Chicago PD's general ledger as of November 30, 2011. Our testing was conducted by judgmentally selecting a sample of expenditures, along with a review of internal controls and procedures, for the grant that we audited. Judgmental sampling design was applied to obtain broad exposure to numerous facets of the grant reviewed, such as dollar amounts, expenditure category, or risk. We selected 18 grant (\$3,541,509) and 3 matching expenditures (\$864,886) totaling \$4,406,395.

This non-statistical sample design does not allow for projection of the test results to the universes from which the samples were selected.

In addition, we performed limited testing of source documents to assess the timeliness and accuracy of FFRs, reimbursement requests, expenditures, and progress reports; evaluated performance to grant objectives; and reviewed the grant-related internal controls over the financial management system. However, we did not test the reliability of the financial management system as a whole and reliance on computer-based data was not significant to our objective.

SCHEDULE OF DOLLAR-RELATED FINDINGS

Description	Amount	Page
Questioned Costs ¹²		
Unallowable expenditures against expired contract	\$1,039,799	8
<i>Total Unallowable</i>	<i>\$1,039,799</i>	
Unsupported drawdown of grant funds (remaining funds on hand as of June 2012)	\$361,829	8
<i>Total Unsupported</i>	<i>\$361,829</i>	
Net Questioned Costs.....	\$1,401,628	
<hr/>		
Total Net Dollar-Related Findings.....	\$1,401,628	

¹² **Questioned Costs** are expenditures that do not comply with legal, regulatory, or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

AUDITEE RESPONSE



DEPARTMENT OF LAW
CITY OF CHICAGO

BY HAND-DELIVERY, FACSIMILE AND EMAIL

January 31, 2013

Carol S. Taraszka
Regional Audit Manager
Chicago Regional Audit Office
Office of Inspector General
U.S. Department of Justice
500 West Madison Street, Suite 1121
Chicago, Illinois 60661-2590

Re: City of Chicago's Response to Draft Audit Report Relating to Office of Community Policing Services ("COPS") Technology Program Grant Number 2007-CK-WX-0034

Dear Ms. Taraszka:

We are writing to provide the response ("Response") of the City of Chicago ("City") to the Draft Audit Report ("Draft Report") of the Office of Inspector General ("OIG") relating to the COPS Technology Program Grant Number 2007-CK-WX-0034 ("Grant") awarded to the Chicago Police Department ("CPD" or "Department"). The Draft Report contains findings and five recommendations to the COPS Office ("Recommendations"). You ask in your cover letter dated December 18, 2012, that we state whether we agree or disagree with each of the Recommendations.¹

As a threshold matter, we appreciate your agreement to extend the time for this Response (originally due within 21 days from the date of the Draft Report, or January 8, 2013) until January 31, 2013.

¹ While the Draft Report originally was directed to CPD Superintendent Garry F. McCarthy, it was forwarded to the City of Chicago Law Department to handle because it required the coordination and compilation of input from multiple City departments into one consolidated response.

121 NORTH LASALLE STREET, ROOM 600, CHICAGO, ILLINOIS 60602

THE OIG DRAFT AUDIT REPORT

The Draft Report recognizes that the primary purpose of the Grant was to provide funding to enhance the CPD's Citizen and Law Enforcement Analysis and Reporting Information System ("CLEAR System"), and that the majority of the grant funds were paid to one COPS-approved sole-source vendor used to develop and improve CLEAR program software.² Moreover, there is no question that all expenditures of Grant funds were used for payment of pre-approved costs, that is, for the purchase of items and services approved by the COPS Office as reflected in the Financial Clearance Memorandum.³ The Draft Report contains no findings that the CPD used any Grant funds for any costs other than those approved by COPS as properly within the scope of this Grant. In fact, the Report found that the CPD adhered to the Grant requirement to spend Grant funds within the approved budget categories.⁴

Furthermore, the Draft Report makes specific findings that the Department properly documented all costs, and submitted all financial and status reports properly and in a timely manner.⁵ Based on their review, OIG auditors found that CPD's expenditures "were properly reviewed, approved, classified, supported, and charged to the grant."⁶ The Report also concluded that the CPD was properly meeting its matching expenditure requirement, and properly requested and received several grant extensions, with the most recent Grant end date of February 28, 2013.⁷

Finally, there is no question that the CPD is meeting the goals of this Grant. We applaud the Report's confirmation that randomly-selected users of the CLEAR System, from three separate agencies (the CPD, Cook County Sheriff, Illinois State Police) were all satisfied with the system and that "the CLEAR system has been enhanced through the provision of the audited grant."⁸ There is no doubt that this COPS Grant, through the enhancements to the CLEAR System, has aided the CPD's core mission of protecting lives, property and the rights of all people, by "facilitat[ing] multi-jurisdictional data sharing to identify incipient crime patterns, apprehend offenders, and prevent crime."⁹

Despite these successes, the administration of this Grant was not perfect, as noted in the Background section, below. The City acknowledges that there is room for improvement, and we

² See Draft Report at i, ii.

³ See Law Enforcement Technology Financial Clearance Memorandum, attached hereto as Exhibit A.

⁴ See Draft Report at 8-9.

⁵ See *id.* at ii, 9-11.

⁶ *Id.* at 9.

⁷ *Id.* at i, ii, 10.

⁸ *Id.* at 11-12.

⁹ *Id.* at 11.

express our appreciation for the careful audit that illuminated several weaknesses. However, none of the weaknesses identified indicate any violations of federal, State or local laws, regulations, or other guidance, or any Grant conditions, assurances or certifications.

As explained in detail below, the City agrees with one of the Draft Report's five Recommendations (Recommendation #1), agrees in part, and disagrees in part, with one (Recommendation #2), and disagrees with the remaining Recommendations (Recommendations #3, #4, and #5). Most particularly, as to Recommendation #3, the City strongly disagrees that the costs spent under an expired City contract should be deemed "unallowable." As noted below, there is no question that those funds were properly spent on costs approved in the Grant's Financial Clearance Memorandum, and the payment of funds for services rendered under the expired contract was lawful under the contract's survival provision and under the Chicago Municipal Code.

BACKGROUND

The Award-Winning CLEAR System

The COPS Technology Grant Program "is designed to assist state, local, and tribal law enforcement agencies to procure technology that enhances the ability to share information with regional, state, and federal partners."¹⁰ This particular Grant enabled the Department to expand its award-winning CLEAR System, which already serves over four hundred and fifty (450) local, state, and federal criminal justice agencies, by adding critical components to enhance its effectiveness and enable participation from even more partners in the Great Lakes Region, including counties in Illinois, Indiana, and Wisconsin.¹¹ The CLEAR System serves as a model system for police data processing and analysis, and has been featured at workshops and conferences around the United States, including most recently at the National Institute of Justice conference in Washington, D.C., last summer. CLEAR now exchanges data with the Law Enforcement National Data Exchange ("N-DEX"), making Chicago the largest jurisdiction in the nation to participate in this interoperable platform.

The Grant

The award start date for the Grant was September 1, 2007. The Grant's original end date was August 31, 2010, but COPS granted several no-cost extensions, so that the current award end date is February 28, 2013. The 2007 COPS Technology Program "provides up to 75 percent of the costs of allowable items, and grantees are required to contribute a minimum local cash match of 25 percent toward the total cost of the approved grant project."¹² Here, the total approved budget for the project is \$7,884,960, with the federal Grant covering 75% of the total budgeted cost (\$5,913,720), and the City to provide 25% in local matching funds (\$1,971,240).¹³

¹⁰ *Id.* at i, 1.

¹¹ *Id.* at i, 1-2.

¹² U.S. Department of Justice, Office of Community Oriented Policing Services, 2007 Technology Program Grant Owner's Manual ("COPS Manual") at 47.

¹³ Draft Report at i, 2, 9.

Grant Payments and Matching Contributions

A grantee may choose to take grant payments from a funding source either in advance of expenditures or as reimbursement of expenditures.¹⁴ If advances are requested, certain steps must be taken to meet grant requirements pertaining to advances, including relatively quick disbursement of those funds.¹⁵ Reimbursement is the “preferred method” when it is difficult to “minimize time elapsing between the transfer of the [grant funds] and their disbursement by the grantee.”¹⁶

Where, as here, a grant requires a relatively short period between receiving an advance of grant funds and disbursing those funds,¹⁷ the City follows the “preferred method” of reimbursement. The City does this to avoid inadvertently violating the requirements applicable to advances. As for how often an agency may request reimbursements for expenditures made, the COPS Manual provides:

[t]here are no limitations on how often [an] agency may request reimbursements. However, reimbursement is only for items that were approved in the Financial Clearance Memorandum under the Technology Program grant. As a general guideline, most agencies request reimbursement on a monthly or quarterly basis.¹⁸

As for the City’s portion of the project expenditures, that is, its 25% match, federal guidance allows grantees much flexibility in meeting its obligations. According to the COPS Manual, “[m]atching contributions may be applied at any time during the life of [the] grant, provided that the full matching share is obligated by the end of the grant period.”¹⁹ Thus, a grantee would be permitted to draw down and apply Federal grant funds to the first 75% of project expenditures,

¹⁴ 28 C.F.R. §66.21(c), (d).

¹⁵ 28 C.F.R. §66.21(c) (“Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.”).

¹⁶ 28 C.F.R. §66.21(c), (d).

¹⁷ See COPS Manual at 38 (“There should be no excess grant funds on hand, except for advances not exceeding ten days . . .”); U.S. Department of Justice, Office of Justice Programs (“OJP”), Office of the Chief Financial Officer, 2011 Financial Guide (“OJP Guide”) at 27 (“Drawing Only What Is Needed – Your organization should request funds based upon immediate disbursement/reimbursement requirements. Funds will not be paid in a lump sum, but rather disbursed over time as project costs are incurred or anticipated . . . You should time your draw down requests to ensure that Federal cash on hand is the minimum needed for disbursements/reimbursements to be made immediately or within 10 days.”); U.S. Department of Justice, Office of Justice Programs, Office of the Comptroller, 2006 Financial Guide (“2006 OJP Guide”) at 37-38 (same).

¹⁸ COPS Manual at 39.

¹⁹ COPS Manual at 47; see also OJP Guide at 35 (“Matching contributions do not need to be applied at the exact time or in proportion to the obligation of the Federal funds. However, the full matching share must be obligated by the end of the award period.”); 2006 OJP Guide at 48 (same).

and apply local matching funds to the last 25% of the expenditures, so long as those matching funds were obligated by the grant end date.

The City's Project Expenditures and Grant Drawdowns

Here, the City paid 100% of all vendor invoices with City general funds, and, for the entire life of the project to date, has sought reimbursement only for actual expenditures already made. The City never sought any advances, but carried all of the costs of the project itself before seeking federal reimbursement. At no time during the course of the Grant were Federal funds drawn for expenditures that did not occur prior to such draw.

As the attached chart shows, the City's first payment for project costs was made on December 31, 2007, four months after the grant start date.²⁰ The City then made actual payments of \$1,303,710.35 of City money for over nine months, before seeking the first draw of Grant funds for the exact amount of its expenditures on September 23, 2008.²¹ Over the next eight months, the City spent another \$656,008.10 of its own funds, and then made a second drawdown on June 3, 2009, for exactly the amount of its actual expenditures.²²

As for the City's third drawdown of Grant funds on December 2, 2010, the City only sought Federal reimbursement for a portion of its actual expenditures as of that date. Between June 2009 and October 2010, the City actually spent \$3,915,073.78 of its own money on approved project costs, but it only sought reimbursement for \$2,513,446.12.²³ Twenty days later, on December 22, 2010, the City drew down Grant funds to cover the exact amount of the unreimbursed balance of its actual expenditures (\$1,401,627.66).²⁴

Over the entire life of the project, the City only has drawn down Federal funds for the amount of City funds it has actually already spent on approved project costs. This holds true even for the fourth drawdown on December 22, 2010, which is the drawdown at issue in the Draft Report. As the attached Grant Expenditures Chart shows, the drawdown on December 22, 2010, was for \$1,401,627.66, exactly the amount of the unreimbursed actual expenditures the City had already made before that date. As of December 22, 2010, the City had actually disbursed out of City general funds a total of \$5,874,792.88 for approved project costs, which corresponds exactly to the total cumulative Grant funds the City had drawn down in four installments as of that date. Thus, with the fourth draw, the City did not draw down any more Grant funds than it had already expended of its own money.

²⁰ City of Chicago COPS Technology Program Grant, Summary Chart of Expenditures (prepared by Office of Comptroller staff – dated 1/25/2013) (“Grant Expenditures Chart”), attached as Exhibit B.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

The confusion that the City caused – and that the Draft Report highlights – arises from an internal accounting step that the City took that was not noticed when the Comptroller’s Office made the fourth drawdown on December 22, 2010. That fourth drawdown was made precisely because the City had incurred \$1,401,627.66 in actual expenditures as of that date that had not yet been reimbursed by Federal Grant funds. What was not noticed is that the City had at that point already earmarked those City disbursements to be reported in its general ledger as City matching expenditures.²⁵ Thus, although the City was entitled to seek Federal reimbursement for those expenditures, the City instead designated them as expenditures not to be reimbursed, as a purely internal accounting entry. Because the only requirement relating to the City’s 25% match is that “the full matching share is obligated by the end of the grant period,” there is no reason the City could not take the \$1,401,628 reimbursement on December 22, 2010, and use later expenditures to meet its 25% match.

2009 OJP Site Visit and Follow-Up Letter

Although the City was not required under Federal guidelines to refrain from seeking reimbursement for the \$1,401,627.66 in already-spent City moneys (since the costs were allowable and the Grant funding level of 75% had not yet been met),²⁶ the City made the decision to start earmarking those expenditures of City funds as its matching contribution. The City did so as a result of earlier OJP feedback.

In particular, OJP grant management personnel performed a site visit to the Chicago Police Department on October 19-21, 2009, for the purpose of “perform[ing] routine grant financial monitoring and provid[ing] technical assistance for grants awarded by the Department of Justice.”²⁷ In follow-up correspondence dated November 10, 2009, the OJP Staff Accountant noted that “the City had not recorded any matching expenditures in their accounting system” for the COPS Grant as of the date of the site visit.²⁸ That letter further noted that matching contributions could be applied at any time before the end of the grant award period:

The City is reminded that the entire balance of matching funds required under these awards must be obligated prior to the end of the award period . . . and expended within 90 days thereafter. Per OJP’s Financial Guide, matching

²⁵ The staff person from the Comptroller’s Office who actually initiated the fourth drawdown on December 22, 2010, confirmed that he made that drawdown because there were expenditures in the amount of \$1,401,627.66 for which the City had not yet sought Federal reimbursement, and he failed to notice that those expenditures had been flagged with an internal reporting category designation as City matching contributions for which no reimbursement would be sought.

²⁶ See COPS Manual at 47; OJP Guide at 35; 2006 OJP Guide at 48.

²⁷ See Letter dated September 23, 2009, from Corazon O. Blumenstein, Staff Accountant, Grants Financial Management Division, Office of the Chief Financial Officer, Office of Justice Programs, U.S. Department of Justice, to Larry Sachs, CPD Director of Grants Management, at 1, attached hereto as Exhibit C.

²⁸ See Letter dated November 10, 2009, from Corazon O. Blumenstein, Staff Accountant, Grants Financial Management Division, Office of the Chief Financial Officer, Office of Justice Programs, U.S. Department of Justice, to Larry Sachs, CPD Director of Grants Management, at 2, attached hereto as Exhibit D.

Ms. Carol S. Taraszka
January 31, 2013
Page 7

contributions need not be applied at the exact time or in proportion to the obligation of Federal award funds. However, the full matching share must be provided by the end of the period for which the Federal funds have been available.²⁹

The CPD's response to OJP's November 10th Letter was non-committal about whether the City would start allocating expenditures to its matching share, although it was fully cognizant of the requirement to do so before the end of the Grant period:

In the case of [the COPS Grant], CPD has a cash match responsibility and it is noted that this grant is still active. CPD will document that it has met its match responsibility through final fiscal reporting, and internal accounting system records will be available to back-up that fiscal reporting and will demonstrate exactly how City cash match for this grant was expended.³⁰

The City's Internal Accounting Changes Following the OJP Site Visit

Nonetheless, following the OJP site visit and follow-up letter, CPD Finance Division personnel began earmarking vendor invoices – all of which would initially be paid with City general funds – as either to-be-reimbursed by Federal Grant funds or not-to-be-reimbursed by Federal funds. In order to track the City expenditures destined for Federal reimbursement and those that were not, a separate reporting category was set up in the City's general ledger. As shown on the attached Grant Expenditures Chart,³¹ starting in November 2009, individual invoices were marked as being placed in the original reporting category – “07EP01” – as City expenditures to be reimbursed by Grant funds, or in the newly-created reporting category – “07EP02” – as expenditures for which the City did not intend to seek Federal reimbursement. These reporting categories were meant as an internal tracking tool, that is, as a way to track expenditures in the general ledger, which would assist in the eventual reconciliation process at the end of the Grant period. The City's designation of a vendor invoice as “07EP02” in no way signified an ineligibility of those costs for Federal reimbursement. Indeed, all such costs were allowable Grant costs, initially paid with City general funds, and all were eligible for Federal reimbursement, well within the Federal 75% commitment.

As shown on the attached Grant Expenditures Chart, for the payments made from City funds between June 9, 2009 and October 28, 2010, some of the expenditures are designated as “07EP01” and some are designated as “07EP02.”³² Although all of the listed expenditures were eligible for reimbursement with Grant funds, the City began designating some as City matching

²⁹ *Id.*

³⁰ See Letter dated March 4, 2010, from Larry E. Sachs, CPD Director of Grants Management, to Corazon O. Blumenstein, Staff Accountant, Grants Financial Management Division, Office of the Chief Financial Officer, Office of Justice Programs, U.S. Department of Justice, at 2, attached hereto as Exhibit E.

³¹ See Exhibit B.

³² See *id.*

Ms. Carol S. Taraszka
January 31, 2013
Page 8

expenditures. The first City payment that was designated as not targeted for Federal reimbursement was the payment made on November 2, 2009, to the City's approved sole source vendor, clearly an allowable cost under the Grant.

Thus, the third drawdown made on December 2, 2010, was for the actual City disbursements made before that date that had been earmarked for Federal reimbursement in the "07EP01" reporting category. The fourth drawdown on December 22, 2010, was for actual City disbursements before that date that, quite arbitrarily, had been earmarked in the "07EP02" reporting category as costs to be allocated to the City's matching contribution.

Following the December 22, 2010, drawdown of \$1,401,627.66, the City should have corrected its internal tracking system to properly designate all of the expenditures between June 9, 2009 and October 28, 2010, as in the "07EP01" reporting category on its general ledger.³³ All of those expenditures were for allowable costs, all were already paid with City funds before the drawdown date, and all were within the 75% Grant funding level. Thus, the City did not draw down Grant funds as an advance for disbursements not yet made. Rather, it incorrectly designated expenditures in its internal reporting categories as not to be reimbursed that *de facto* had already been reimbursed.

The City has put in place procedures to avoid this internal tracking error in the future. Personnel in the Comptroller's Office who are charged with reviewing grant-related expenditures and implementing drawdown requests now are required to determine that any request does not include expenditures that have been designated as in the matching expenditures reporting category. That process has been implemented through use of a revised form that requires documentation of whether expenditures earmarked as matching have been included in the drawdown amount.³⁴

Local Law Applicable to the City's Contract with Oracle

As noted in the Draft Report, "[t]he majority of grant funds were paid to one COPS-approved, sole-source vendor used to develop or improve CLEAR program software."³⁵ The Draft Report takes issue with the fact that the contract with this vendor, Oracle Corporation, expired as of December 31, 2010, and the City continued to make expenditures under it. According to the Draft Report:

While the grantee was not specifically required to notify COPS that the approved sole source vendor was operating under an expired contract, a staff person with COPS stated that this activity would not have been approved if the COPS Office

³³ Federal regulations and grant guidance materials require that grantees keep adequate accounting records, maintain effective internal controls, and submit accurate financial reports. *See, e.g.*, 28 C.F.R. §66.20(b)(1), (2), and (3); COPS Manual at 43-44; OJP Guide at 18-19, 82-83; 2006 OJP Guide at 29-31, 101-103.

³⁴ City of Chicago Comptroller's Office, Drawdown/Billing Request, attached hereto as Exhibit F.

³⁵ *See* Draft Report at ii, 7 n.6.

had been aware of the situation.³⁶

Aside from the vague discomfort of one unidentified COPS staff person, however, the Draft Report fails to identify any Federal statutes, regulations, or other guidance that would prohibit the City's payments under an expired contract,³⁷ and such payments are not prohibited by local law.

City departments generally are expected to keep all of their contracts current, either by seeking a formal amendment to extend the contract, or by initiating the procurement process for a new contract well in advance of the expiration date. However, payments made for services rendered after the expiration of a contract are not unlawful. In fact, the Chicago Municipal Code expressly authorizes the City's Comptroller to pay vouchers, whether there is a contract or not, assuming that the voucher is correct and the price and quality of the services "are fair and just:"

2-32-360 Investigation of vouchered claims.

Upon the presentation of any voucher for payment, the comptroller, in his discretion, before issuing a warrant therefor, is hereby authorized to cause to be made an inspection and examination of the article supplied and work and labor performed, *whether by written contract or otherwise*, as well as any items appearing in any such voucher, for the purpose of ascertaining that such items, or any of them, are correct and the price and quality of the labor or service performed and the price, quality and amount of goods, wares and merchandise represented by such voucher, are fair and just and *in accordance with the terms of the written contract, if any there be*, and that all requirements and obligations, expressed or implied, pertaining thereto, have been complied with. For any such examination and inspection, all departments, bureaus, boards and persons having supervision of work and labor or the purchasing of supplies or material to be paid for by the city, are hereby directed to render such assistance to the comptroller as may be necessary, to determine the price, quality and character of the work and labor performed, material supplied, or the faithful performance of contracts. If upon any such inspection and examination by the comptroller any irregularities are discovered, the comptroller shall report such irregularities to the city council.

Chicago Municipal Code, §2-32-060 (emphasis added). The only other requirement for payment of a voucher is that it must specify the fund or appropriation to which the expenditure is to be charged:

³⁶ See *id.* at ii, 8.

³⁷ All guidance from the COPS Office related to this program (including training materials, reference guides, and the Code of Federal Regulation itself) defers procurement to local contracting rules, which were followed throughout the execution of this program. For example, Federal regulations governing grants expressly defer to local procurement standards. See 28 C.F.R. §66.36(b) ("Grantees . . . will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.").

2-32-350 Warrants, checks and electronic funds transfers – Form and signature.

(a) The mayor shall sign all warrants drawn upon the treasurer; and warrants shall be countersigned by the comptroller. *Each warrant shall state the particular fund or appropriation to which the same is chargeable* and the person to whom payable. No money shall be paid otherwise than upon warrants so drawn, except as provided otherwise in subsection (b).

(b) Notwithstanding any provision of this Code to the contrary, whenever the payment of city funds is required or authorized by warrant drawn upon the treasurer, signed by the mayor and countersigned by the comptroller, such payment instead may be made by an electronic funds transfer or by a check that is drawn upon the appropriate city depository. The check shall be signed by the mayor and countersigned by the comptroller.

Chicago Municipal Code, §2-32-050 (emphasis added).

The City could have issued written guidance outlining the circumstances under which the Comptroller will exercise his or her authority under Section 2-32-060, as a matter of policy, to pay invoices under expired contracts, for example, by prohibiting or restricting such payments. However, no such written policies have been issued to departments prohibiting or restricting the practice. Thus, as noted in the Draft Report,³⁸ it was not unusual for City departments to encumber City funds under a contract that was set to expire, in order to allow the expenditure of those contract funds after expiration of the contract.³⁹

Furthermore, the City's contract with Oracle itself contemplates the survival of terms and conditions of the agreement "which should reasonably survive:"

25.11 Survival. The terms and conditions of this agreement which should reasonably survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement for any reason, including . . .
Article V (Payment and Payment Terms) . . .⁴⁰

³⁸ See Draft Report at 8.

³⁹ According to the Draft Report, an unidentified City official stated that the Mayor's Office had informed City departments "that it was no longer an acceptable practice to encumber funds and make payments on expired contracts." *Id.* at 8. At the time of the encumbrance in December 2010, no policies prohibiting the practice had been formalized and issued either in writing or orally. Moreover, even as of the present, no written policies have been issued prohibiting or restricting the practice; however, at some point after June 2011, the City's Department of Procurement Services began advising City departments that they should be vigilant in keeping all of their contracts current and avoid the practice of continuing services and payments under expired contracts. In any event, the issue here is whether payments on expired contracts are prohibited by local law, and, as shown above, such payments are expressly authorized in the Chicago Municipal Code.

⁴⁰ The City's Contract with Oracle Corporation is available on the City's Department of Procurement Services website accessible at www.cityofchicago.org or through this link:
<http://ecm.cityofchicago.org/eSMARTContracts/service/dpsweb/ViewDPSWeb.zul>

Although the list of terms and conditions which survive the expiration of the contract is not intended to be exhaustive, one of the articles that is expressly designated as surviving beyond the expiration date is the entire article pertaining to "Payment and Payment Terms." That Article addresses what fees shall be payable, as well as how they shall be paid. Thus, the contract itself explicitly allows the City to make payments after the expiration of the contract. The City could have provided in its contract with Oracle that no provisions would survive the expiration of the contract, but it specifically provided otherwise.

Here, prior to the expiration of the contract, the City issued its final "Blanket Release" to Oracle Corporation on December 21, 2010. As shown on the attached summary,⁴¹ the City issued "Blanket Releases" throughout the life of the project through December 2010, that served to encumber, or set aside, City general funds to pay the project costs initially, which were then reimbursed periodically with Grant funds. Thus, the Blanket Release issued on December 21, 2010, was intended to encumber the final \$265,652.87 of the total project cost of \$7,884,960.⁴²

The City does not "encumber" or "release" Federal grant funds that are drawn down, and it did not do so here. Therefore, the statement in the Draft Report that the \$1,401,628 drawdown "was made in order to encumber funds against a contract" that was set to expire⁴³ is incorrect. The \$1,401,628 reimbursement drawdown is a completely separate matter from any releases or encumbrances of City general funds made in anticipation of the contract expiration date.

The "Blanket Release" issued December 21, 2010, directed Oracle to "[f]urnish the supplies and/or services below in conformance with conditions set forth herein and your offer."⁴⁴ The Release serves as authorization for the vendor "to furnish the specified supplies and/or services in accordance with the terms and conditions of the Blanket Agreement," and serves to encumber the appropriate funds to pay for such supplies and/or services.⁴⁵ The Release further provides that "[p]ayment on this order will be made upon receipt of an original vendor invoice form referencing this order and associated [r]eceipt(s)," and directs the vendor to submit the original receipt to the City's Office of the Comptroller.⁴⁶ And, as shown above, payment for such services was authorized by both the contract terms and by the City Municipal Code, even after expiration of the contract.

⁴¹ See Obligation Encumbrance Summary, attached hereto as Exhibit G.

⁴² See *id.*

⁴³ See Draft Report at 7.

⁴⁴ See Blanket Release dated December 21, 2010, attached hereto at Exhibit H.

⁴⁵ *Id.*

⁴⁶ *Id.*

DRAFT AUDIT REPORT RECOMMENDATIONS

Recommendation #1

Confirm that the city of Chicago has complied with GASB 51 on the capitalization of intangible assets relating to the CLEAR Project.

City Response

The City agrees with this Recommendation. As stated in the Draft Report,⁴⁷ Government Accounting Standards Board Statement Number 51 (“GASB 51”) “requires [that] intangible assets, such as software purchases, be capitalized in the same manner as the grantee capitalizes tangible assets in its financial statements.” Thus, such intangible assets should be classified as capital assets, and not expensed.⁴⁸

Here, the City expensed the software development and improvements, as well as the connectivity improvements to enhance the CLEAR system, rather than capitalizing them.⁴⁹ As also noted in the Draft Report,⁵⁰ in response to the OIG auditors’ inquiries, the City began taking corrective action in March 2012 to properly capitalize these intangible assets.

The need to reclassify the intangible assets relating to this Grant is part of a much larger City effort to properly classify assets for all City departments. In order to comply with GASB 51 on a city-wide basis, the City distributed a GASB 51 survey to all City departments,⁵¹ and is in the process of ensuring the necessary follow-up on that survey. The City intends to comply with GASB 51 on a city-wide basis, including the assets implemented by the COPS Grant, for the 2012 fiscal year-end financial statements.

Recommendation #2

Require the grantee to implement procedures to ensure that grant drawdowns are not in excess of immediate grant needs.

City Response

The City agrees in part, and disagrees in part, with this Recommendation. The City acknowledges that drawdowns of Grant funds should only be made to reimburse an agency for allowable grant-related expenditures already made or as advances that should be disbursed

⁴⁷ See Draft Report at 6.

⁴⁸ See *id.* at iii, 4, 6.

⁴⁹ See *id.*

⁵⁰ See *id.* at iii, 6.

⁵¹ City of Chicago Department of Finance, Office of the Comptroller, Survey for GASB Statement No. 51, Accounting and Reporting for Intangible Assets, attached hereto as Exhibit I.

within ten days.⁵² Here, as explained in detail above, the City never sought any advances, but paid all vendor invoices initially with City general funds, and then periodically sought reimbursement only for actual expenditures already made. At no time during the course of the Grant were Federal funds drawn for expenditures that did not occur prior to such draw.

This holds true even for the fourth drawdown on December 22, 2010, which is the drawdown at issue in the Draft Report. That drawdown was for \$1,401,627.66, exactly the amount of the unreimbursed actual expenditures the City had already made before that date. As of December 22, 2010, the City had actually disbursed out of City general funds a total of \$5,874,792.88 for approved project costs, which corresponds exactly to the total cumulative Grant funds the City had drawn down as of that date in four draws. Thus, with the fourth draw, the City did not draw down any more Grant funds than it had already expended of its own money.

The Draft Report's statements that the December 22, 2010, drawdown was made "in order to encumber funds on the contract that expired on December 31, 2010 even though there were no corresponding invoices to be paid"⁵³ is not correct for several reasons. First, while it is true that the City issued a Blanket Release in order to encumber City general funds before the expiration of the Oracle contract, we are not aware of any similar need to "encumber" Grant funds by drawing them down early.

Second, the staff person from the Comptroller's Office who initiated the fourth drawdown on December 22, 2010, confirmed that he made that drawdown because there were expenditures in the amount of \$1,401,627.66 for which the City had not yet sought Federal reimbursement. Third, this staff person's explanation makes sense because the drawdown amount, in fact, corresponds exactly with the amount of unreimbursed expenditures as of that date; it does not correspond with the remaining amount of Grant funds as of that date, which it would if the purpose somehow were to "encumber" the Grant funds. Fourth, none of the drawdowns of Grant funds were made to pay corresponding invoices, because the City paid all invoices initially out of City funds and then sought reimbursement.⁵⁴

Although the City has demonstrated that there were no Federal drawdowns without corresponding expenditures, it acknowledges that following the December 22, 2010, drawdown, the City should have corrected its internal tracking system to properly designate all of the expenditures between June 9, 2009 and October 28, 2010, as in the "07EP01" reporting category on its general ledger. Instead, it incorrectly left expenditures in its internal reporting categories as not to be reimbursed that *de facto* had already been reimbursed. Thus, even though, as a factual matter, the December 22, 2010, drawdown was made to reimburse the City's

⁵² 28 C.F.R. §66.20(b)(7) (Cash management); 28 C.F.R. §66.21(b), (c), (d) (Payment, Basic standard, Advances, Reimbursement); COPS Manual at 37; OJP Guide at 27; 2006 OJP Guide at 37-38 (same).

⁵³ See Draft Report at ii-iii, 7.

⁵⁴ Likewise, the statement that the \$1,401,627.66 drawdown "was not supported by any expenditure records for that time period," Draft Report at 6, is wrong. As shown on the Grant Expenditures Chart, that amount was supported by specific, documented payments by the City. See Exhibit B.

Ms. Carol S. Taraszka

January 31, 2013

Page 14

expenditures made before that date, the City's records do not accurately reflect that fact.

As noted above, the City has already taken sufficient corrective action to avoid this kind of mistake from happening in the future, by requiring personnel in the Comptroller's Office who are charged with implementing drawdown requests to use a revised form that requires documentation that expenditures earmarked as matching have not been included in the drawdown amount.⁵⁵

Additionally, the City proposes the additional corrective action of revising its internal general accounting ledgers, so that all of the expenditures that supported the December 22, 2010, drawdown are properly designated in the "07EP01" reporting category, that is, the category subject to Federal reimbursement. Likewise, since this internal accounting error carried over into the Federal Financial Reports ("FFRs"), the City proposes submitting corrected FFRs that accurately reflect the Federal and matching share contributions.⁵⁶

Recommendation #3

Remedy the \$1,039,799 in unallowable questioned costs for expenditures made under an expired contract.

City Response

The City disagrees with this Recommendation. The Draft Audit lists as "Questioned Costs" the amount of \$1,401,628, which is the amount of the December 22, 2010 drawdown.⁵⁷ According to the Draft Report:

[q]uestioned costs are expenditures that do not comply with legal, regulatory, or contractual requirements, or are not supported by adequate documentation at the time of the audit, or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.⁵⁸

Of this total listed amount, the Draft Report alleges that any amounts that were spent after the Oracle contract expired on December 31, 2010 (\$1,039,799 at the time of the audit) are questioned costs because they are "unallowable."⁵⁹ The Draft Report fails to explain why costs

⁵⁵ See Exhibit F.

⁵⁶ The City recognizes that this correction would result in more heavily front-loaded Federally-funded project expenditures, but, as noted above, there is no requirement that matching contributions be applied at the exact time or in proportion to the obligation of the Federal funds, so long as the full matching share is obligated by the end of the award period. See COPS Manual at 47; OJP Guide at 35; 2006 OJP Guide at 48.

⁵⁷ Draft Report at 16.

⁵⁸ *Id.*; see also Office of Management and Budget ("OMB") Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations at §105 (definition of "questioned costs").

⁵⁹ See Draft Report at 8, 13, 16.

expended under an expired contract are “unallowable,” except to say that an unidentified COPS staff person “stated that this activity would not have been approved if the COPS Office had been aware of the situation.”⁶⁰ The Draft Report states that the costs paid under the expired contract should be “remedied,” but does not specify which of the remedial options that is listed should be applied.⁶¹

As demonstrated above, the entire amount of the December 22, 2010, drawdown was a reimbursement, supported by actual expenditures that the City made between June 9, 2009 and October 28, 2010. Thus, this amount was spent before the 2010 year-end expiration of the Oracle contract. The corrective action the City proposes in response to Recommendation #2 will correct the City’s internal records and corresponding reports to properly reflect this fact. If so, then the overwhelming majority of expenditures made after the expiration of the contract will be attributable to the City’s matching contribution.⁶² In any event, however, the City submits that the payment of expenditures under an expired contract does not render such costs “unallowable.”

Under Part 66 of the Federal regulations, “[a]pplicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.”⁶³ The COPS Manual defines “allowable costs” as “expenses that may be funded by this grant program,” as outlined in the particular Financial Clearance Memorandum that is included in the grant award package.⁶⁴ Here, there are no allegations that the costs expended were outside of the costs outlined in the Grant’s Financial Clearance Memorandum.

As for the “applicable cost principles” for determining “allowable costs” for grants made to local governments, they are contained in OMB Circular A-87 (relocated to 2 C.F.R. Part 225), “Cost Principles for State, Local and Indian Tribal Governments.”⁶⁵ Appendix A to Part 225 contains the principles for determining whether costs are allowable, and lists “factors affecting the allowability of costs.”⁶⁶ The Draft Report fails to cite to any of the provisions of Part 225 to support its determinations that costs spent under an expired contract are “unallowable.” The only factor listed that could be arguably applicable here is the requirement that costs “[b]

⁶⁰ *Id.* at ii, 8.

⁶¹ *Id.* at 4, 13, 16.

⁶² As noted multiple times above, Federal regulations and guidance allow matching funds to be applied at any time during the Grant period. *See* COPS Manual at 47; OJP Guide at 35; 2006 OJP Guide at 48.

⁶³ 28 C.F.R. §66.20(b)(5).

⁶⁴ COPS Manual at 12, 69; *see also* OJP Guide at 58; 2006 OJP Guide at 74.

⁶⁵ 28 C.F.R. §66.22(b) (listing OMB Circular A-87, which according to the OMB website has been “[r]elocated to 2 C.F.R., Part 225).

⁶⁶ 2 C.F.R. Part 225, Appendix A, Section C, Basic Guidelines.

authorized or not prohibited under State or local laws or regulations.”⁶⁷

As explained above, however, the contract itself provides for the survival of all terms and conditions of the contract “which should reasonably survive,” including the entire article pertaining to payment and payment terms.⁶⁸ Additionally, the Chicago Municipal Code expressly authorizes the City’s Comptroller to pay vouchers, whether there is a contract or not, assuming that the voucher is correct and the price and quality of the services “are fair and just.” Chicago Municipal Code, §2-32-060. Moreover, there is no prohibition on City departments issuing Blanket Releases before the expiration of a contract to encumber funds to be spent for services rendered after expiration of the contract. Thus, there is no basis for the finding that any of the expenditures made for services rendered under the expired contract were “unallowable.”

Recommendation #4

Remedy the \$361,829 in unsupported costs resulting from an excessive drawdown of grant funds.

City Response

The City disagrees with this Recommendation. According to the Draft Report, as of the date of the audit, “\$361,829 still remained on hand from the above described excess drawdown, and this portion of the questioned costs should be returned to COPS and drawn down as expended.”⁶⁹ As demonstrated above, however, the entire December 22, 2010 drawdown, including this sum, was a reimbursement, supported by the expenditures the City made between June 9, 2009 and October 28, 2010.⁷⁰ Thus, if the City’s proposed corrective action for Recommendation #2 is accepted, this amount will be accurately reflected in the City records as a reimbursement.

Recommendation #5

Remedy the funds to better use from interest earned on the excessive advance drawdown of COPS funds.

City Response

The City disagrees with this Recommendation. Federal regulations provide that “grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency,” except that “[t]he grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.”⁷¹ The Draft Report argues that the City received an advance in the amount of the December 22, 2010 drawdown, for which it should calculate and remit the interest.⁷²

⁶⁷ *Id.*

⁶⁸ See note 38, *supra*.

⁶⁹ Draft Report at iii; see also *id.* at 4, 8, 13, and 16.

⁷⁰ See Exhibit A.

⁷¹ 28 C.F.R. §66.21(i); see also COPS Manual at 39; OJP Guide at 27; 2006 OJP Guide at 38.

⁷² Draft Report at iii, 4, 8.

Ms. Carol S. Taraszka
January 31, 2013
Page 17

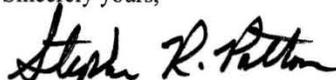
As shown above, the City did not seek any advances, but only requested drawdowns to reimburse actual expenditures. Thus, the City does not believe that it is required to calculate and remit any interest to the COPS Office. If the City's proposed corrective action relating to Recommendation #2 is acceptable, the City's internal accounting records and FFRs will accurately reflect the December 22, 2010 drawdown as a reimbursement. Thus, there will be no advance and, therefore, no interest owed.⁷³

CONCLUSION

The City of Chicago Department of Police has enjoyed a successful partnership with the COPS Office since its beginning in the mid-1990s, and has depended upon COPS technology funding since 2001. This partnership has resulted in the creation and continued expansion of one of the most successful technology platforms in policing, which has been featured in numerous publications, including a publication from the COPS Office itself entitled "Policing Smarter Through IT: Learning from Chicago's Citizen and Law Enforcement Analysis and Reporting (CLEAR) System,"⁷⁴ and at workshops around the country. Throughout this collaboration, the CPD and other involved City departments have strived to ensure that all activities comply with grant and program requirements, especially since so many other agencies look to this program as a national best practice, and we understand that the CLEAR System has served as a model for many other jurisdictions.

We would welcome the opportunity to meet to discuss the Draft Report and this Response at your convenience. Please let us know if there is any further information and/or documentation that we can provide.

Sincerely yours,



Stephen R. Patton
Corporation Counsel

cc: Ms. Lashon M. Hilliard
Management Analyst
COPS Audit Liaison Division

⁷³ If the City's proposed corrective action is not accepted, however, the City's internal accounting records will continue to reflect the December 22, 2010, drawdown as if it were an advance. If so, the City has calculated the interest on the entire drawdown amount from the date of the drawdown until the present to be \$18,054.00. See City of Chicago Comptroller's Office Interest Calculation, attached hereto at Exhibit J.

⁷⁴ http://www.ipr.northwestern.edu/publications/policing_papers/COPS-long.pdf

Ms. Carol S. Taraszka
January 31, 2013
Page 18

Garry F. McCarthy, Superintendent
City of Chicago Police Department

Jamie L. Rhee, Chief Procurement Officer
City of Chicago Department of Procurement Services

Amer Ahmad, Comptroller
City of Chicago Department of Finance

Alexandra Holt, Director
City of Chicago Office of Budget and Management

U.S. DEPARTMENT OF JUSTICE RESPONSE



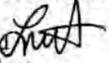
U.S. DEPARTMENT OF JUSTICE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
Grant Operations Directorate/Audit Liaison Division
145 N Street, N.E., Washington, DC 20530

COPS

MEMORANDUM

Via E-Mail and U.S. Mail

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

From: Lashon M. Hilliard 
Management Analyst
COPS Audit Liaison Division

Date: February 11, 2013

Subject: Response to the Draft Audit Report for the COPS Technology Program Grant to
he city of Chicago and Chicago Police Department, Chicago, Illinois.
COPS Technology Grant 2007CKWX0034

This memorandum is in response to your draft audit report, dated December 18, 2012, for the Chicago Police Department (CPD), Chicago, IL. For ease of review, each audit recommendation is stated in bold and underlined, followed by COPS' response to the recommendation.

Recommendation 1: Confirm that the city of Chicago has complied with GASB 51 on the capitalization of intangible assets relating to the CLEAR project.

COPS concurs and CPD agrees that the city of Chicago comply with GASB 51 on the capitalization of intangible assets relating to the CLEAR project.

Planned Action(s):

After review of your report and the grantee's response, CPD has distributed the GASB 51 survey city-wide and is in the process of ensuring the necessary follow-up on that survey including the assets implemented by the COPS grant for the 2012 fiscal year-end financial statements.

Request

Based on the discussion and planned actions, COPS requests resolution of Recommendation 1.

ADVANCING PUBLIC SAFETY THROUGH COMMUNITY POLICING

Recommendation 2: Require the grantee to implement procedures to ensure that grant drawdowns are not in excess of immediate grant needs.

COPS concurs the city of Chicago should have a mechanism in place to ensure that grant drawdowns are not in excess of immediate grant needs.

Planned Action(s):

After review of your report and the grantee's response, COPS is working with the grantee to provide supporting documentation to demonstrate that procedures are in places to ensure that grant drawdowns are not in excess of immediate grant needs.

Request

Based on the discussion and planned actions, COPS requests resolution of recommendation 2.

Recommendation 3: Remedy the \$1,039,799 in unallowable questioned costs for expenditures made under an expired contract.

COPS concurs that the city of Chicago should request reimbursement for expenditures that are allowable, allocable, and consistent with grant terms and conditions.

Planned Action(s):

After review of your report and the grantee's response, COPS will work with the grantee to remedy the questioned costs.

Request

Based on the planned actions, COPS requests resolution of recommendation 3.

Recommendation 4: Remedy the \$361,829 in unsupported costs resulting from an excessive drawdown of grant funds.

COPS concurs that the city of Chicago should request reimbursement for grant-funded expenditures that are allowable, allocable, and consistent with grant terms and conditions.

Planned Action(s):

After review of your report and the grantee's response, COPS will work with the grantee to address the \$361,829 identified in the draft audit report and to remedy those costs.

Carol S. Taraszka, Regional Audit Manager, Chicago Regional Audit Office
February 11, 2013
Page | 3

Request

Based on the planned actions, COPS requests resolution of recommendation 4.

Recommendation 5: Remedy funds to better use (FTBU) from interest earned on the excessive drawdown of COPS funds.

Planned Action(s):

After review of your report and the grantee's response, COPS will work with the grantee to remedy the FTBU from interest earned on the excessive drawdown of COPS funds.

Request

Based on the planned actions, COPS requests resolution of recommendation 5.

The COPS Office would like to thank you for the opportunity to review and respond to the draft audit report. If you have any questions, please contact me at (202) 514-6563.

cc: Carol S. Taraszka (copy provided electronically)
Regional Audit Manager
Office of the Inspector General
Chicago Regional Audit Office

Louise H. Duhamel, Ph. D (copy provided electronically)
Acting Assistant Director, Audit Liaison Group
Internal Review and Evaluation Office
Justice Management Division

Marcia O. Samuels-Campbell (copy provided electronically)
Acting Deputy Director for Operations
Audit Liaison Division
Office of Community Oriented Policing Services (COPS)

Audit File Copy
ORI: ILCPD00

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

The OIG provided a draft of this audit report to the Office of Community Oriented Policing Services (COPS) and the city of Chicago Police Department (Chicago PD). The city of Chicago's response is incorporated in Appendix III of this final report, and the COPS Office's response is incorporated in Appendix IV.¹³

The city of Chicago (City) provided a detailed response to the draft report. The majority of the City's response addressed recommendation numbers 2 through 5, which are all related. These recommendations relate to the ramifications of the Chicago PD's December 23, 2010, drawdown of more than \$1.4 million in grant funds.

We have reviewed and analyzed the City's response and noted that the City acknowledged "the administration of this grant was not perfect," "the City acknowledges that there is room for improvement," and that our audit "illuminated several weaknesses." However, the City also stated that those weaknesses did not indicate violations of any laws, regulations, guidance, or grant conditions. We agree that our audit did not reveal any violations of law. However, our audit did reveal significant deficiencies in the City's administration of its COPS Technology Program Grant, as detailed in our report and this Appendix.

Although the City correctly quoted our draft report as stating that the grantee's expenditures "were properly reviewed, approved, classified, supported, and charged to the grant," this was based upon the grant accounting records provided by the City during our audit. This statement speaks to the fact that the City's documentation supporting the reviewed grant expenditures substantiated the existence of supervisory review and approval, was adequate to evidence the payment of funds, and corroborated the transactions as entered in the accounting records at the time of our audit. In addition, the expenditures were in line with the items approved by the COPS Office. However, this sentence from our report and our other positive findings, including the grantee's adherence to the matching requirement and its efforts to meet the goals of the grant, should not be taken out of context to suggest that our report does not identify significant

¹³ We did not include the attachments related to the grantee's response, detailed in Appendix III, due to their volume and technical nature.

issues with the grantee's administration of grant funds. We included this information in an effort to provide a fair and balanced report. Further, these statements were based upon the conclusions we reached after reviewing the grant-related documents and information provided to us prior to the completion of our draft report. However, the City's response to the draft report indicated that the grant accounting records provided to us contained material posting errors. As a result of this new information, the quoted report statement above may no longer be fully applicable. We made clarifying changes to our final report to indicate the implications of this new information.

As noted in our report, the grantee provided us with its grant accounting records dated June 2012 and those records indicated that the cumulative grant expenditures at the time of the aforementioned \$1.4 million drawdown totaled \$4,473,165. Including the December 23, 2010, drawdown, the Chicago PD's cumulative drawdowns at that time equaled \$5,874,793. Over the next 18 months, the Chicago PD continued to post additional expenditures to the grant account. This activity is reflected in our report in Table 2.

Throughout the audit and during a formal exit conference, we discussed this information with various high-level Chicago PD and City officials. These officials agreed with the information we presented, which was obtained from the Chicago PD's official accounting records. As noted in our report, when we presented this information during our audit, officials informed us that the \$1.4 million drawdown was taken in an effort to encumber the grant funds against a contract that was expiring at the end of December 2010. We explained to the City at our exit conference the implications of that explanation, which was that federal funds were being drawn without any corresponding expenditures in violation of COPS Technology Program rules.¹⁴

However, the City's response provided an entirely different explanation for the December 2010 drawdown and stated that its grant-related financial records and provided information associated with the December 2010 drawdown were incorrect.¹⁵ In short, the City's response asserted that there

¹⁴ The COPS Technology Program rules states that recipients should time drawdown requests to ensure that federal cash on hand is the minimum needed to pay for actual or anticipated costs within 10 days.

¹⁵ In its response, the City said that the statement in our report that the drawdown was made to encumber funds against a contract that was set to expire is incorrect. We were provided this explanation during multiple meetings attended by several high-level grantee officials.

was an error in its accounting records originally provided to the OIG and that adjusting its accounting records will remedy our findings related to the December 2010 drawdown. Specifically, according to the City's response, the December 2010 drawdown "was a reimbursement, supported by actual expenditures that the City made" prior to the expiration of the contract. The response further explained that staff in the City Comptroller's Office initiating the reimbursement requests failed to notice that these grant expenditures had been flagged with an internal reporting category designation as City-matching contributions for which no reimbursements would be sought. As a result, the City's response indicated that the accounting records we received contained material posting errors and that certain grant-related expenditures were incorrectly recorded as Chicago PD-paid matching costs.¹⁶ The City's response also proposed to repost these transactions as federal expenditures, but indicated that it has not yet taken action to make corrections to its grant accounting records. It is important to note that such an action is wholly within the grantee's realm of responsibility. If the City is certain that transactions were erroneously posted, it has a responsibility to take steps to correct the errors and ensure that its accounting records are an accurate representation of its financial activity. Because any accounting record adjustments may affect the conclusions in our audit report if substantiated, after receiving the City's response we made multiple inquiries to the City about any actions that the City had taken. On July 12, 2013, we received a response from the City that did not clearly indicate whether or when corrections may have been made. Further, we requested from the City but were not provided with any revised ledgers as evidence of any adjustments. Because the only valid documentation we received from the City substantiates the information in our report, we have not modified our findings.

We believe that it is important to reiterate that we discussed our findings with numerous grantee officials during our audit. The explanation provided within the City's response was not mentioned at any time. In addition, if this explanation is correct, it represents a significant deficiency in the City's internal control structure. For such an event to have occurred, the City's internal control system would have failed both to *prevent* the erroneous postings and to *detect* the errors prior to our audit. In addition, the transactions in question began in 2009, continued into 2012, and the City apparently did not identify the alleged errors until responding to our draft report in January 2013, which indicates that the internal control weakness existed for an extended period of time. The implications of the

¹⁶ The grant award required that the grantee make a 25 percent matching cash contribution.

City's new information on our findings and recommendations are discussed below.

In its response, the COPS Office concurred with our findings and stated that it would work with the grantee to address the recommendations. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

Recommendation Number

1. **Resolved.** Both the City and the COPS Office concurred with our recommendation to confirm that the city of Chicago complies with GASB 51 on the capitalization of intangible assets relating to the CLEAR project. According to its response, the City intends to comply with GASB 51 on a city-wide basis and is in the process of conducting a city-wide survey to identify all intangible assets.

This recommendation can be closed when we receive a copy of the City's 2012 fiscal year-end statements showing the capitalization of intangible assets, as well as a copy of the procedures implemented to ensure future intangible assets are also properly classified under GASB 51.

2. **Resolved.** In its response, the City both agreed and disagreed with our recommendation to require the grantee to implement procedures to ensure that grant drawdowns are not in excess of immediate grant needs. The City agreed that drawdown of grant funds should only be made to reimburse allowable grant-related expenses or as advances to be distributed within 10 days. The City also stated that "at no time during the course of the grant were federal funds drawn for expenditures that did not occur prior to such draw." Based upon our review of the City's official grant accounting records that we used in preparing our draft report, we disagree. In order for us to agree with the City's statement, we would have to conclude that the accounting records we were provided were erroneous. While the City's response to our draft report asserted that the records were erroneous, we were not provided any documentation to substantiate the City's claim and the only documentation we were provided, including the official accounting records as of June 2012, conflicts with the City's statements in its response to the draft report. To ensure that future federal funds are not put at risk by possible overdraws as represented by the accounting records we were provided and without documentation to prove that an overdraw did not occur, we hold to our recommendation that the COPS Office ensure that the City establishes

procedures to ensure drawdowns are not in excess of immediate grant needs.

The City stated that it has put in place procedures and implemented a revised form to avoid internal tracking errors in the future. However, the City's response did not address the deficiency in its procedures that allowed for this error to: (a) occur in the first place, (b) not be detected through routine review, and (c) result in the drawdown of federal funds that, based upon the records as prepared, were not required for immediate needs. Further, the City's response indicated that its decisions to identify certain grant costs as either matching costs or federal expenditures was done "quite arbitrarily" following a Department of Justice monitoring visit in October 2009, which identified that the grantee had not yet recorded any matching expenditures. We note that grant accounting should not be done arbitrarily, but should be done based on the intent of the award, grant terms and conditions, sound business practices, and actual grant activities that are supported by concurrent documentation. An arbitrary accounting of grant activities results in failures of internal controls such as that which the City has described may have occurred.

The COPS Office concurred with our recommendation and stated in its response that it is working with the grantee to provide supporting documentation to demonstrate that procedures are in place to ensure that grant drawdowns are not in excess of immediate grant needs. This recommendation can be closed when we are provided evidence that the grantee has implemented procedures to ensure that it does not request a grant drawdown when its accounting records do not indicate that one is needed and therefore such a drawdown would be in excess of immediate needs.

3. **Resolved.** In its response to the draft report, the City disagreed with our recommendation to remedy the \$1,039,799 in federal grant funds used for expenditures made under an expired contract. According to its response, the City was authorized to make payment to the contractor after the contract expired according to Chicago Municipal Code and the contract terms. The City stated that "payments made for services rendered after the expiration of a contract are not unlawful." In addition, the City's response included a citation from Chicago Municipal Code 2-32-360, which the City contended "expressly authorizes the City's Comptroller to pay vouchers, whether there is a contract or not," as long as the claim is correct, fair, and just.

We disagree with the City's implication that our report indicates that grant expenditures made against the expired contract were unlawful. Our report provides specific details about the City's drawdowns and related expenditures. In addition, our report includes our conclusion, based upon the City's official accounting records, that when the City took its December 2010 drawdown, it had not yet incurred federal grant-funded expenditures equal to the amount of the drawdown. Our report also provides information on the expiration of the contract in December 2010 and the City's grant expenditures against that contract over the next 18 months. Finally, our report recounts the explanation that City officials gave us regarding the purpose and timing of the drawdown and the assertion that while the practice would not be allowed under the current administration, previous leadership allowed City employees to make expenditures against expired contracts. We consider the totality of these circumstances highly unusual and, in our judgment, warrant the questioning of these costs in accordance with the provisions in the Inspector General Act of 1978. The Inspector General Act of 1978, as amended, defines a questioned cost as a cost that is questioned by the OIG because of: (a) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; (b) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or (c) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. Our report, however, does not indicate that the use of the expired contract was an illegal act.

As clearly noted in the City's response to our draft report, "City departments are generally expected to keep all of their contracts current, either by seeking a formal amendment to extend the contract, or by initiating the procurement process for a new contract well in advance of the expiration date." Moreover, the City's response also stated "...at some point after June 2011, the City's Department of Procurement Services began advising City departments that they should be vigilant in keeping all of their contracts current and avoid the practice of continuing services and payments under expired contracts." As a result, it appears the City recognized the risk of expending funds on expired contracts and has issued guidance to help address that risk. However, we note the following particular risks posed by charging federal grant costs to an expired contract:

- 28 CFR 66.36 states that grantees are required to maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and

specifications of their contracts or purchase orders. In its response, the City pointed to the contract's survival provisions, which the City asserted allows the City to make payments after the expiration of the contract. However, the survival clause does not include all of the terms of the contract. Because of this, the City could not ensure compliance with 28 CFR 66.36 because they could not ensure that all aspects of the contractor's performance would be in accordance with the contract.

- The contract had a provision entitled "Agreement Extension Option," which stated that, by providing notice to the vendor, the agreement could be extended for an additional year. We were not provided with any documentation indicating that the City formally exercised this option or that the City provided the required notice to the vendor. Although the City continued to use the contract after its expiration, it did not take steps to document this significant action through contract extension or modification. In fact, the City did not execute any further contracting action related to this agreement until May 2012, a full 17 months after the original expiration. We believe that the contract's "Agreement Extension Option" indicated that any extension of the agreement for an extended period should have been done in a formal manner.
- 2 CFR 225 states that in order for a cost to be allowable, it must, among other requirements, be reasonable. The regulation further states that a cost is reasonable if it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. One of the criteria for determining reasonableness is whether the cost adheres to sound business practices. In our opinion, a prudent person practicing sound business practices would not incur expenses on an expired contract because doing so would call into question the enforceability of the other contract terms on that work.
- It is also important to note that the contract at issue was a sole source contract, the original use of which was approved by the COPS Office, as required. Sole source contracts are expected to be used rarely because such arrangements do not allow for free and open competition. Contract competition is

an important control for government expenditures at all levels and helps ensure that taxpayer dollars are expended in the most efficient and economical way possible. By using the contract past its expiration date, the City effectively continued to operate under sole source circumstances without involving the COPS Office in that decision.

In sum, the City's response clearly stated that City employees are now instructed not to continue services and payments on expired contracts, yet the response also indicates that it disagreed with our finding of questioned costs associated with the City's use of an expired contract. Further, because the questioned costs were paid in support of the DOJ grant project, these costs were within the scope of our audit regardless of whether they were paid directly from federal grant funds or the City's matching requirement, which is in question as noted above.

We continue to believe that it is appropriate to question as unallowable grant-related expenses paid under an expired contract, particularly in light of the information that we were provided during our audit, namely that the drawdown was taken with the express purpose of encumbering the funds against the contract because it was going to expire. We believe this may have constituted a violation of the contract terms related to period of performance and indicates a significant deficiency in the City's internal control structure. Because the expiration date is a term of the contract and the practice of expending funds against that contract after its expiration appears to bypass that control, we believe it is an internal control weakness and that the City should discontinue such practices on DOJ grant-funded projects.

In its response, the City proposed to remedy this recommendation by making adjustments to earlier transactions originally posted as matching costs and re-categorizing those costs as federal expenditures. As noted, this is a proposal; the City's response indicated that it had not yet taken the action to correct this alleged error. After receiving the City's response, we made multiple subsequent inquiries to the City about any actions that the City had taken. On July 12, 2013, we received a response from the City that did not clearly indicate whether or when corrections may have been made. Further, we requested from the City but were not provided with any revised ledgers as evidence of any adjustments. As a result, we have not modified the findings that we presented in our draft report.

The COPS Office concurred with our recommendation to remedy the \$1,039,799 in unallowable questioned costs for expenditures made under an expired contract and stated that it will work with the grantee to remedy the \$1,039,799 in questioned costs. We believe the COPS Office should coordinate with the grantee and determine whether it agrees that the proposed action is appropriate and proper for remedying the questioned costs.

This recommendation can be closed when the COPS Office remedies the \$1,039,799 in questioned costs in an appropriate manner.

4. **Resolved.** In its response to the draft report, the City disagreed with our recommendation to remedy \$361,829 in unsupported costs associated with an excessive drawdown of federal grant funds. The City again referred to its position that the official accounting records provided to the auditors were incorrect, that it did not make an excessive drawdown of grant funds, and thus there were no unsupported costs resulting from unexpended funds totaling \$361,829. While the City's response asserted that the records were erroneous, we were not provided any documentation to substantiate the City's claim and the only documentation we have been provided to date, including the official accounting records, conflicts with the City's statements.

According to the COPS Technology Program Grant Owner's Manual, an award recipient must establish and maintain accounting systems and financial records to accurately account for the funds awarded and expended. Moreover, 28 CFR part 66.20 states that grantees must maintain records that adequately identify the source and application of funds provided for financially assisted activities. The City maintained records that accounted for its activities and provided those records to us during our audit. However, according to the City's response, those records were erroneous. According to the City, its official accounting records appear to have misidentified the source and application funds used for certain grant expenditures. Specifically, the City stated in its response that, "even though...the December 22, 2010, drawdown was made to reimburse the City's expenditures made before that date, the City's records do not accurately reflect that fact." As a result, the City's records were not in compliance with the federal regulation requiring transactions to identify the source and application of funds. We were only able to audit the records we were provided by the City; we did not make any assumptions beyond the documentation we were given. We relied on the information contained within the City's official records because our testing showed that it was consistent with the

documentation and information we were provided during our audit fieldwork. In our discussions with the City regarding this issue during audit fieldwork, we were not provided with suggestion, information, or documentation that refuted the transactions' original designation as matching costs.

In its response, the City proposed to remedy this recommendation by making adjustments to earlier transactions originally posted as matching costs and re-categorizing those as federal expenditures. As noted, this was a proposal; the City has not yet provided us with documentation that it has taken any action to correct the alleged error.

The COPS Office concurred with our recommendation to remedy the \$361,829 in unsupported costs resulting from an excessive drawdown of grant funds and stated that the City should request reimbursement for grant-funded expenditures that are allowable, allocable, and consistent with grant terms and conditions. Additionally, the COPS Office stated that it will work with the City to remedy the \$361,829 in questioned costs. We await the COPS Office's evaluation and analysis of the City's proposed remedy.

This recommendation can be closed when the COPS Office remedies the \$361,829 in questioned costs in an appropriate manner.

5. **Resolved.** In its response to the draft report, the City disagreed with our recommendation to remedy as funds to better use the interest earned on the excessive advance drawdown of COPS Office funds. The City stated in its response that based upon its assertion that certain grant-related expenditures were erroneously posted as matching costs rather than to be paid with federal funds, it did not make an excessive drawdown of grant funds that earned interest but rather it received a legitimate grant reimbursement payment. Specifically, the City stated that it believes expenditures originally identified as matching costs should have been coded as federal grant expenditures for which reimbursement would be claimed, and as a result there was no excessive drawdown on which interest would have been earned.

As noted previously, our report is based upon the accounting records and explanatory information provided to us during our review. Prior to our draft report, the City did not suggest that its accounting records contained a material error affecting our audit results, and all of the documentation we were provided indicated that those records were

correct. Further, we have not received documentation evidencing that the expenditures were not drawn in advance.

The City's response noted that if it is determined that its proposed remedy for the excessive drawdown through the reposting of expenditures as federally funded rather than matching costs is not accepted, the amount of interest earned on the December 2010 drawdown was \$18,054. The 2010 COPS Technology Program Grant Owner's Manual requires units of local government to remit interest income earned in excess of \$100 to the U.S. Department of Health and Human Services.

The COPS Office concurred with our recommendation and stated that it will work with the grantee to remedy our finding of funds to better use from interest earned on the excessive advance drawdown of COPS Office funds. This recommendation can be closed when the COPS Office remedies the interest income in an appropriate manner.