



**AUDIT OF THE OFFICE OF COMMUNITY ORIENTED  
POLICING SERVICES GRANT AWARDED TO THE CITY  
OF NEWARK, NEW JERSEY**

U.S. Department of Justice  
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Audit Division

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# **AUDIT OF THE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES GRANT AWARDED TO THE CITY OF NEWARK, NEW JERSEY**

## **EXECUTIVE SUMMARY**

The Department of Justice Office of the Inspector General, Audit Division, has completed an audit of the Office of Community Oriented Policing Services (COPS) Interoperable Communications Technology Grant, number 2003-IN-WX-0011, awarded to the City of Newark, New Jersey, (Newark) in the amount \$2,787,001. The purpose of the COPS Interoperable Communications Technology Grant Program was to increase interoperability among state and local fire, law enforcement, and emergency medical services.

Within the Department of Justice, COPS is responsible for advancing the practice of community policing by state, local, territory, and tribal law enforcement agencies through information and grant resources. COPS awards grants to law enforcement agencies to hire and train community policing professionals, acquire and deploy crime-fighting technologies, and develop and test policing strategies.

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. COPS awarded Newark \$2,787,001 to implement the grant program and required Newark to provide \$929,000 in local funds for a total project cost of \$3,716,001.

We examined Newark's **accounting records, financial and progress** reports, and operating policies and procedures and found the deficiencies below resulting in net questioned costs totaling \$3,539,432.

- Newark significantly changed the scope of the grant project without prior written approval from COPS.
- Newark did not achieve the performance objectives related to voice communications funded by the grant.
- Newark purchased wireless network equipment and services totaling \$2,777,569 that were not procured using a competitive process or approved for purchase under the New Jersey State Cooperative

Purchasing program, which is in violation of grant regulations requiring competition.

- Newark's pre-existing relationship with the vendor of its \$626,221 mobile communications command center vehicle likely hindered an open and competitive bid process.
- Newark claimed reimbursements for surveillance cameras totaling \$62,325 which COPS denied in Newark's original grant application proposal.
- Newark claimed reimbursements totaling \$73,316 for a record management system and other computer equipment not related to the grant project.
- Newark did not adequately record and safeguard equipment purchased with grant funds.
- Newark's Financial Status Reports were not always timely and its Progress Report did not accurately reflect the status of the project.
- Newark's internal controls were ineffective in preventing or detecting noncompliance with a number of grant requirements.

These items are discussed in detail in the Findings and Recommendations section of the report. Our audit objectives, scope, and methodology are discussed in Appendix I.

We discussed the results of our audit with Newark officials and have included their comments in the report, as applicable. In addition, we requested a response to our draft report from Newark and COPS, and their responses are appended to this report as Appendix III and IV, respectively. Our analysis of both responses, as well as a summary of actions necessary to close the recommendations can be found in Appendix V of this report.

# TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	1
Background .....	2
Our Audit Approach .....	2
<b>FINDINGS AND RECOMMENDATIONS</b> .....	4
Budget Management and Program Performance .....	4
Grant Expenditures.....	7
Accountable Property .....	10
Drawdowns.....	11
Matching Costs.....	12
Reporting .....	13
Internal Control Environment.....	14
Conclusions .....	15
Recommendations .....	15
<b>APPENDIX I - OBJECTIVES, SCOPE, AND METHODOLOGY</b> .....	17
<b>APPENDIX II - SCHEDULE OF QUESTIONED COSTS</b> .....	18
<b>APPENDIX III – NEWARK’S RESPONSE TO THE DRAFT AUDIT REPORT</b> .....	19
<b>APPENDIX IV – OFFICE OF COMMUNITY ORIENTED POLICING SERVICES RESPONSE TO THE DRAFT AUDIT REPORT</b> .....	31
<b>APPENDIX V - OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT</b> .....	35

## **INTRODUCTION**

The Department of Justice Office of the Inspector General, Audit Division, has completed an audit of the Interoperable Communications Technology Grant, number 2003-IN-WX-0011, in the amount of \$2,787,001, awarded by the Office of Community Oriented Policing Services (COPS) to the City of Newark, New Jersey (Newark).<sup>1</sup> The purpose of the Interoperable Communications Technology Grant program was to increase interoperability among state and local fire, law enforcement, and emergency medical services.

Within the Department of Justice, COPS is responsible for advancing the practice of community policing practices by state, local, territory, and tribal law enforcement agencies through information and grant resources. COPS awards grants to law enforcement agencies to hire and train community policing professionals, acquire and deploy crime-fighting technologies, and develop and test policing strategies.

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. As shown in the table below, Newark was awarded a total of \$2,787,001 to implement the grant program.

### **Interoperable Communications Technology Grant to Newark, New Jersey**

<b>GRANT AWARD</b>	<b>AWARD START DATE</b>	<b>AWARD END DATE</b>	<b>AWARD AMOUNT</b>
2003-IN-WX-0011	09/01/03	01/31/08	\$ 2,787,001

Source: COPS

Newark was also required to provide local matching funds equal to 25 percent of the grant award. Including the matching funds for the project in the amount of \$929,000, the total funding for the project was \$3,716,001.

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<sup>1</sup> The use of Newark refers to the Newark Police Department, Division of Purchasing and Department of Finance, which were responsible for various grant administration procedures.

## Background

In FY 2003, COPS was appropriated approximately \$67 million to administer the Interoperable Communications Technology Program; a competitive grant program for state and local jurisdictions to improve communications within and among law enforcement agencies. The rules established for the grant program included a \$6 million limit on federal participation for individual grants and required grantees to provide a local match equal to at least 25 percent of the total value of the grant-related project.

Newark was 1 of the 74 Metropolitan Statistical Areas that COPS preselected or invited to compete for grant funding. COPS asked that those seeking funding submit comprehensive proposals to include a clear and demonstrated plan for improving interoperability. From those that were invited, 58 agencies, including Newark, submitted proposals.

In collaboration with the Federal Emergency Management Agency, which administered a similar program for a different pool of applicants, COPS used a peer review selection process to identify the most suitable projects to be funded. This peer review panel included members of the public safety community, the National Institute for Standards and Technology, the Wireless Public Safety Interoperable Communications Program, and the National Institute of Justice's Advanced Generation of Interoperability for Law Enforcement Program. Based on the results of the peer review, COPS awarded grants to Newark and 13 other agencies.

## Our Audit Approach

We tested **Newark's** compliance with what we consider to be the most important conditions of the grant. Unless otherwise stated in our report, the criteria we audited against are contained in Code of Federal Regulations: 28 CFR § 66, Uniform Administrative Requirements for Grants and the terms and conditions contained within the grant award documents.

In conducting our audit, we performed testing of Newark's:

- **Budget management and Program Performance** to determine the overall acceptability of budgeted costs by identifying any budget deviations between the amounts authorized in the budget and the actual costs incurred for each budget category. Also, to determine whether Newark achieved

the grant's objectives and to assess performance and grant accomplishments.

- **Grant expenditures** to determine whether the costs charged to the grant were allowable and supported.
- **Accountable property** to determine whether Newark has effective procedures for managing and safeguarding assets acquired with grant funding.
- **Drawdowns** (requests for grant funding) to determine if Newark adequately supported its requests for funding and managed its grant receipts in accordance with federal requirements.
- **Matching costs** to determine if Newark provided matching funds that supported the project and were in addition to funds that otherwise would have been available for the project.
- **Reporting** to determine if the required periodic Financial Status Reports and Progress Reports were submitted on time and accurately reflected grant activity.
- **Internal control environment** to determine whether the financial accounting system and related internal controls were adequate to safeguard grant funds and ensure compliance with the terms and conditions of the grant.

These items are discussed in detail in the Findings and Recommendations section of the report. Our audit objectives, scope, and methodology are discussed in Appendix I.

## **FINDINGS AND RECOMMENDATIONS**

We determined Newark: (1) changed the scope of its grant without prior written approval from COPS; (2) failed to achieve the grant objective of interoperable voice communication with the COPS grant funds as specified in its application; (3) made unallowable expenditures, including wireless network equipment and a mobile communications command center vehicle; (4) did not properly safeguard grant-funded equipment; and (5) submitted late Financial Status Reports and an inaccurate Progress Report. We also identified a number of internal control deficiencies that contributed to these audit findings.

### **Budget Management and Program Performance**

As described in the introduction of this report, Newark's grant was funded by the 2003 COPS Interoperable Communications Technology Program, a competitive grant program that funded 14 of 58 agencies that submitted applications. An expert peer review selection panel selected Newark and 13 other agencies to receive grants under this program. The proposals submitted by the 14 agencies were deemed as the best qualified applicants by the panel.

In its proposal, Newark described that it would use grant funds to implement an information and communication program that included an interoperable voice and data system that could be used by surrounding jurisdictions. The system, available to multiple jurisdictions beyond Newark and to a variety of emergency-related agencies, would facilitate the seamless exchange of emergency communications and data. One of the four major components of the program included equipment for a Radio over Internet Protocol system, or RoIP<sup>2</sup>, **that would provide the system's voice communications.**<sup>3</sup> **The proposal described voice communication as "the cornerstone of interoperability that enables public safety agencies to talk between and among one another via radio."**

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<sup>2</sup> Radio Over Internet Protocol (Radio Over IP or RoIP) is a method of transmitting voice communications via Internet Protocol (IP), a data communications standard used to power the Internet as well as home, business and government computer networks.

<sup>3</sup> The three other components were (1) mobile wireless network and gateway switch, (2) mobile communications command center vehicle, and (3) video surveillance cameras.

The expert peer review panel determined that Newark’s proposed project “...represents a comprehensive, integrative approach to serve a highly urbanized core and suburban areas... [and the] technological application of components are a combination of existing and cutting edge equipment for total network design.”

The proposed budget for the program discussed in the original application totaled \$5,516,982, including \$4,137,737 to be funded by the COPS grant and \$1,379,246 to be provided by Newark as a cash match.<sup>4</sup> COPS reduced the proposed budget by \$1,800,981, with the reductions including \$929,500 for surveillance cameras and related equipment.

**Although Newark’s proposal stated one of the strategic uses for the surveillance cameras was to monitor facilities in areas that were vulnerable to terrorism, COPS determined that this type of equipment should not be funded by the Interoperable Communications Technology Program.**

**After revising Newark’s original project budget as described above, COPS approved a final grant program budget totaling \$3,716,001. This final budget included \$2,787,001 in COPS grant funds and \$929,000 to be provided by Newark as a local match to the grant.**

We reviewed this final budget and identified four general subcategories of equipment for each of the project’s components. We then compared the budgeted amounts of each category with Newark’s actual spending related to this project. The following table summarizes this comparison.

**Comparison of Budgeted and Actual Equipment Costs**

<b>Grant Expenditure</b>	<b>Budget</b>	<b>Actual</b>
Network Equipment	\$ 857,973	\$ 2,209,197
Network Installation Services	741,350	807,267
Radio Over Internet Protocol (RoIP) Equipment	1,516,678	-
Mobile Communications Command Center Vehicle	600,000	626,221
Equipment not Related to the Grant Project	-	73,316
<b>Total</b>	<b>\$ 3,716,001</b>	<b>\$ 3,716,001</b>

Source: OIG analysis of Newark records

As shown in the preceding table, Newark purchased none of the budgeted Radio over Internet Protocol equipment that was established in the

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<sup>4</sup> The figures included in this report were rounded to whole dollar amounts.

grant application and approved by COPS within the final approved budget. As a result, the grant-funded project implemented by Newark did not include any voice communication capability.<sup>5</sup>

According to a Newark official, radio equipment was not purchased because Newark decided against using the technology identified in its proposal. Specifically, this official told us that after the grant proposal was submitted to COPS, Newark determined the technology associated with the original proposal would not work if deployed in Newark. In October 2003, **Newark informed COPS that it intended** "...to explore alternatives to ensure best practice is achieved. Should the Police Department eventually change technical direction, a revised budget and rationale will be sent to the COPS **Office for review and approval.**" However, we confirmed with COPS that Newark did not submit a revised budget or rationale for any changes it made to the scope of its project. According to the Newark project manager, the RoIP capability was no longer viable and new voice capabilities would need to be researched and developed in order for Newark to achieve its voice communication objectives.

As the budget for this grant consisted of just one cost category, equipment, Newark did not violate grant requirements that govern the transfer of budgeted costs among categories. However, we believe the project Newark implemented utilizing grant funds was significantly different than the project it proposed through the competitive application process, and note that the voice communications component of the project was likely a significant **basis for COPS' decision to fund this grant.**

According to the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 28 C.F.R § 66.30, grantees must obtain prior approval of the awarding agency when there is **"any revision of the scope or objectives of the project regardless of whether there is an associated budget revision."**

**We believe Newark's decision to** not implement the voice communication component of the project has severely compromised the performance of this project and prevented Newark from adhering to the purpose of the COPS Interoperable Communications Technology Program. As Newark revised the scope and objectives of its project without approval from COPS, as required, and did not achieve with the COPS grant the interoperable voice communication objectives as stated in its application,

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<sup>5</sup> In the Grant Expenditures section of this report we describe the results of our examination of the actual costs related to this grant.

which this grant was predicated on, we question \$3,539,432 in net project costs.<sup>6</sup>

## **Grant Expenditures**

To determine if costs were allowable and supported, we reviewed accounting system data, invoices, and project records. We also evaluated Newark's procurement policies and procedures, as they were required to conform to federal procurement regulations set forth in the 28 C.F.R § 66.36. We determined that Newark; (1) made unallowable project expenditures for wireless network equipment and installation services, (2) purchased a mobile communications command center using a flawed competitive bidding process, and (3) made purchases using project funding for unapproved equipment unrelated to the grant-funded project.

### *Wireless Network Equipment*

We reviewed Newark's purchasing procedures for the wireless network component of the grant project and determined that Newark purchased equipment using a state of New Jersey contracting vehicle – the Minicomputer, Microcomputer, Workstations, and Associated Products state (Mini-Micro) contract. In accordance with the State of New Jersey (State) Public Contracts Law, **and Newark's Purchasing and Contracting Policies Manual**, municipalities, including Newark, are permitted to purchase goods and services from contracts negotiated by the State of New Jersey Department of Treasury, Division of Purchase and Property. Only goods and services that have been pre-negotiated and pre-approved by the state can be purchased through the contract.<sup>7</sup>

In 2004, Newark received estimates from three firms interested in **providing the wireless network equipment for the project under the State's** Mini-Micro contract. Newark selected a vendor that was subsequently approved by the Newark City Council in September 2004. We reviewed records from Newark and the State to determine whether the equipment to

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<sup>6</sup> As discussed in the drawdown section of this report, Newark did not draw down all of the grant funds. While we question the entire grant-funded program, our recommendation to remedy questioned costs excludes those funds not drawn and the 25 percent match associated with the undrawn funds.

<sup>7</sup> The Mini-Micro contract included multiple vendors with separate contracts. The use of state contracts by municipalities is called the New Jersey Cooperative Purchasing Program. The Mini-Micro contract has been replaced since it was used by Newark for this grant project and is no longer used by New Jersey or its municipalities.

be purchased from the vendor was authorized for purchase under the **vendor's Mini-Micro contract**. **These documents included the vendor's** request submitted to state contracting officials to amend its Mini-Micro contract and permit the purchase of the equipment included in **Newark's** project quote.

**Although the vendor's request included** the equipment that was eventually sold to Newark, the records we reviewed indicated that only a portion of the requested equipment was approved by the state to be purchased under the Mini Micro contract.<sup>8</sup> Specifically, of the equipment sold to Newark, which totaled about \$2,146,872 for the project, we determined the State only approved a portion of the equipment to be included within the contract, which amounted to about \$309,770 (about 14 percent) of the grant-funded program expenditures. As a result, Newark purchased \$1,837,102 in equipment that was not pre-approved by the state, and therefore not **authorized to be sold under the vendor's Mini-Micro** contract. We consider those items not approved under the Mini-Micro contract in effect to have been procured non-competitively, which violates federal regulations that require competition.

We believe that Newark should not have used the Mini-Micro contract to procure these items because: (1) the project estimate provided by the selected vendor was given as a complete project, (2) the vendor was not authorized to sell all of the equipment cited in the estimate, and (3) the non-competed equipment amounted to 86 percent of the costs. Newark should have competitively bid the project in accordance with its own purchasing policies and the federal procurement regulations contained in 28 C.F.R § 66.36. For this reason, we question a total of \$2,777,569 in net expenditures, of the total \$2,954,138, in wireless network expenditures as unallowable due to the non-competitive procurement. The equipment expenditures included \$2,146,872 in grant expenditures used to make purchases using the Mini-Micro contract and \$807,267 in related installation services, as unallowable due to the non-competitive procurement.

We determined that although the Newark Division of Purchasing reviewed and approved the Police **Department's use** of the Mini-Micro contract for the grant funded project, there was a failure to identify and prevent the purchase of unauthorized equipment under the Mini-Micro contract.

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<sup>8</sup> The request did not include \$89,374 for radios and \$38,220 for licensing, which are included in the \$2,146,872 in equipment sold to Newark.

## *Mobile Communications Command Center Vehicle*

Newark included a mobile communications command center vehicle in its grant application and requested permission from COPS to purchase it using a sole source contract. COPS **approved Newark's purchase of the vehicle**, but denied its sole source request and required Newark obtain the vehicle using full and open competition in a manner consistent with the standards set forth in the 28 C.F.R. § 66.36.

We reviewed the process Newark used to select the vehicle contractor and determined that it did not adhere to procurement requirements contained in the Newark Purchasing and Contracting Policies Manual related to relationships with bidders and vendors.

Specifically, **we are concerned that Newark's pre-existing relationship** with the vehicle vendor that was selected to provide the command center may have compromised the competitiveness of the selection process. **According to Newark's Purchasing and Contracting Policies Manual**, discussions with prospective bidder should be carefully managed to avoid giving any bidder the benefit of information to which other bidders may not have access.

We determined **that, in support of Newark's denied request for a sole source contract**, the vendor provided Newark with several bid specifications and prototype drawings at least 10 months before the advertisement of the bid. We believe that this pre-existing relationship likely provided the vendor with an unfair advantage in preparing its bid proposal.<sup>9</sup> Although 15 firms responded to the bid advertisement, only the eventual vendor submitted a proposal.

**We believe Newark's** pre-existing relationship and the exchange of information with its vehicle vendor likely hindered open and competitive bidding. As a result, we question as unallowable the purchase of the vehicle totaling \$626,221.

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<sup>9</sup> Newark documents we reviewed indicated the vendor that helped Newark develop the specification was the only vendor that submitted a bid.

## *Surveillance Cameras and Expenditures not Related to the Grant*

In our review of grant expenditures, we also found Newark charged the grant \$62,325 for video surveillance cameras, \$70,303 for a partial payment on a record management system, and \$3,013 in other computer equipment. We found the video surveillance expenditures to be unallowable. Specifically, we determined that Newark submitted in its original application costs for the video surveillance cameras and related items, but COPS denied these items **while approving Newark's overall project**. In addition, we question as unallowable the record management system and other computer equipment, totaling \$73,316, as we found that these expenditures were not related to the COPS funded project, but were for a separate Newark technology project.<sup>10</sup>

According to officials responsible for approving Police Department purchases, the purchase approval process did not include a review of the grant-funded expenditures to ensure that costs were approved in applicable grant budgets.

## **Accountable Property**

We determined that Newark did not create a system of property records that could be used to safeguard the equipment related to this grant. According to 28 C.F.R. § 66.32, Newark was required to maintain property records including a description of the property, a serial number or other identification number, the source of property, the title holder, the acquisition date, cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. In addition, Newark was required to conduct a physical inventory of the property and reconcile the results with its property records at least once every two years. Police Department officials told us the grant-related equipment was not recorded in a property management system because the police department did not maintain such a system during the grant award period. In addition, officials told us no periodic inventories of grant-funded equipment were performed. As a result, Newark could not show us documentation indicating how this equipment had been used and whether specific items had already been disposed of and in which manner.

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<sup>10</sup> We found that the video surveillance equipment was also not competitively procured as was the case with the wireless network equipment. However, to avoid duplication of questioned costs, we excluded the surveillance equipment from the \$2,146,872 in questioned Mini-Micro contract equipment discussed in the Wireless Network Equipment section above.

Despite the lack of property management records, we attempted to inspect examples of grant- related wireless equipment installed around Newark. We accompanied police department and vendor representatives who showed us equipment installed in various locations. The equipment we were shown appeared to be used in a manner that was generally consistent with project plans, however, due to the lack of a property management system, including serial numbers or alternate methods, to specifically identify individual items of equipment purchased, it was not possible to verify that the equipment we were shown was purchased through the grant-funded program.

As a result of these deficiencies, we determined that Newark failed to comply with the 28 C.F.R. § 66.32 and equipment costs of \$2,282,513 were unsupported. This does not include the remaining equipment expenditure of \$626,221, which was related to the mobile communications command center vehicle. Because the vehicle was easily identifiable and we were able to inspect and confirm its condition, we did not include the vehicle in this dollar-related finding.

## **Drawdowns**

We reviewed the timing and amounts of grant funding requests, also known as drawdowns, Newark made for this grant. In total, Newark drew down funds totaling \$2,654,574, or 95 percent of the federal share of the grant award of \$2,787,001. We found that Newark did not request reimbursement for the remaining federal funds, totaling \$132,427, for a \$176,568 invoice for wireless network equipment installation services and a negligible sum of unobligated project costs.

The following table presents the initial COPS **award, Newark's** drawdowns of the grant award, and the rescission of award amounts not requested by Newark.

### Summary of Grant Funding Events

Action	Date	Amount
<b>COPS Grant Award</b>	<b>09/01/2003</b>	<b>\$2,787,001</b>
Newark Drawdown #1	04/03/2006	\$1,924,240
Newark Drawdown #2	08/09/2006	\$229,989
Newark Drawdown #3	11/03/2006	\$500,345
<b>Total Drawdowns</b>		<b>\$2,654,574</b>
<b>COPS Grant Award Deobligation<sup>11</sup></b>	<b>08/22/2008</b>	<b>\$132,427</b>

Source: COPS

Because Newark made each of the three drawdowns on a reimbursement basis, we determined that Newark complied with grant-related cash management regulations.

To understand why COPS deobligated \$132,427 from the grant award, we discussed the issue with COPS and Newark officials. COPS officials told us the award amounts not requested by August 2008 had to be deobligated because the grant expired on January 31, 2008, and grantees must make their final drawdown within 90 days of the grant expiration date. Newark officials told us the final drawdown was not requested because of miscommunication between its Finance and Treasury Departments.

While we have questioned the entire grant-funded program amount in the grant expenditures section of this report, because Newark did not draw down the entire grant award amount, we have reduced our questioned costs by the amount not drawn by Newark.

### Matching Costs

The COPS-approved budget for Newark's interoperability project required a \$929,000, or 25 percent local cash match. On March 17, 2004, the Newark City Council passed a resolution to appropriate \$929,000 for the express purpose of meeting the Interoperable Communications Technology Grant cash match requirement. After reviewing Newark's accounting records, we determined that Newark used these local funds to meet its match requirement of 25 percent of the grant expenditures. Although

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<sup>11</sup> Newark did not request the total grant award amount from COPS for the project. As a result, the total grant award was not used to reimburse Newark and after that grant period, COPS rescinded the remaining funds.

Newark met the match requirement, the related expenditures were unallowable and unsupported as described in the Internal Control Environment, Grant Expenditures, Budget Management and Controls, Accountable Property, and Program Performance and Accomplishments sections of this report.

## **Reporting**

Financial Status Reports (FSRs) summarize federal monies spent, planned to be spent, and the remaining balances for each calendar quarter.<sup>12</sup> Progress reports are the principal method COPS uses to monitor program performance of its grants. We determined that Newark did not file timely FSRs and the required progress report was not accurate.

### ***Financial Status Reports***

Between August 2004 and October 2007, Newark submitted 16 quarterly FSRs to COPS. We determined these FSRs accurately represented cumulative expenditure amounts identified in the grant account records.

We also reviewed these FSRs for timeliness and found that 8 of the 16 reports were submitted later than 45 days following the end of the quarter as required. On average, these 8 reports were late by 50 days beyond the 45 day due date. We asked Newark officials why these reports were late, but they told us they could not specify the reason because the officials who submitted these reports were no longer with the Newark Police Department.

### ***Progress Reporting***

COPS required Newark to provide one progress report that was submitted timely in 2008. In this report, Newark indicated that it had purchased all the equipment and technology associated with its grant award and did not experience any challenges or difficulties implementing the project goals or achieving the related objectives. We determined this progress report was not accurate because, while it stated that it had purchased everything for the grant program, it did not alert COPS to the significant changes made to the project, and how, as implemented, the approved project objectives that included voice communications were not being achieved. As discussed in the Budget Management and Controls

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<sup>12</sup> As of October 2009, FSRs were revised and renamed Federal Financial Reports (FFRs). However, as the grant award period for this grant was prior to this change, we refer to the reports as FSRs within this report.

section, Newark did not purchase \$1,516,678 in voice communications equipment included in the approved budget.

Newark officials told us the report was not prepared by the project manager and this resulted in an inaccurate report. We believe inaccurate reporting compromises COPS' ability to ensure the objectives of its Interoperable Communications Technology Program are met.

## **Internal Control Environment**

**We reviewed Newark's internal control environment as it relates to the objectives of this COPS grant audit.** This review included reviewing prior audits to identify past instances of noncompliance with laws, regulations, guidelines, and the terms and conditions of grants. We also interviewed Newark officials, reviewed policies and procedures related to grant administrative duties, and inspected project and accounting records.

We reviewed an OIG audit report from June 1998 that covered four COPS grants totaling \$21.1 million.<sup>13</sup> The purpose of the grants was to enhance community policing by hiring and redeploying 326 officers. In that report, we made 8 recommendations and identified questioned costs totaling \$2.7 million, or more than 10 percent of the grants.<sup>14</sup>

During this **audit, we identified problems with Newark's internal control environment** related to administration of the 2003 COPS grant. As discussed, we found that Newark did not (1) reconcile purchase requisitions to the Mini-Micro state contract thereby ensuring only authorized items were purchased, (2) comply with its policies and procedures to ensure that the mobile communications command center vehicle purchase was awarded to the vendor based on full and open competition, (3) approve expenditures in accordance with the grant budget, and (4) track grant funded equipment in a property management system.

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<sup>13</sup> U.S. Department of Justice Office of the Inspector General (OIG), Community Oriented Policing Services Grants to the Newark, New Jersey Police Department, Report GR-70-98-007 (June 1998).

<sup>14</sup> As a result of this audit, COPS barred Newark from receiving any competitive COPS funding from December 2007 through in December, 2010.

## Conclusions

We determined Newark (1) changed the scope of its grant without prior written approval from COPS and failed to achieve with the COPS grant the grant objective of interoperable voice communication as approved in its award application, (2) charged the grant for unallowable expenditures for wireless network equipment and a mobile communications command center vehicle, (3) did not properly track grant funded equipment, and (4) submitted late Financial Status Reports and an inaccurate Progress Report. We also identified a number of internal control deficiencies that contributed to these audit findings.

## Recommendations

We recommend that COPS:

1. Remedy the \$3,539,432<sup>15</sup> in unallowable expenditures resulting from:
  - (a) project changes that were not approved by COPS and failure to achieve the voice communication objective of the grant (net project costs of \$3,539,432),
  - (b) purchase of equipment not competitively procured and not authorized for purchase under the New Jersey Cooperative Purchasing Program (net expenditures of \$2,777,569),
  - (c) purchase of a mobile communications command center vehicle procured in a manner that likely hindered an open and competitive bid process (\$626,221),
  - (d) purchase of surveillance cameras denied by COPS during the grant budget review (\$62,325), and
  - (e) purchase of a record management system and other computer equipment not related to the project (\$73,316).
2. Remedy the \$2,282,513 in expenditures for equipment not adequately supported or safeguarded by a property management system with periodic inventories.

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<sup>15</sup> As discussed in the drawdown section of this report, Newark did not drawdown all of the grant funds, therefore this recommendation excludes those funds not drawn and the 25 percent match associated with the undrawn funds.

3. Ensure Newark implement and adhere to policies and procedures for submitting timely FSRs and accurate progress reports.
4. Ensure that Newark implements and adheres to policies and procedures to adequately administer grant funding that address our concerns over the related internal controls. These include, but should not be limited to the following: adhering to procurement regulations, approving grant expenditures in accordance with applicable budgets, and safeguarding equipment.

## **OBJECTIVES, 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) budget management and program performance (2) grant expenditures, (3) accountable property, (4) drawdowns, (5) matching costs, (6) reporting, and (7) internal control environment. We determined that program income, indirect costs, and monitoring of contractors and 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 objectives. Our audit concentrated on, but was not limited to, the award of the grant on September 1, 2003, through January 31, 2008. This was an audit of the Interoperable Communications Technology Grant number 2003-IN-WX-0011. Newark had a total of \$2,654,574 in drawdowns through August 2008.

We tested compliance with what we consider to be the most important conditions of the grant. Unless otherwise stated in our report, the criteria we audit against are contained in Title 28, Part 66, Code of Federal Regulations, Uniform Administrative Requirements for Grants and the award documents.

In conducting our audit, we reviewed all claimed grant related expenditures and drawdowns. In addition, we reviewed the timeliness and accuracy of FSRs and Progress Reports, and evaluated performance to grant objectives. However, we did not test the reliability of the financial management system as a whole.

**SCHEDULE OF DOLLAR-RELATED FINDINGS**

<b>QUESTIONED COSTS:</b>	<b>AMOUNT</b>	<b>PAGE</b>
<u>Total Unallowable Expenditures</u> <sup>16</sup>	\$3,539,432	
A. Unallowable project changes not approved by COPS and failure to achieve the voice communication objective of the grant	3,539,432	7
B. Unallowable wireless network equipment not competitively procured and not authorized for purchase under state contract.	2,777,569	8
C. Unallowable mobile command center vehicle procured in a manner that likely hindered an open and competitive bid process.	626,221	10
D. Unallowable surveillance cameras denied by COPS during budget approval process.	62,325	10
E. Unallowable record management system not in approved budget and unrelated to project.	73,316	10
<u>Total Unsupported Expenditures</u> - Equipment not adequately supported or safeguarded	\$2,282,513	11
<b><i>GROSS QUESTIONED COSTS</i></b>	<b>\$5,821,945</b>	
<b><i>LESS DUPLICATION</i></b> <sup>17</sup>	<b>(\$2,282,513)</b>	
<b>NET QUESTIONED COSTS</b>	<b>\$3,539,432</b>	

**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.

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<sup>16</sup> The amount for unallowable project expenditures includes the breakdown of costs listed beneath the heading. As discussed in the drawdown section of this report, Newark did not drawdown all of the grant funds, therefore this recommendation excludes those funds not drawn and the 25 percent match associated with the undrawn funds.

<sup>17</sup> Some costs were questioned as both unallowable and unsupported. Net questioned costs exclude the duplicate amount.

## CITY OF NEWARK'S RESPONSE TO THE DRAFT AUDIT REPORT



Cory A. Booker  
Mayor



Samuel A. DeMaio  
Police Director

April 13, 2012

*Via Email (Thomas.O.Puerzer@usdoj.gov) and Regular Mail*

Thomas O. Puerzer  
U.S. Department of Justice  
Office of the Inspector General  
701 Market Street, Suite 201  
Philadelphia, PA 19106

Re: Draft Audit Report of the Office of Community Oriented Policing Services Grant  
Grant Number 2003-IN-WX-0011

Dear Mr. Puerzer:

I have your office's Draft Audit Report of the Office of Community Oriented Policing Services ("COPS") Grant dated March 20, 2012 regarding the Newark Police Department's ("NPD") use of the above-referenced grant. As you are aware, our response was due within 21 days of March 20th. Accordingly, our response was originally due on or before April 10, 2012. We thank you for your consideration and extension of time to respond permitting a response up to April 17, 2012. We trust this response will adequately and fully address all Recommendations set forth in the Draft Audit Report.

Initially, and as you aware, NPD applied for and sought to use grant funds to implement an information and communication program employing interoperable voice and data systems. The successfully deployed system would be multi-layered and able to facilitate seamless exchange of emergency communication and data. Essentially, NPD sought to create a system that would allow first responders to effectively and efficiently coordinate, communicate and share vital information. This would achieve the vital purpose of interoperability among the

Thomas O. Puerzer  
U.S. Department of Justice  
April 13, 2012  
Page 2 of 12

public safety community. I would submit that the present state of the NPD's Interoperable Communication Technology exemplifies the spirit of this particular COPS grant.

Presently, as you are aware, NPD operates on a Wireless Network utilizing licensed and unlicensed Point-to-Point and Point-to-Multi Point connections employing, among other things, Frequency Hopping Technology, Short Range Propagation, Small Cell Implementation and Narrow Transmission Beam Width (to reduce RF interference) and robust proprietary authentication, modulation and encryption security measures. This foundation was created utilizing the 2003 COPS grant and has enabled significant leaps in viability and information sharing capability.

Over the past several years, NPD has engaged in an ambitious and aggressive overhaul of its Interoperability and Communication and Data Sharing platform. Our 24 square mile network supports NPD/Newark Fire Department, University Hospital Emergency Medical Services, Prudential Arena and NPD's Mobile Command Vehicle's communication and data sharing requirements. Further, NPD dispatch can now communicate with Offices of Emergency Management from any police department and over 60 other participating agencies throughout the State. Connect-ability is simple...all 60 agencies appear on an application screen in an address tree. The Operator simply selects the participating agency and speaks – the system bridges radio technology. The COPS Interoperability Grant helped fund the basis of what is now a strong scalable network.

NPD has achieved these goals in various phases detailed below. Additional phases remain to achieve full functionality. The COPS Interoperability Grant was considered Phase 1 of our network expansion and rebuilding effort. The \$3.7 million in funds was used to create the wireless network foundation upon which other advances would be built. Phase 2 allowed NPD to upgrade various wireless core links and to further expand the network to its fleet vehicles. NPD also installed 50 surveillance cameras within various Newark Urban Enterprise Zones and created a 3-seat surveillance room to monitor the cameras. This Phase was financed with an Urban Enterprise Zone grant of \$1.4 million.

Phase 3 and 4 saw significant improvements in Newark's surveillance and response capability. Specifically, utilizing West Ward Economic Development Funding of \$300,000 and a Community Foundation of New Jersey Grant of \$3.2 million, NPD was able to purchase additional upgrades to its wireless network foundation sufficient to support the addition of 10 new surveillance cameras within Newark's West Ward as well as network upgrades permitting the addition of 50 other surveillance cameras. Additionally, we were able to increase our gunshot detection footprint to a 7 square mile radius. This Phase also saw NPD increase its surveillance monitoring from 3 seats to 8 seats. Again, the 2003 COPS grant built the foundation for this expansion.

Phase 5 saw an increase in Interoperability as NPD interfaced with the security detail for the Prudential Center Arena. NPD and the Prudential security team improved the wireless network foundation created using the 2003 COPS grant by making upgrades and interfaces which helped create a "secure zone" around the Arena. This Phase was funded utilizing a 2007 Urban Area Security Initiative grant of \$799,000.

Additional Urban Area Security Initiative funding was used to accomplish Phase 6. Specifically, additional upgrades to the 2003 COPS funded wireless network infrastructure were purchased to enable significant increases in effectiveness of policing surveillance and response in the downtown and college area. Specifically, in terms of equipment, NPD utilized a 2007 Urban Area Security Initiative grant to install a 3D interactive map model of the downtown area, LPR Readers and 2 ICXT DefendIR (FLIR) Surveillance Platforms. These improvements directly benefit the downtown business community as well as the police departments for Rutgers-Newark, NJ Institute of Technology, Essex County College and New Jersey Transit. Additionally, NPD anticipates significant demands for data and cooperation from nearby municipalities issuing BOLOs and responding to other investigative needs.

We are excited to point out that Phase 7 of our plan (which is being rolled out presently) will involve implementation of a Visual Analytics' Digital Information Gateway (DIG). NPD is utilizing 2012 Urban Area Security Initiative funding to deploy the system at our new headquarters. Once deployed, the DIG will allow NPD, via the use of the original wireless network created through the 2003 COPS grant, to connect to New York Police Department, New Jersey State Police ROIC in Trenton, NJ, Department of Transportation, Jersey City Office of Emergency Management as well as other agencies.

The ability to achieve this level of growth and interoperability is due to availability of the 2003 COPS grant and the manner in which it was employed. I would submit that the 2003 COPS grant has been utilized in the manner and fashion intended by the spirit of the grant. As per your instructions, I will address each Recommendation on a recommendation-by-recommendation basis in the order in which the recommendations appear indicating concurrence or non-concurrence with appropriate response.

**1. Remedy the \$3,539,432 in unallowable expenditures resulting from:**

**a. Project changes not approved by COPS and failure to achieve the voice communication objective of the grant.**

Non-concurrence – NPD understands that the implementation of the wireless network foundation and subsequent expansion of its utilization differed from the plan described in its grant proposal but submits that the changes were sufficiently communicated to COPS and the revised plan achieves the voice communication objectives of the grant.

As described by NPD in our grant proposal and consistent with the COPS objective, NPD has used the grant funds to implement a robust and technologically relevant and scalable information and communication program that includes interoperable voice and data systems that will be available to a wide range of jurisdictions and agencies. Granted, NPD admittedly envisioned this network would be built on a Radio Over Internet Protocol system ("RoIP"). However, subsequent

research into the viability of the technology as well as vendor concerns prompted a prudent change of direction into wireless technology and Mutualink solution. As acknowledged in the Draft Audit Report, these concerns were communicated to COPS and our intentions were clear.

NPD's decision to pursue the Mutualink solution was influenced by their ability to bridge the radio 'divide' by using hardware, software and network/internet connections. As you are undoubtedly aware, the Mutualink system brings all radio transmissions, analog and digital, in any spectrum, into simple-to-use user interface on a standard PC. Operators in dispatch can now communicate with EMS, hospitals, OEMs throughout the State as well as any other participating agency without concern about securing the appropriate channel, being patched through or other radio-related concerns. It was clerical oversight that budget revisions were not transmitted to COPS; however, subsequent audit inspection and explanation should have verified that the 2003 COPS funds were used in a manner consistent with the spirit and intention of NPD's grant proposal.

More specifically, NPD became concerned with certain security and vendor issues that prompted a rational change in direction. As this is a public document suffice it to say that in-depth research caused NPD to become seriously concerned regarding the security of protocols utilized by the vendor identified in our grant proposal as well as concerned about the veracity of certain advertised claims and the solidity of the vendor. Please be advised that the decision to change this direction was not taken lightly and only pursued after significant consultation with the vendor and exhaustive research into the practicality of alternatives. We stand prepared to discuss these matters in further detail in a more discrete fashion.

Our deliberations concluded that the foundation for a robust information and communication system required a different approach. While RoIP technology may be preferable when spanning large geographic areas (versus the traditional 'hub and spoke' architecture of legendary microwave and landline technologies), NPD was concerned with creating a foundation capable of multiple application layers and

supportive of growth and new technology. In short, we wanted to build a foundation that would provide the benefits on an RoIP installation *and more*. We vetted our concerns and revisionary ideas through New Jersey State Police technicians and other state representatives. Uniformly, they endorsed our assessment and revised plans.

We are gratified to see that our revised direction has proven fruitful and correct. The network built with the 2003 COPS grant has provided a perfect foundation for effective and wide-reaching voice and data-sharing as well as a platform for other important police applications. We regret that a formal approval from COPS for our proposed change of plans was not secured. We share similar regret for our failure to submit a revised budget. As you are aware, we did communicate our concerns and likely pursuit of a more suitable direction by letter dated October 13, 2003 to Director Carl R. Peed. And, while it does not appear that NPD received any contrary indication from COPS in response, we nonetheless implemented additional protocols regarding grant development and management (described below) to ensure this type of failure to communicate does not repeat itself.

The wireless network we have created utilizing the 2003 COPS grant supports voice applications, information sharing database applications, gunshot detection applications and network of over 150 surveillance cameras. Accordingly, we respectfully submit that we have in fact implemented a strong voice communication component within our wireless network solution in adherence with the stated purpose of the COPS Interoperable Communications Technology Program. We believe our direction and the Phases (described above) implemented to date to be far-sighted, in the spirit of the 2003 COPS grant and in the best interest of the taxpayers of the City of Newark.

**b. Purchase of equipment not competitively procured and not authorized for purchase under the New Jersey Cooperative Purchasing Program.**

Non-concurrence – NPD took pains to ensure that the purchases were made appropriately and in compliance with state requirements. By way of explanation and defense, NPD communicated with 3 separate NJ State Contract Vendors (NJ Business

Systems, Promedia, Inc. and TransNet Corporation). Promedia, Inc. and TransNet Corporation stated that every part was included on the their NJ State Mini Micro Computer contract. NJ Business Systems indicated that all of the equipment would be added to their NJ State contract within weeks of submitting the quotes. Documents provided by NJ Business Systems indicated that they were successful in this regard. NPD relied upon this representation.

Specifically, I attach, as Exhibit A, a July 13, 2004 Police Department Administrative Submission recommending NPD pursue the purchase from NJ Business Systems because of their state-approved status and independent confirmation that every part quoted to NPD was properly approved. Attached to the July 13, 2004 Submission was a series of correspondence between NJ Business Systems and the State of New Jersey evidencing the ultimate inclusion of what NPD believed was all the required parts and components to fulfill the quote. These correspondences are also attached. We would ask that this finding be reconsidered in light of our good faith reliance upon the vendor's representations. The vendor represented that he was fully authorized to sell all of the equipment and, in fact, secured any additional approvals needed to satisfy the quote. Accordingly, at no time did NPD believe there was non-competed equipment necessitating a competitive bid. Any neglect, which is denied in this instance given the attached proofs, is excusable and justified.

**c. Purchase of a mobile communications command center vehicle procured using overly narrow bid specifications in violation of Newark's procurement manual and hindering an open and competitive bid process.**

Non-concurrence - I have been unable to determine the personnel responsible for drafting this bid specification and, as such, I am unable to respond fully to this finding. However, I note that, historically, NPD and other response agencies are frequently required to acquire vehicles with precise specifications to fit fleet and operational requirements. In this instance, as you are aware, the mobile communication command center vehicle was bid out with very specific requirements.

The specification requirements were created with vendor input but not in a fashion intended to preclude competitive bidding. As evidenced by the Administrative Submission referred to above in response to Recommendation 1.b and the accompanying emails regarding NJ Business Systems, NPD seeks to comply, and is conscious of strict compliance, with state public contracting requirements. We have reviewed the Draft Audit Report and are reviewing internal policies to ensure that there is no perception of unfair advantage in the bidding process.

**d. Purchase of surveillance cameras denied by COPS during the grant budget review.**

Concurrence – This material was charged to the wrong line item. The error was clerical. Please take note that NPD had access to two separate (but related in purpose) grants. In fact, the timing and fortuitous nature of the two grants greatly influenced NPD's re-evaluation of its direction vis-à-vis its wireless infrastructure. More specifically, NPD was the proud recipient of a Homeland Security grant in the amount of \$997,000. NPD fully understood and appreciated COPS denial of our proposal for funding to purchase surveillance cameras. In point of fact, the \$62,325 charge should have been taken against the Homeland Security grant and not the 2003 COPS grant.

As further indication of the inadvertent nature of this error, please note that the charge in question involves the purchase of 10 surveillance cameras. The total purchase price was \$105,000. However, only \$62,325 was charged against the 2003 COPS grant; the balance was properly charged against the Homeland Security grant. I respectfully submit that this error was clerical and human in nature.

**e. Purchase of a record management system and other computer equipment not related to the project.**

Concurrence – As stated above, NPD was managing two successful grant funds at this time. The material in question was charged to the 2003 COPS grant in error.

**2. Remedy the \$2,282,513 in expenditures for equipment not adequately supported or safeguarded by a property management system with periodic inventories.**

Concurrence – There are numerous asset management systems utilized throughout the City. In fact, NPD utilizes an automated system to inventory and tag property collected from arrests, etc. There are similar automated systems throughout the City but none of the automated systems were dedicated to management of the 2003 grant-purchased equipment. Instead, and for certain types of installations, NPD employs a manual system that is unfortunately labor intensive. For example, with regard to office computer technology, on a quarterly basis, technicians are dispatched to count and record all equipment. This information is reported to my office and retained.

As you may be aware, the City of Newark is in dire financial straits as are many municipalities throughout the country. Presently, the City operates under a Memorandum of Understanding with certain monitoring requirements until 2013 as a result of acceptance of a loan of \$32,000,000 to close a budget gap. This amount represents a fraction of Newark's overall budget. Still, and as a result, certain desired remedial measures (across City operations and not limited to NPD) have been temporarily suspended.

In the instant situation, NPD was required to rely upon the installation integrator to provide a list of installation locations, equipment installed, warranty information, serial numbers, etc. We were able to operate with a stronger sense of security that material was being installed properly due to the nature, location and function of each piece. In other words, given that the equipment is installed permanently on rooftops of over 55 properties throughout the City, if equipment fails or is missing, the system should report the error in the form of a failure of some sort.

NPD acknowledges that the Department of Justice, even recognizing the City's financial predicament, may frown upon this manner of asset management. We trust your office's physical site inspection ultimately satisfies any substantial concerns regarding location, implementation and safeguarding of the equipment purchased utilizing the 2003 COPS grant. Further, we are hopeful that you will concur that the equipment has been well leverage in terms of functionality

Please be advised that subsequent to the physical audit, NPD required the vendor to provide revisit each site and asset-tag each piece of equipment. I understand a copy of this inventory spreadsheet was previously submitted. Given the dimensions of the document, I have attached an electronic version to my digital submission of this response. To further remedy this particular matter and to address any future compliance questions, NPD is attempting to secure funding to purchase and employ an Asset Management system with portable scanners to automate this process. Lastly, in 2004, NPD created a Grants Development and Management Unit tasked with, among other things, ensuring compliance with the terms and conditions of specific grants (discussed below).

**3. Ensure Newark implement and adhere to policies and procedures for submitting timely FSRs and accurate progress reports.**

Concurrence - As stated above, in 2004, NPD implemented a policy and personnel unit related to the administration of grants. General Order 04-03 established the Grants Development and Management Unit. Copies of the General Order and the Director's Memorandum implementing the General Order are attached as Exhibit B. The Unit is charged with, among other things, ensuring adherence to policies and procedures for submitting and administering grants. Since its implementation, NPD has successfully applied for and been awarded 25 federal and state grants. NPD has successfully administered over \$35 million dollars in grant funds. NPD submits that creation of the Grants Development and Management Unit, together with the policies and procedures attending the unit, fully and successfully remedy this recommendation.

**4. Ensure that Newark implements and adheres to policies and procedures to adequately administer grant funding that address our concerns over the related internal controls. These include, but should not be limited to the following: adhering to procurement regulations, approving grant expenditures in accordance with applicable budgets and safeguarding equipment.**

Thomas O. Puerzer  
U.S. Department of Justice  
April 13, 2012  
Page 11 of 12

Concurrence - As stated above, in 2004, NPD implemented a policy and personnel unit related to the administration of grants. General Order 04-03 established the Grants Development and Management Unit. Copies of the General Order and the Director's Memorandum implementing the General Order are attached. The Unit is charged with, among other things, ensuring adherence to policies and procedures for submitting and administering grants. Since its implementation, NPD has successfully applied for and been awarded 25 federal and state grants. NPD has successfully administered over \$35 million dollars in grant funds. NPD submits that creation of the Grants Development and Management Unit, together with the policies and procedures attending the unit, fully and successfully remedy this recommendation.

In conclusion, I respectfully submit that the Newark Police Department has set itself apart as an exemplary recipient and administrator of federal and state grants. We have successfully and effectively leveraged 25 grants in fashions designed to benefit the taxpayers of the City of Newark as well as the public at large. The Newark Police Department recognizes the integral role it plays in public safety within the New York/New Jersey metropolitan area and remains committed to acting in a manner conscious of the betterment and safety of the entire area. We believe the 2003 COPS grant has been invaluable in this regard and was utilized as contemplated by the grant requirements and our proposal. It has served as a valuable learning and growing experience for this Department and serves as a strong scalable tool for interoperable voice communication and data sharing within our metropolitan area.

Respectfully submitted,

Samuel A. DeMaio, Police Director  
City of Newark – Police Department

By: 

cc: Mayor Cory Booker

Thomas O. Puerzer  
U.S. Department of Justice  
April 13, 2012  
Page 12 of 12

Donald James Lango, COPS Audit Liaison (via email ([donald.lango@usdoj.gov](mailto:donald.lango@usdoj.gov)) and regular mail (US DOJ, Audit Liaison Division, 145 N. Street, N.E., Washington, DC 20530))  
Assistant Business Administrator Adam Cruz  
First Assistant Corporation Counsel Clyde Otis III  
Peter Lutz, MIS Director, NPD  
Sgt. Joseph Pastore, NPD

**OFFICE OF COMMUNITY ORIENTED POLICING SERVICES  
RESPONSE TO THE DRAFT AUDIT REPORT**



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**

Via Electronic and U.S. Mail

To: Thomas O. Puerzer  
Regional Audit Manager  
Office of the Inspector General  
Philadelphia Regional Audit Office

From: Donald J. Lango   
Management Analyst/Audit Liaison  
COPS Audit Liaison Division

Date: April 17, 2012

Subject: Response to Draft Audit Report for the City of Newark, New Jersey

This memorandum is in response to your March 20, 2012, draft audit report for the City of Newark, New Jersey (Newark). For ease of review, each audit recommendation is stated in bold and underlined, followed by COPS' response to the recommendation.

**Recommendation 1: Remedy the \$3,539,43216 in unallowable expenditures resulting from: (a) project changes that were not approved by COPS and failure to achieve the voice communication objective of the grant (net project costs of \$3,539,432); (b) purchase of equipment not competitively procured and not authorized for purchase under the New Jersey Cooperative Purchasing Program (net expenditures of \$2,777,569); (c) purchase of a mobile communications command center vehicle procured using overly narrow bid specifications in violation of Newark's' procurement manual and hindering an open and competitive bid process (\$626,221); (d) purchase of surveillance cameras denied by COPS during the grant budget review (\$62,325); and (e) purchase of a record management system and other computer equipment not related to the project (\$73,316).**

The COPS Office concurs that grantees cannot expend funds on unallowable expenditures.

**Discussion and Planned Action:**

In order to remedy the \$3,539,43216 in questioned costs, the COPS Office has determined that additional information and clarification is required before we can make a final decision as to how to proceed. Therefore, COPS will work with the grantee to obtain additional information. Once a decision is made on how we plan to remedy this recommendation, the COPS Office will provide your office with our plan.

**Request:**

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

ADVANCING PUBLIC SAFETY THROUGH COMMUNITY POLICING  
★

**Recommendation 2. Remedy the \$2,282,513 in expenditures for equipment not adequately supported or safeguarded by a property management system with periodic inventories.**

The COPS Office concurs that grantees must safeguard grant-funded equipment by maintaining a property management system and by performing periodic inventories.

**Discussion and Planned Action:**

In order to remedy the \$2,282,513, the COPS Office has determined that additional information is required before we can make a final decision as to how to proceed. Therefore, COPS will work with the grantee to obtain additional information. Once a decision is made on how we plan to remedy this recommendation, the COPS Office will provide your office with our plan.

**Request:**

Based on the discussion and planned action, COPS requests resolution of Recommendation 2.

**Recommendation 3: Ensure Newark implements and adheres to policies and procedures for submitting timely FSRs and accurate progress reports.**

The COPS Office concurs that grantees must implement and follow policies for submitting timely FSRs and accurate progress reports.

**Discussion and Planned Action:**

The COPS Office will ensure that the grantee develops and implements procedures for preparing and submitting timely FSRs and accurate progress reports.

**Request:**

Based on the discussion and planned action, COPS requests resolution of Recommendation 3.

**Recommendation 4: Ensure that Newark implements and adheres to policies and procedures to adequately administer grant funding that address our concerns over the related internal controls. These include, but should not be limited to the following: adhering to procurement regulations, approving grant expenditures in accordance with applicable budgets, and safeguarding equipment.**

The COPS Office concurs that the grantee must implement and follow policies and procedures to adequately administer grant funds.

**Discussion and Planned Action:**

In order to remedy this recommendation, the COPS Office will ensure that the grantee develops and implements policies and procedures to adequately administer grant funding. These will

Thomas O. Puerzer, Regional Audit Manager  
April 17, 2012  
Page 3

include policies: 1) to ensure adherence to procurement regulations; 2) for approving expenditures in accordance with approved grant budgets; and 3) for safeguarding equipment.

**Request:**

Based on the discussion and planned action, COPS requests resolution of Recommendation 4.

COPS 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 202-616-9215, or you may email me at [donald.lango@usdoj.gov](mailto:donald.lango@usdoj.gov).

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ADVANCING PUBLIC SAFETY THROUGH COMMUNITY POLICING



Thomas O. Puerzer, Regional Audit Manager  
April 17, 2012  
Page 4

cc: provided electronically

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Nancy Daniels, COPS  
Audit Liaison Division  
Office of Community Oriented Policing Services

The Honorable Cory Booker, Mayor  
City of Newark

Samuel A. DeMaio, Acting Director  
Newark Police Department

Grant File: 2003-IN-WX-0011

Audit File

ORI: NJNPD00

ADVANCING PUBLIC SAFETY THROUGH COMMUNITY POLICING



**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 Newark and the Office of Community Oriented Policing Services (COPS) for review and comment. Their responses were incorporated in Appendix III and IV respectively of this report. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

**Analysis of Newark's Response**

In response to our audit report, Newark provided a discussion on the use of its grant funds in addition to providing a response to the audit recommendations. This discussion included a general description of a seven phase technology project that Newark stated it was implementing to overhaul its Interoperability and Communication and Data Sharing platform. Newark's response stated that the COPS Interoperability Grant helped fund the basis for this network and that additional phases remain to achieve full functionality, but that the ability to achieve the overhaul was due to the availability of the grant and the manner in which it was employed.

In response to Newark's statements on its use of grant funds, we note that the objective of this audit was to examine the implementation of the project approved by COPS that was outlined in Newark's grant application. As discussed in this report, the COPS Interoperability Grant was provided to Newark to fund a stand-alone project, not a portion of a phased project. The stand-alone project was funded through a competitive grant program where COPS employed an expert peer review panel to evaluate project proposals submitted by 58 agencies. This evaluation considered applicant project approaches and cost projections, and Newark was 1 of 14 agencies selected to receive funding under this grant program. Deviations from approved project approach upon which the award decision was made must be approved by COPS in accordance with grant terms and conditions. In examining Newark's implementation of the grant-funded project, we found that Newark deviated from the plan it submitted, but did not provide us with evidence that COPS approved these deviations. Therefore, Newark denied COPS the opportunity to evaluate whether the funding provided to Newark represented the best use of limited grant funds, whether the new project approach was in line with program guidelines, or other appropriate considerations COPS may evaluate when reviewing grant modification requests.

Newark also stated that the COPS grant was utilized in a manner and fashion intended by the spirit of the grant. However, our audit examined

**Newark's adherence to terms and conditions of the award, including the** approved use of funds in accordance with the objectives and approach specified in the application, which we concluded were not achieved with the COPS grant. Other intentions for the use of funds outside the scope of the award objectives and approach were not specified in the award documents we reviewed. Additionally, because we audited the implementation of the grant-**funded project as established in Newark's application and did not** examine other projects Newark discussed in its response, we did not express an opinion regarding the accuracy of the statements made by Newark in regard to the capabilities of its overall communications system or the other phases of its project that it stated were funded through other sources. **However, Newark's statements** that the COPS grant was only one phase of a seven phased project provide additional support for our conclusions that it revised the scope and objectives of its project without approval from COPS and did not achieve the interoperable voice communication objectives with the COPS grant as stated in its application. We made minor edits to the report to clarify these issues.

**Finally, Newark concluded its response stating, "...the Newark Police Department has set itself apart as an exemplary recipient and administrator of federal and state grants."** We do not agree that this characterization is accurate based on the findings of this report or **Newark's** grant management history. Specifically, COPS barred Newark from receiving competitively awarded COPS funding from December 2007 to December 2010. COPS barred Newark as resolution to significant deficiencies reported in our 1998 audit.<sup>18</sup>

### **Summary of Actions Necessary to Close the Report**

1. **Resolved.** COPS concurred with our recommendation to remedy the \$3,539,432 in unallowable expenditures resulting from:
  - a) project changes that were not approved by COPS and failure to achieve the voice communication objective of the grant (net project costs of \$3,539,432),
  - b) purchase of equipment not competitively procured and not authorized for purchase under the New Jersey Cooperative Purchasing Program (net expenditures of \$2,777,569),

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<sup>18</sup> OIG, COPS Grants to the Newark, New Jersey Police Department, Audit Report GR-70-98-007 (June 1998).

- c) purchase of a mobile command center vehicle procured in a manner that likely hindered an open and competitive bid process (\$626,221)<sup>19</sup>,
- d) purchase of surveillance cameras denied by COPS during the grant budget review (\$62,325), and
- e) purchase of a record management system and other computer equipment not related to the project (\$73,316).

In its response, Newark disagreed with recommendations 1a, 1b, and **1c. We address Newark's response to these recommendations as follows.**

1a: In its response, Newark stated that while COPS did not approve the project changes for the grant-funded program, **"... the changes were sufficiently communicated to COPS and the revised plan achieves the voice communication objectives of the grant."** However, we do not **agree with Newark's** contention that changes to the project were sufficiently communicated to COPS. In its response, Newark cites a 2003 communication to COPS in which Newark informed COPS that it intended **"...to explore alternatives to ensure best practice is achieved. Should the Police Department eventually change technical direction, a revised budget and rationale will be sent to the COPS Office for review and approval."** However, we confirmed with COPS that Newark did not submit a revised budget or rationale for any changes it made to the scope of its project. As a result, **Newark's** ultimate use of funds constituted unapproved changes to the project. We clarified the report to address details of the 2003 communication Newark referenced in its response.

As stated in this report, **in examining Newark's implementation of the grant-funded project**, we found that Newark deviated from the plan it submitted, but did not provide evidence that COPS approved these deviations. Therefore, Newark denied COPS the opportunity to evaluate whether the funding provided to Newark represented the best use of limited grant funds, whether the new project approach was in line with program guidelines, or other appropriate considerations COPS may evaluate when reviewing grant modification requests.

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<sup>19</sup> As discussed in the analysis of recommendation 1c, the scope of the recommendation presented in the draft report was clarified in this final report.

Additionally, **we disagree with Newark's position** taken in its response that the capabilities of a much larger seven phase project, of which only the first phase was related to this grant, justified the unauthorized, significant changes made to the proposal COPS selected using an expert peer review panel. **We also disagree with Newark's suggestion that our audit "...should have verified that the 2003 COPS funds were used in a manner consistent with the spirit and intention of NPD's grant proposal" as the unauthorized changes** were not comparable to the original proposal. Therefore, Newark should have ensured it obtained authorization before deviating from the approved project.

Newark stated that its seven **phase project, "...supports voice applications..."** and that it has **"...in fact implemented a strong voice communication component within our wireless network solution..."** Throughout our audit, we discussed our findings with **Newark's project manager, including the finding that voice communication capability had not been achieved.** Newark's project manager repeatedly told us that the wireless network that the COPS grant partially funded was not being used for voice communication as described in the original grant proposal approved by COPS. We also requested, but never received or reviewed as a part of the audit, **data usage reports that may have demonstrated how Newark's system was being used for voice communication.**

Newark's response went **on to conclude that the grant was used "...in the best interest of the taxpayers of the City of Newark."** It is important to note that in accepting the award, Newark agreed to abide by the grant award's terms and conditions. We do not believe that **Newark's responsibility to the taxpayers of the City of Newark was inconsistent with, or prevented Newark from abiding by, the terms and conditions of the award.**

1b: In its response to recommendation 1b, Newark provided documents from its vendor. During our audit, we analyzed these same documents and found that the documentation does not support the state authorization necessary for the vendor to sell all of the equipment Newark eventually purchased. Specifically, the documents clearly indicate, upon thorough review, that only six types of equipment were approved for sale by the state. We found that Newark used grant funding to purchase various quantities of these six types of equipment totaling \$309,770. However, the remaining

equipment Newark purchased with grant funding, totaling \$1,899,427, was not approved. (Newark purchased a total of \$2,209,197 in equipment from the contract using the grant, including \$2,146,872 in wireless network equipment and \$62,325 in video surveillance cameras identified **in the "Wireless Network Equipment"** sub-section of the Expenditure section of this report.)

In its response, Newark also requested that we reconsider our finding **"...in light of [Newark's] good faith reliance upon the vendor's representations."** Newark also asserted in its response that "any neglect, which is denied in this instance given the attached proofs, is excusable and justified." We believe it is important to note that COPS awarded the grant to the City of Newark, and not to the vendor on which Newark relied. As a result, Newark was responsible to COPS for ensuring that it adhered to applicable procedures in all grant transactions, including procurements. We believe relying solely on vendor representations is not sufficient to ensure compliance with the federal procurement regulations set forth in the grant terms and conditions, and Newark failed to ensure that the equipment being represented by the vendor was actually authorized for sale. Further, **given Newark's role as the grant recipient, which is primarily responsible for grant management, we disagree that these documents or Newark's reliance on the vendor relieved Newark of any of its responsibilities related to this procurement.**

1c: In its response to recommendation 1c, Newark did not concur with our finding, but stated it was unable to fully respond because the personnel responsible for drafting the bid specification could not be identified. **Additionally, Newark stated, "The specification requirements were created with vendor input but not in a fashion intended to preclude competitive bidding."**

Our report does not conclude that Newark intended to preclude competition. However, we believe that an open and competitive bid process was likely hindered **by Newark's pre-existing relationship with the vendor** because, as we discussed in the report: (1) Newark identified the eventual vendor in its March 2004 sole source procurement request, which was denied by COPS; (2) the eventual vendor provided several specifications and prototype drawings prior to **Newark's procurement request to COPS**; (3) Newark advertised the specification approximately 10 months after its request was denied; and (4) fifteen firms responded to the advertisement requesting the

full bid specification, but only the eventual vendor submitted a bid proposal.

Newark also stated in its response that it is frequently required to acquire vehicles with precise specifications to fit fleet and operational requirements, and did so for the command center vehicle. Our recommendation in the draft report was not intended to limit bid requirements necessary for procurement of purchases in accordance **with Newark's procurement rules**, but rather was intended to focus on purchases that may violate those rules. As a result, we clarified the scope of the recommendation in the final report.

1d: Newark concurred with recommendations 1d and 1e related to the use of grant funds to purchase equipment unrelated to the grant project.

1e: Newark concurred with recommendations 1d and 1e related to the use of grant funds to purchase equipment unrelated to the grant project.

This recommendation can be closed when we receive documentation demonstrating the remedy of the questioned costs, totaling \$3,539,432, due to unallowable expenditures.

2. **Resolved.** COPS concurred with our recommendation to remedy the \$2,282,513 in expenditures for equipment not adequately supported or safeguarded by a property management system with periodic inventories. In its response, COPS stated that additional information and clarification is required before it can make a final decision as to how to proceed and provide its plan to remedy the recommendation.

Newark also concurred with this recommendation and provided an explanation regarding the finding, stating that Newark has numerous **asset management systems**. **Additionally, Newark's response cited** dire financial straits as an explanation for the reliance on the installation integrator for maintaining the equipment list, and explained it was operating under a memorandum of understanding with the State of New Jersey that helped the city cover recent budget shortfalls. **Although we recognize that Newark's poor fiscal condition** as evidenced by the agreement with the State may make it difficult for Newark to properly safeguard the equipment purchased with grant funding, this does not relieve Newark of its responsibilities under the grant.

Newark also stated that it is "...able to operate with a stronger sense of security that material was being installed properly due to the nature, **location and function of each piece**", and that "...if equipment fails or is missing, the system should report the error in the form of a failure of some sort." **Although the system capabilities described in Newark's** response may have value, it is no substitute for the accountable property safeguards required by 28 C.F.R. § 66.32 and described earlier in this report.

In addition, Newark referred to our attempt to inspect some **equipment installed around Newark and stated, "We trust your office's** physical site inspection ultimately satisfies any substantial concerns regarding location, implementation, and safeguarding of the equipment purchased utilizing the 2003 COPS grant. Further, we are hopeful that you will concur that the equipment has been well leverage[d] **in terms of functionality."**

Our attempt to inspect equipment purchased with grant funding did not satisfy our concerns regarding the safeguarding of this equipment or that all equipment was delivered as invoiced because we were not provided reliable evidence that the equipment we viewed was the same equipment that was purchased with grant funds. In addition, we do not concur that the equipment has been well leveraged since much of it was denied by COPS for purchase, not authorized for sale under the New Jersey Cooperative Purchasing Program, and was not accounted for within an adequate property management system required by grant regulations.

Finally, in its response Newark stated that it required the vendor to inventory each piece of equipment and provided a copy of this inventory in its response. However, we have not received either of these inventory spreadsheets. This recommendation can be closed when we receive **COPS' plan and documentation that COPS has** remedied these questioned costs.

3. **Resolved.** COPS concurred with our recommendation to ensure that Newark implements and adheres to policies and procedures for submitting timely FSRs and accurate progress reports, and stated that it will work with Newark to address this finding.

**According to Newark's response,** the Newark Police Department issued a General Order in 2004 that established the Grants Development and

Management Unit which is responsible for ensuring departmental adherence to policies and procedures for submitting and administering grants. However, the General Order was in effect during the grant award period and audit, and our audit findings indicate that it was ineffective to ensure compliance with reporting requirements. As a result, we disagree with Newark that this recommendation is remedied.

Further, we reviewed the General Order and determined it was inadequate to address our audit findings. Specifically, it does not include: (1) grant administration responsibilities for all city departments responsible for grant administration or (2) actual policies and procedures for ensuring compliance with the grant terms and conditions, including the submission of timely and accurate reports.

This recommendation can be closed when we receive documentation demonstrating **Newark's** implementation and adherence to financial and progress reporting policies and procedures that comply with federal regulations.

4. **Resolved.** COPS concurred with our recommendation to ensure that Newark implements and adheres to policies and procedures to adequately administer grant funding that address our concerns over the related internal controls. These include, but should not be limited to the following: adhering to procurement regulations, approving grant expenditures in accordance with applicable budgets, and safeguarding equipment. In its response, COPS stated that it will ensure Newark develops and implements policies and procedures to administer grant funding adequately.

**According to Newark's response,** the previously discussed General Order issued in 2004 and the creation of the Grants Development and Management Unit fully and successfully remedied this recommendation. Again, since this General Order and the Grants Development and Management Unit were in existence during the grant award period and audit, they appear to have been inadequate to prevent the deficiencies we found. As a result, we disagree with **Newark's position.**

This recommendation can be closed when we receive documentation demonstrating **Newark's** implementation and adherence to financial and progress reporting policies and procedures that comply with the federal regulations.