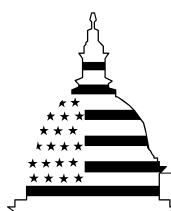


June 2003

U.S. ATTORNEYS

Controls Over
Grant-Related
Activities Should Be
Enhanced



G A O

Accountability * Integrity * Reliability



Highlights of [GAO-03-733](#), a report to Congressional Requesters

Why GAO Did This Study

Ninety-three U.S. Attorneys serve 94 judicial districts (the same U.S. Attorney serves the District of Guam and the District of the Northern Mariana Islands) under the direction of the Attorney General. Among other things, the Attorney General expects U.S. Attorneys to lead or be involved with the community in preventing and controlling crime including efforts to secure Department of Justice (DOJ) grant funds and work with grantees.

This report provides information about the guidance U.S. Attorneys are given in carrying out their responsibilities with regard to DOJ grants. It makes recommendations to assess compliance with guidance and to reduce the potential for conflicts of interest.

What GAO Recommends

GAO recommends that the Director of the Executive Office for U.S. Attorneys take steps to further mitigate the risk associated with U.S. Attorney involvement in grant activities by (1) assessing and overseeing compliance with the DOJ guidance and (2) requiring staff that work on grant-related matters to certify they are free from conflicts of interest.

DOJ reviewed a draft of this report and had no comments.

www.gao.gov/cgi-bin/getrpt?GAO-03-733.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Paul L. Jones at (202) 512-8777 or jonespl@gao.gov.

U.S. ATTORNEYS

Controls Over Grant-Related Activities Should Be Enhanced

What GAO Found

U.S. Attorneys' grant activities are guided by legal and ethical considerations. General guidelines established by the Attorney General in 1994 and revised in 2001 outline how U.S. Attorneys and their staff can be involved in their community's crime prevention and control efforts, including DOJ grant activities. Last year, DOJ issued guidance in response to U.S. Attorneys' questions about their role in relation to two DOJ grant programs—Project Safe Neighborhoods and Weed and Seed. In addition, through its Executive Office for U.S. Attorneys (EOUSA), DOJ provided training on ethical considerations in dealing with grant applicants and grantees under both grant programs.

Although EOUSA has an evaluation program to assess and oversee the overall operations of each U.S. Attorney's Office, the evaluations are not designed to assess whether U.S. Attorneys and their staffs are following the recently established guidelines. Without a mechanism to make this assessment, EOUSA does not have assurance that DOJ guidance

- is adequately understood,
- has reached all those who are covered by it, and
- is correctly applied.

In addition, federal regulations and procedures call for systematic financial disclosure reporting to facilitate the review of possible conflicts of interest and ensure the efficient and honest operation of the government. However, while GAO did not identify any incidences of conflicts of interest, certain individuals—staff in U.S. Attorneys Offices that work with grantees and nonfederal members of committees that are appointed by each U.S. Attorney to, among other things, assess the merits of grant proposals—are not required to disclose whether they are free from actual or apparent conflicts of interest. Based on the merits of GAO's work, DOJ officials stated that they would issue a directive to require members of these committees to sign a self-certified conflict of interest statement that is to be held on file subject to DOJ grant monitoring.

Contents

Letter	1
Results in Brief	3
Background	4
DOJ Guidelines Covering U.S. Attorneys' Grant Activities	7
DOJ Has Not Established Oversight Mechanisms to Assess and Ensure Compliance with Recent Guidelines	10
Conclusions	17
Recommendations	18
Agency Comments and Our Evaluation	18

Appendix I	Summary of Guidelines Issued for U.S. Attorneys Regarding Grants Awarded under the PSN and Weed and Seed Programs	19
	PSN Grants	19
	Weed and Seed Grants	20

Abbreviations

BJA	Bureau of Justice Assistance
DOJ	Department of Justice
EARS	Evaluation and Review Staff
EOUSA	Executive Office for U.S. Attorneys
EOWS	Executive Office for Weed and Seed
LECC	Law Enforcement Coordinating Committee
OIG	Office of Inspector General
OJP	Office of Justice Programs
PSN	Project Safe Neighborhoods

This is a work of the U.S. Government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. It may contain copyrighted graphics, images or other materials. Permission from the copyright holder may be necessary should you wish to reproduce copyrighted materials separately from GAO's product.



United States General Accounting Office
Washington, DC 20548

June 10, 2003

The Honorable F. James Sensenbrenner, Jr.
Chairman
The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

The Honorable Chris Cannon
Chairman
The Honorable Melvin Watt
Ranking Minority Member
Subcommittee on Commercial and Administrative Law
Committee on the Judiciary
House of Representatives

U.S. Attorneys are appointed by the President of the United States, with advice and consent of the U.S. Senate. Under the direction of the Attorney General, each of the 93 U.S. Attorneys is the chief federal law enforcement officer of the United States within his or her particular jurisdiction. During fiscal year 2002, the Department of Justice (DOJ) spent about \$1.5 billion on its 94 U.S. Attorneys Offices to prosecute individuals charged with violations of federal criminal law, represent the government in civil cases, and collect money and property owed to the government.¹ In addition, U.S. Attorneys Offices were involved in initiatives to prevent and control crime in their communities, including some supported by DOJ grant funds.

This report responds to your request that we provide information on U.S. Attorneys involvement in DOJ grant programs. To address your request, we are reporting on (1) guidance available to U.S. Attorneys and their offices in carrying out their responsibilities with regard to DOJ grants and (2) oversight of those responsibilities by DOJ. To meet our objectives, we interviewed officials with the Executive Office for U.S. Attorneys (EOUSA) and Office of Justice Programs (OJP) in Washington, D.C. and obtained and reviewed information about the guidance available to and

¹A total of 93 U.S. Attorneys serve 94 districts—the same U.S. Attorney serves the District of Guam and the District of the Northern Mariana Islands.

the oversight of U.S. Attorneys Offices in regard to DOJ grant programs. As agreed with your staff, we also visited 10 of the 94 U.S. Attorneys Offices and interviewed U.S. Attorneys and their staffs in each office.² We performed our work from December 2001 to May 2003 in accordance with generally accepted government auditing standards.

U.S. Attorneys Offices carry out their grant-related responsibilities related to two DOJ programs—Project Safe Neighborhoods (PSN) and the Weed and Seed Program (Weed and Seed). PSN is a multiyear commitment, initiated by the President and the Attorney General in fiscal year 2001, to take a comprehensive strategic approach to the enforcement of firearms laws. To implement this strategy, the Attorney General required each of the 94 U.S. Attorneys Offices to support, promote, and implement a comprehensive gun violence reduction program within each local district, working in partnership with communities and state and local law enforcement agencies. Under PSN, DOJ's OJP awards grant funds to organizations that work with PSN task forces, in coordination with the U.S. Attorneys Office, to provide support for community outreach, crime analysis, development of promising gun violence reduction programs, and juvenile-related firearm reduction programs. Grants are awarded based on input from the U.S. Attorney and a community based grant selection committee, which is comprised of nonfederal law enforcement and community leaders that are appointed by the U.S. Attorney. OJP's Bureau of Justice Assistance (BJA) administers the grants awarded to support PSN, including monitoring grants once they have been awarded. In fiscal year 2002, DOJ awarded about \$65 million for grants to support PSN task forces. DOJ also expects to award about \$60 million in fiscal year 2003 and again in fiscal year 2004 to support PSN task forces.³

Weed and Seed is a community based, multiagency program, initiated in fiscal year 1991, to “weed out” crime from targeted neighborhoods, then “seed” the site with a variety of programs and resources to prevent crime from recurring. Weed and Seed sites are provided grants, technical assistance, and training to implement programs that will help them deal

²We visited the Districts of Delaware, Nebraska, Nevada, and South Carolina, and the Southern District of Indiana; the Western District of Washington; the Central District of California; the Eastern District of Pennsylvania; the Western District of Texas; and the Eastern District of Virginia.

³PSN funds are also used to fund other PSN grant and nongrant activities that do not directly involve support of PSN Task Forces, in coordination with U.S. Attorneys Offices.

with serious crime in their communities. Under the guidance of the U.S. Attorney, federal, state, and local officials work together at each site to (1) implement activities designed to reduce drug crimes, gangs, and other violent crimes in high crime neighborhoods and (2) revitalize those areas by implementing a range of human service programs and economic development to keep crimes from recurring. OJP's Executive Office for Weed and Seed (EOWS) has overall responsibility for the Weed and Seed Program, including establishing policy and monitoring Weed and Seed grants. In fiscal year 2003, DOJ expects to award about \$53.9 million for grants under the Weed and Seed Program.

Results in Brief

Guidelines established by the Attorney General in January 2001 encourage U.S. Attorneys to participate in community crime prevention activities—including those supported by DOJ grants—through the “establishment of coalitions with the community and law enforcement as well as strong and real working relationships with other public and private entities.” In so doing, the guidelines call for U.S. Attorneys and their staff to remain impartial and to avoid even the appearance of an involvement with parties and activities that could bring them into conflict with their official duties. Last year, DOJ published guidelines for U.S. Attorneys Offices that specifically focus on their role in PSN and Weed and Seed. In May and December 2002, DOJ issued guidelines for U.S. Attorneys Offices and PSN task forces that describe the process they were to follow in securing grant funds. Among other things, the guidelines provided U.S. Attorneys Offices with step-by-step instructions for working with communities to solicit, review, and select proposals for specific PSN grants, including guidance on related ethics issues. Also, in December 2002, EOUSA issued guidance that discussed, among other things, what U.S. Attorneys Offices are to do when working with local community organizations that are seeking and administering Weed and Seed grant funds. According to EOUSA officials, the decision to issue guidance was not prompted by any particular incident; rather, the guidelines resulted from questions U.S. Attorneys and their staff raised concerning their roles and responsibilities under the programs. EOUSA has also provided training on ethical considerations in dealing with grant applicants and grantees under both programs and have developed a video that discusses various aspects of the PSN grant application process, including the ethical considerations facing each U.S. Attorneys Office as they deal with PSN grants.

An effective internal control process is one that provides management with a reasonable level of assurance that agency operating, financial, and compliance objectives are being systematically achieved. DOJ components

have not established oversight mechanisms to assess and ensure compliance with the PSN and Weed and Seed guidelines they issued last year. Although EOUSA has an evaluation program to assess and oversee the overall operations of each U.S. Attorneys Office—including operations associated with the management of the PSN and Weed and Seed Programs—the evaluations are not designed to assess whether U.S. Attorneys and their staffs are following the guidance recently established. Federal regulations and procedures also call for systematic financial disclosure reporting to, among other things, facilitate the review of possible conflicts of interest to guarantee the efficient and honest operation of the government. However, EOUSA and BJA have not established a reporting mechanism for employees of U.S. Attorneys Offices that work with grantees and nonfederal appointees to PSN grant selection committees to provide management assurance that these individuals are free from actual or apparent conflicts of interest. EOUSA officials acknowledged that U.S. Attorneys' Offices staff could face possible conflicts in their dealings with grantees and said they would consider ways in which staff could periodically report on any personal, financial, or business relationships they might have involving nonfederal individuals or organizations. Likewise, based on our work, BJA officials said that they would issue a directive that requires selection committee appointees to submit a signed self-certified conflict of interest statement that will be kept on file for oversight by BJA grant monitors.

We are recommending that the Attorney General instruct the Director of EOUSA and U.S. Attorneys to take steps to (1) assess and oversee compliance with PSN and Weed and Seed guidelines and (2) require financial disclosure reporting for U.S. Attorneys' staff that work with community organizations on grant-related matters.

We provided a draft of this report to the Attorney General for comment. DOJ did not have any comments on this report.

Background

U. S. Attorneys serve as the nation's principal litigators under the direction of the Attorney General. U.S. Attorneys conduct most of the trial work in which the United States is a party. Under Title 28 U.S.C. 547, U.S. Attorneys have three statutory responsibilities:

- prosecute criminal cases brought by the federal government

-
- prosecute and defend civil cases in which the United States is a party, and
 - collect debts owed the federal government that are administratively uncollectible.

EOUSA was established to provide a liaison between DOJ in Washington, D.C., and the 93 U.S. Attorneys. EOUSA provides each U.S. Attorney and the 94 U.S. Attorneys Offices general executive assistance and direction, policy development, administrative management and oversight, operational support, and coordination with other components of DOJ and other federal agencies. In fiscal year 2002, U.S. Attorneys', and EOUSA's budgets were about \$1.5 billion and \$64.6 million, respectively.

OJP

OJP, the grant making arm of DOJ, provides grants to various organizations, including state and local governments, universities, and private foundations, that are intended to develop the nation's capacity to prevent and control crime, administer justice, and assist crime victims. OJP's Assistant Attorney General is responsible for overall management and oversight of OJP through setting policy and for ensuring that OJP policies and programs reflect the priorities of the President, the Attorney General, and the Congress. The Assistant Attorney General promotes coordination among the various bureaus and offices within OJP.⁴ Staff of the bureaus and program offices develop OJP grant programs, accept and review applications, make grant awards, and manage and monitor grantees until the award is closed out. In fiscal year 2002, OJP's budget was about \$4.3 billion.

According to OJP and EOUSA officials, U.S. Attorneys and their staff currently are involved in two DOJ programs involving OJP grants—PSN and Weed and Seed. As mentioned earlier, BJA is responsible for national administration and management of grants awarded under the PSN initiative. PSN, which was initiated in fiscal year 2001 by the President and the Attorney General, was designed to commit more than \$900 million over a 3-year period to hire new federal and state prosecutors, support

⁴OJP's bureaus and program offices are Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, Office for Victims of Crime, Office of Police Corps and Law Enforcement Education, and Community Capacity Development Office (including the Executive Office for Weed and Seed).

investigators, provide training, and develop and promote community outreach efforts all with the goal of focusing community attention and energy on reducing gun violence.⁵ Under the program, U.S. Attorneys were to take the lead in mobilizing federal, state, and local officials in their districts by establishing PSN task forces to develop comprehensive gun violence reduction strategies or review and enhance existing strategies. PSN task forces are to implement these strategies, in part, through the use of various OJP grants awarded in each U.S. Attorney's district. These OJP grants are the (1) Research Partner/Crime Analyst Grants to support the strategic planning and accountability portion of PSN, (2) Media Outreach and Community Engagement Grants to help task forces in their community outreach initiatives, (3) Project Sentry Grants to help task forces address local juvenile related gun crimes, and (4) Open Solicitation Grants to support comprehensive and innovative approaches to reduce gun violence in local communities.

EOWS is responsible for providing national leadership as well as management and administration of the Weed and Seed Program, which in fiscal year 2002 had a budget of about \$59 million. Under the program, U.S. Attorneys are to serve as both the main contact to Weed and Seed sites for EOWS and as facilitator of the program's community based coordination efforts. Accordingly, U.S. Attorneys are to work with local stakeholders to develop and implement a community based, multiagency strategy that proposes to "weed out" crime from targeted neighborhoods, then "seed" the site with a variety of programs and resources to prevent crime from recurring.⁶ In fiscal year 2002, there were about 229 Weed and Seed sites and the average grant awarded per site was about \$200,000.

⁵Under P.L. 106-553 EOUSA allocated 163 new positions, 113 of which were for attorneys to prosecute firearms violations in 62 of the 94 judicial districts to support PSN. In addition, in February 2002, the Attorney General assigned a new prosecutor to 93 of the 94 districts and placed 1 position in EOUSA to further support the program.

⁶A central tenant of the Weed and Seed Program is for local Weed and Seed sites to develop partnerships among federal, state, and local governments and private sector agencies to leverage federal Weed and Seed grant funds with additional resources from these partners to promote weeding and seeding activities. These additional resources are intended to help the site achieve the goal of becoming self-sustaining without Weed and Seed grant funds.

DOJ Guidelines Covering U.S. Attorneys' Grant Activities

Guidelines first established by the Attorney General in 1994 stated that U.S. Attorneys and their staff may be involved in their community's crime prevention and control efforts—including efforts to secure DOJ grant funds and work with grantees—as long as they subscribe to legal and ethical considerations. DOJ components have recently issued related guidelines for U.S. Attorneys and their staff that, among other things, focuses specifically on their dealings with grant applicants and grantees under the PSN and Weed and Seed Programs. According to EOUSA officials, DOJ issued program specific guidelines in response to the numerous questions by U.S. Attorneys and their staff concerning their role in relation to PSN and Weed and Seed.

Attorney General Guidelines Encourage U.S. Attorneys to Be Active in Community Based Programs Involving DOJ Grants

U.S. Attorneys are encouraged to be involved in community based activities that seek and secure DOJ grant funds as long as they and their staff subscribe to legal and ethical considerations commensurate with being a government employee, an attorney, and U.S. Attorney.⁷ According to guidelines established by the Attorney General in 1994 and revised in January 2001, U.S. Attorneys are encouraged to engage in community based crime prevention and control activities and form coalitions with nonfederal, community based organizations, private entities, and law enforcement because “promoting crime prevention initiatives enhances the presence of the Department of Justice in communities around the country and has proven effective in reducing crime.” The guidelines state

⁷Federal conflict of interest rules are published at 18 U.S.C. § 208 and implementing regulations at 5 C.F.R. § 2635.402. Essentially, these rules prohibit employees from taking official action in a particular matter involving any entity in which they, or someone whose interests are imputed to them, have a financial interest. Imputed interests include (1) the interests of the employee's spouse; (2) minor children; (3) a general partner; (4) an organization in which the employee is serving as an officer, director, trustee, general partner, or employee; or (5) any person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment. In addition, Federal Standards of Conduct prohibit employees from acting in a particular matter that involves a financial interest of a member of their household or if it involves a person with whom the employee has a “covered relationship” (5 C.F.R. § 2635.502). Covered relationship is defined to include (1) a person with whom the employee conducts business other than routine consumer transactions; (2) a person who is a member of the employees household, or who is a relative with whom the employee has a close personal relationship; (3) a person for whom the employee's spouse, parent, or dependent child is serving or seeking to serve as an officer, director, trustee, general partner, agent attorney, consultant, contractor, or employee; (4) any person for whom the employee has served, within the last year, as officer, director, trustee, general partner, agent attorney, consultant, contractor, or employee; and (5) an organization in which the employee is an active participant.

that, when working with nonfederal entities in implementing crime prevention initiatives, U.S. Attorneys and their staff are to

- remain impartial in carrying out their official duties and be careful to avoid the appearance of partiality;
- consider conflicts of interest statutes when crime prevention activities involve persons or organizations with whom they have a personal, financial, or business relationship; and
- avoid participation in coalitions that include individuals and nonfederal organizations that may be victims, witnesses, subjects, or targets in matters pending in their districts.

Thus, under the Attorney General's guidelines, U.S. Attorneys may convene meetings with other potential coalition participants to discuss operating needs, program initiatives, event planning, and other related matters, but they are to avoid participating in budget decisions of a coalition, including decisions regarding the expenditure of funds that could create the appearance that the U.S. Attorney is managing an entity outside of DOJ. Also, according to the guidelines, U.S. Attorneys may endorse specific coalition-based program initiatives as long as they refrain from endorsing specific organizations; give presentations about coalition initiatives at fund-raising events as long as the presentation addresses official DOJ issues and does not solicit contributions; and participate in public service announcements with other coalition members when the purpose of the announcement is to further DOJ's mission and coalition initiatives.

With regard to grants, the guidelines state that U.S. Attorneys may provide potential grant applicants with public information regarding sources of federal funding and respond to inquiries regarding the grant application process. Furthermore, they may draft a letter of recommendation to OJP supporting a grant application. According to the guidelines, this letter can identify the applicant's accomplishments and may express the U.S. Attorney's views on whether government program funds should or should not be granted to a particular applicant. However, U.S. Attorneys' names are not to appear on grant applications unless required by law, and U.S. Attorneys are not to otherwise contact federal agencies on behalf of an applicant seeking federal grant monies.

DOJ Has Recently Published Guidelines for U.S. Attorney Offices Related to PSN and Weed and Seed Activities

DOJ components involved in the PSN and Weed and Seed Programs have taken steps to provide specific guidance to U.S. Attorneys and their offices in carrying out their grant-related responsibilities. In May 2002, EOUSA told U.S. Attorneys and their staff that BJA had published Web based guidelines for U.S. Attorneys Offices and PSN task forces to instruct them about their role in the process to solicit, review, and select grant proposals. According to the memorandum issued by EOUSA's Director, the guidance was designed to provide step-by-step instructions on the grant process that included guidance about specific ethics issues. In December 2002, EOUSA told U.S. Attorneys and their staff about new PSN guidelines—again including guidance about ethics issues—designed to cover grants to be awarded in fiscal year 2003. During the same month, the EOUSA Director sent a memorandum to all U.S. Attorneys, their senior staff, and Law Enforcement Coordinating Committee (LECC) Coordinators about U.S. Attorneys Offices' responsibilities in implementing the Weed and Seed Program, including how to deal with ethics concerns related to Weed and Seed grant activities.⁸ Appendix I provides greater detail on the guidelines DOJ components issued for U.S. Attorneys Offices on PSN and Weed and Seed during calendar year 2002.

According to EOUSA officials, the decision to issue guidelines for each program resulted from DOJ's overall effort to develop the PSN Program. EOUSA's Deputy Legal Counsel in EOUSA's Office of Legal Counsel said that the PSN guidance was not prompted by any particular incident; rather, it was developed in response to numerous questions about PSN-related ethics issues from U.S. Attorneys and their staff as the program was being developed. The Deputy Legal Counsel said the exercise, combined with similar questions by U.S. Attorneys and their staff subsequently prompted EOUSA to develop the December 2002 guidance for the Weed and Seed Program.

EOUSA's Deputy Legal Counsel also said that EOUSA has provided ethics training to U.S. Attorneys and their staff on their roles and responsibilities

⁸According to EOUSA, there are currently 87 LECC Coordinators nationwide. LECC Coordinator positions are classified under the General Schedule as GS-12 and GS-13 Law Enforcement Coordination Specialists. According to EOUSA officials, LECC responsibilities for the PSN and Weed and Seed Program can vary from district to district, as determined by the U.S. Attorney and for Weed and Seed sites, the LECC is the individual from the district that works most closely with the sites, acting as EOWS' direct contact with the site. Regarding PSN, EOUSA officials said that the LECC Coordinator is able to use contacts with law enforcement, including those made through Weed and Seed, to act as a liaison between law enforcement and other PSN participants or partners.

as it relates to grants offered and awarded under both programs. In January 2002, EOUSA provided a presentation to U.S. Attorneys at the first national PSN conference and in April 2002, EOUSA provided the same presentation for each districts' LECC Coordinators at a similar conference. The presentation included a discussion of what U.S. Attorneys and their staff can and cannot do when participating in the grant process. The Deputy Legal Counsel said that ethics training pertinent to the Weed and Seed Program was also provided to LECCs during October 2002. Also, in December 2002, EOUSA produced and disseminated a video that discussed the process U.S. Attorneys are to follow when working with PSN task forces during the grantee selection and application process.

EOUSA's Legal Counsel and Deputy Legal Counsel also indicated that they believe that training, available guidance on ethics issues, and staff awareness about standards of conflicts and actual or apparent conflicts of interest are sufficient to ensure that ethical lapses will not occur. They said that they were unaware of any ethical lapses and said that if questions were raised, DOJ's Office of Inspector General (OIG) would investigate them. OIG staff we contacted who were responsible for dealing with ethical issues at DOJ said they were aware of only one complaint involving a U.S. Attorney and the Weed and Seed Program and none regarding PSN.

DOJ Has Not Established Oversight Mechanisms to Assess and Ensure Compliance with Recent Guidelines

An effective internal control process is one that provides management with a reasonable level of assurance that agency operating, financial, and compliance objectives are being achieved on a systematic basis. EOUSA has an evaluation program to assess and oversee the overall operations of each U.S. Attorneys Office—including operations associated with the management of the PSN and Weed and Seed Programs—but the evaluations are not designed to assess compliance with the PSN and Weed and Seed guidelines recently issued. Similarly, federal regulations and procedures call for systematic financial disclosure reporting to, among other things, facilitate the review of possible conflicts of interest to guarantee the efficient and honest operation of the government. However, DOJ has not established a financial disclosure reporting mechanism for certain individuals—employees of U.S. Attorneys Offices that work with grantees and potential grantees and nonfederal appointees to PSN grant selection committees—to provide management assurance that these individuals are free from actual or apparent conflicts of interest.

EOUSA Does Not Assess Compliance with Recent PSN and Weed and Seed Guidelines

According to the Comptroller General's Standards for Internal Control in the Federal Government,⁹ internal control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives. They include, for example, steps to set the specific standards or criteria to be achieved by staff as well as steps that provide management the information to determine on a routine basis whether the standards are being met and to take corrective action when they are not. EOUSA has an evaluation program to assess and oversee the overall operations of each U.S. Attorneys Office that includes an assessment of the office's involvement in and performance related to the Weed and Seed and PSN Programs. However, the evaluations are not designed to assess compliance with the Weed and Seed and PSN guidance related to ethical concerns that EOUSA recently issued.

Under 28 C.F.R. Part 0.22, EOUSA is to evaluate the performance of the U.S. Attorneys Offices, make appropriate reports, and take corrective actions if necessary. EOUSA's Evaluation and Review Staff (EARS) is responsible for the evaluation program, which, according to EOUSA, is an internal review program designed, among other things, to examine management controls and prevent waste, loss, unauthorized use, or misappropriation in federal programs, as required under the Federal Manager's Financial Integrity Act. EARS evaluations are conducted in each of the 94 U.S. Attorneys Offices every 3 years by teams of experienced Assistant U.S. Attorneys, and administrative and financial litigation personnel from other U.S. Attorneys Offices.¹⁰ According to EOUSA's Assistant Director for EARS, these assessments focus on personnel, management, and workload issues in individual U.S. Attorneys Offices and include, among other things, an assessment of the management and operations of the local Weed and Seed and PSN Programs.

⁹U.S. General Accounting Office, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999), which was issued under 31 U.S.C. 3512 (formerly known as the Federal Manager's Financial Integrity Act), established the framework for internal (or management) control in the federal government. An effective internal control process is one that provides management with a reasonable level of assurance that agency operating, financial, and compliance objectives are being achieved on a systematic basis.

¹⁰EOUSA officials told us that, in fiscal year 2001, EARS teams conducted evaluations in 30 U.S. Attorneys Offices. EARS teams also conducted 32 follow-up reviews in other offices to ensure that issues identified in earlier visits were resolved.

Our review of EARS guidelines show that when evaluating the management of the PSN and Weed and Seed Programs in U.S. Attorneys Offices, review teams were to focus on task force or committee management issues rather than compliance with the guidelines recently published. For example, the template for the PSN part of the EARS review instructs EARS reviewers to examine, among other things, whether the PSN strategy had been implemented. If so, evaluators were instructed to provide information on a variety of matters, including

- the names of the PSN coordinators and the litigation units, sections, or branch offices where they serve;
- the nature of the partnerships that have been developed with federal, state, and local law enforcement and whether the partnerships are districtwide or tailored to meet the individual needs or problems facing branch offices;
- the community outreach activities associated with PSN;
- the number of specially allocated attorney and support staff positions allocated to the office and whether they have been filled; and
- examples of successes achieved under the program.

For the Weed and Seed Program, the template instructs review teams to respond to the following five questions:

- Does the district have a funded Weed and Seed Program? If so, describe the site, its organization, committees, management, programs, and initiatives.
- Who in the U.S. Attorneys Offices supervises and works with the Weed and Seed Program?
- What is the U.S. Attorneys' role in the Weed and Seed Program?
- What other U.S. Attorneys Offices staff, such as the LECC or Assistant U.S. Attorneys have a role in the Weed and Seed Program?
- Do you know of any problems or concerns with the Weed and Seed Program?

EOUSA's Assistant Director for EARS said that reviews for both programs were broad based management reviews and were not designed to be

audits of the programs. The Assistant Director also said that there are plans to revise the PSN part of EARS to include an evaluation of gun-crime data that is to be reported to the Attorney General twice yearly, but there are no similar plans to revise the Weed and Seed part of EARS. Regarding the recently issued PSN and Weed and Seed guidelines, the Assistant Director said that there are no plans to revise EARS to assess compliance with the guidelines and determine whether they are working as intended.

U.S. Attorney Staff That Work with Grantees Not Required to File Confidential Financial Disclosure Forms

Staff in U.S. Attorneys Offices can be delegated responsibility to lead or work with community organizations that receive Weed and Seed grant funds, but these staff are not required to file disclosure forms. These forms might reveal relationships that could be actual or potential conflicts of interest. According to 5 C.F.R. 2634.904, each officer or employee whose position is classified at GS-15 or below or at a rate of pay that is less than 120 percent of the minimum rate of pay for GS-15, is required to file a confidential financial disclosure report if the agency concludes that the duties and responsibilities of the employee's position require the employee to:

- participate personally and substantially through decision or exercise of judgment, in taking a government action regarding contracting or procurement; administering or monitoring grants, subsidies, licenses, or other federal conferred financial or operational benefits; regulating or auditing any nonfederal entity; or other activities in which the final decision or action will have a direct and substantial economic effect on the interests or nonfederal entity or
- avoid involvement in a real or apparent conflict of interest, and to carry out the purpose behind any statute, executive order, rule, or regulation applicable or administered by that employee.

According to 5 C.F.R. 2634.901, these reports are designed to (1) assist an agency in administering its ethics program and counseling its employees and (2) facilitate the review of possible conflicts of interest to guarantee the efficient and honest operation of the government.¹¹

¹¹According to this regulation, the purpose of such reporting is to complement the public reporting system established by the Ethics in Government Act of 1978, as amended, which requires that high-level officials in the executive branch report certain financial interests publicly to ensure that every citizen can have confidence in the integrity of the federal government.

During our review, we examined the most recent summary of EARS reports dated between June 1997 and April 2000, for the 10 U.S. Attorneys Offices we visited. In some of these districts, U.S. Attorneys participated on the Weed and Seed steering committee, while in others, Assistant U.S. Attorneys or LECC Coordinators were delegated responsibility for working with Weed and Seed committees, and according to one report, “run” the Weed and Seed Program. None of the EARS reports addressed any involvement with the PSN program because when the reviews were completed, PSN had not been implemented. Our work in the 10 districts also showed that 9 of the districts had active Weed and Seed sites in place, and in some districts, new Weed and Seed sites were under consideration. Among the districts that had active Weed and Seed sites, some of the U.S. Attorneys told us that they actively worked with Weed and Seed committees, whereas others delegated responsibility to an Assistant U.S. Attorney or to LECC Coordinators. For example, in one district the LECC Coordinator represented the U.S. Attorney on the Weed and Seed committee, while in another district the LECC Coordinator helped manage the Weed and Seed sites day-to-day operations.

Given recent EOUSA, BJA, and EOWS efforts to publish PSN and Weed and Seed guidelines and train U.S. Attorneys and their staff about ethical concerns, we asked if U.S. Attorneys and their staff that deal with potential grant applicants and grantees were required to file financial disclosure statements. They provided information, published on DOJ internal Web pages, which showed that under current DOJ guidelines:

- U.S. Attorneys, Assistant U.S. Attorneys in supervisory positions, Senior Litigation Counsels, Special Government Employees, and Schedule C employees are required to file a Public Financial Disclosure Report within 30 days of assuming their covered position and annually thereafter.

-
- All line Assistant U.S. Attorneys and special Assistant U.S. Attorneys are required to file a Confidential Conflict of Interest Certification Form to certify that they have no conflict of interest in each matter they undertake.¹²
 - Employees occupying positions in which they exercise significant judgment on matters that have an economic effect on the interests of a nonfederal entity are required to file a confidential financial disclosure report within 30 days on entering a covered position and every year by October 31, including positions where duties involve contracting, procurement, administering grants, regulating, or auditing a nonfederal entity or other activities in which the final decision or action will have a direct and substantial economic effect on the interests of any nonfederal entity.

EOUSA's Deputy Legal Counsel also told us that LECC Coordinators and Assistant U.S. Attorneys that work with organizations involving grantees are not required to file confidential disclosure forms because they are not responsible for administering or monitoring grants. The Deputy Legal Counsel pointed out that employees in U.S. Attorneys Offices are not supposed to monitor grants. The Deputy Legal Counsel said that the Weed and Seed guidelines instruct employees to not act on behalf of EOWS; rather, they are to notify EOWS of any issues that may arise during the course of the grant relationship and EOWS is to handle the matter under its own procedures. Nonetheless, the Deputy Legal Counsel acknowledged that U.S. Attorneys Office staff that work with grantees under the Weed and Seed Program might encounter situations that could be perceived as real or apparent conflicts of interest. Furthermore, the Deputy Legal Counsel and EOUSA's Deputy Director said that, based on our inquiry, it might be worthwhile considering a change to procedures so that LECC Coordinators would be required to file confidential disclosure statements. The Deputy Legal Counsel added that Assistant U.S. Attorneys are already required to file the confidential certification form for each matter they are involved with and was not clear whether involvement in a community

¹²According to EOUSA officials, in 1994, the Office of Government Ethics approved DOJ's use of the Confidential Conflict of Interest Certification Form in lieu of a confidential financial disclosure report. According to DOJ's internal Web site that discusses the form, the form is designed to continually impress on each Assistant U.S. Attorney the affirmative duty of complying with all ethics laws and regulations. DOJ requires that Assistant U.S. Attorneys assigned to each case complete the form and maintain it in the case file.

Weed and Seed activity related to grants would constitute a matter covered by the certification form.¹³

PSN Selection Committee Members Are Not Screened for Actual or Apparent Conflicts of Interest

In developing the PSN grant program, BJA modeled the PSN selection committee process after its peer review process, where peer review committees are used to assess the merits of the grant application and make recommendations about worthy grant applications. However, whereas BJA has established a process to screen peer reviewers for actual or apparent conflicts of interest before they are appointed to peer review committees, it has not established a similar process for members of PSN selection committees.

According to a BJA project manager, BJA uses a multistep process to screen potential peer reviewers for conflict of interest in reviewing applications for grants. BJA hires a peer review contractor who is responsible for conducting a preliminary screening of potential peer reviewers for conflicts of interest based on guidelines established by BJA. Once past the preliminary screening, peer reviewers are asked to self-identify any conflicts of interest by signing a certification statement.

EOUSA's PSN coordinator told us that BJA has delegated its peer review authority to U.S. Attorneys and, as discussed earlier, BJA has issued guidance that includes the steps the U.S. Attorneys are to follow when appointing members of the selection committee—peer reviewers for PSN grants. BJA's guidance states that the selection committee can include any or all of the other members of the PSN task force, except the U.S. Attorney, a member of his or her staff, or any federal employee, as long as their participation does not represent an actual or apparent conflict of interest. The guidance further reminds the U.S. Attorneys that the Standards of Conduct and Conflict of Interest Rules that apply to him or her and their staff also apply to members of the selection committee. However, unlike the peer review process employed by BJA for other grant programs, U.S. Attorneys are not required to screen the selection

¹³During our review, we also noted that the U.S. Attorney manual specifically calls for the staff of U.S. Attorneys Offices to file confidential financial disclosure forms if they review grant applications. The manual uses Weed and Seed grants as an example. EOUSA's Deputy Legal Counsel told us that this provision would not apply to the staff of U.S. Attorneys Offices because they do not review grant applications. Subsequent to that conversation, EOUSA's Deputy Director told us that, since the language in the U.S. Attorney's manual was inaccurate, EOUSA had removed the language from the manual.

committee members they appoint for actual or apparent conflicts of interests, nor are committee members asked to self-identify any actual or apparent conflicts of interest.

Our discussions with BJA and EOUSA officials responsible for PSN indicated that the lack of a mechanism for identifying actual or apparent conflicts of interest among selection committee members was not a problem because they believe (1) appointees from these organizations would likely be covered by their own ethical guidance governing their capacity as a selection committee member and (2) the geographic area covered by individual PSN grants is so small that local jurisdictions would not select someone to serve on the selection committee that has a vested interest in who the grants are awarded to. BJA's Director of the Programs Division told us that, when BJA developed the guidelines for PSN selection committees, BJA had not thought of including a requirement that selection committee members submit a signed self-disclosure conflict of interest statement. The Director of the Programs Division said that, based on our inquiry it might be useful to include some type of requirement for conflict of interest reporting to add an additional level of assurance about the integrity of the PSN Program. Accordingly, in April 2003, the Director, BJA Programs Division, said that BJA would issue a directive requiring PSN fiscal agents to collect a signed self-certified conflict of interest statement from PSN selection committee members. Fiscal agents would be required to maintain the statements on file subject to BJA review in their capacity as grant monitors.

Conclusions

DOJ efforts to provide guidance to U.S. Attorneys Offices regarding their involvement in activities associated with grants awarded under the PSN and Weed and Seed Programs are notable. However, as U.S. Attorneys and their staff become more heavily involved in these grant programs, they could increasingly encounter actual or apparent conflicts of interest that could undermine the integrity of the programs both within districts and nationwide. Without a mechanism for monitoring U.S. Attorneys Offices' compliance with available guidance, DOJ does not have reasonable assurance that its steps taken to date—such as the issuance of guidance, ethics training, and video presentations—are adequately understood and have reached all those who are covered by this guidance. DOJ components, such as EOUSA and BJA, are also not positioned to determine (1) if the guidelines are correctly applied and actually and systematically achieving the end result of preventing actual or apparent ethical conflicts or (2) whether guidelines related to grant activities could be clarified, strengthened, or improved. In addition, the absence of

confidential financial disclosure reporting for U.S. Attorneys Office employees that work with grantees hinders the U.S. Attorneys ability to (1) fully administer these programs in the context of ethics considerations and (2) identify possible conflicts of interest to guarantee the efficient and honest operation of the government.

Recommendations

We recommend that the Attorney General instruct the Director of EOUSA and U.S. Attorneys to take steps to further mitigate the risk associated with U.S. Attorneys Offices' involvement in the grant components of the PSN and Weed and Seed Programs. Specifically, we recommend that EOUSA and U.S. Attorneys (1) establish a mechanism to assess and oversee compliance with recently issued guidelines pertaining to the grant activities of U.S. Attorneys Offices and ensure that the guidelines are working as intended and (2) require that U.S. Attorneys' staffs who work with community organizations on grant-related matters be required to file financial disclosure reports certifying that they are free from conflicts of interest.

Agency Comments and Our Evaluation

On May 13, 2003, we requested comments on a draft of this report from the Attorney General. On May 19, 2003, Department of Justice officials informed us that they had no comments on the report.

Copies of this report will be made available to other interested parties. This report will also be available on the GAO Web site at <http://www.gao.gov>.

If you have any questions, please contact my Assistant Director, John F. Mortin, or me at (202) 512-8777. You may also contact Mr. Mortin at mortinj@gao.gov, or me at jonespl@gao.gov. Key contributors to this report were Daniel R. Garcia, Grace Coleman, and Maria Romero.



Paul L. Jones
Director,
Homeland Security and Justice

Appendix I: Summary of Guidelines Issued for U.S. Attorneys Regarding Grants Awarded under the PSN and Weed and Seed Programs

The following paragraphs summarize the guidelines the Department of Justice (DOJ) issued for U.S. Attorneys and their staff during calendar year 2002 regarding their role in working with grants and grantees awarded under the Project Safe Neighborhoods (PSN) and Weed and Seed Programs.

PSN Grants

During 2002, DOJ issued two sets of guidelines for U.S. Attorneys and PSN task forces in carrying out their responsibilities under PSN. Under the May 2002 PSN guidelines, each U.S. Attorneys Office was instructed to work with interested federal, state, and local officials to form a PSN task force, chaired or co-chaired by the U.S. Attorney, to develop a comprehensive strategic plan. As part of this process, the task force was to formulate its overall mission and goals after which the U.S. Attorney was instructed to designate a selection committee to (1) review eligible grant proposals and (2) select a single grantee for Research Partner/Crime Analyst and Media Outreach and Community Engagement grants funded in fiscal year 2002. The guidelines stated that the selection committee was not to include members of the U.S. Attorneys' staff, but could include other members of the task force as long as their participation did not represent an actual or apparent conflict of interest. In addition, the guidelines instructed the U.S. Attorney to

- certify to the selection committee, based on the recommendations of the task force, whether potential grantees are suitable candidates for federal funding¹ and
- convey the committee's choice to the Bureau of Justice Assistance (BJA), along with a letter from the U.S. Attorney, certifying that (1) the potential grant recipient is free from allegations of criminal misconduct and current investigation and (2) the applicant's proposal supports the PSN task force activities, missions, and goals.

In December 2002, the Executive Office for U.S. Attorneys (EOUSA) announced that BJA had issued similar guidelines for reviewing and selecting applicants for grants funded in fiscal year 2003. As before, U.S. Attorneys and their staff were instructed to work with the PSN task force and, among other things, the U.S. Attorney was to designate a selection

¹The U.S. Attorney was to certify to the selection committee before the committee reviewed and selected potential grantees.

committee—not comprised of the U.S. Attorneys’ staff or federal employees—to choose a grantee. Unlike the earlier guidelines, the selection committee was to (1) choose a single grantee to act as fiscal agent for the PSN strategy and (2) determine what portions of the PSN strategy should be funded and to whom after the grant proposal had been approved by BJA.² BJA’s guidelines for both fiscal years also included hyperlinks to guidance EOUSA had issued for U.S. Attorneys and their staff earlier in the year. EOUSA’s guidelines were similar to the Attorney General’s guidelines, but they focused specifically on numerous ethics and legal issues they need to consider in relation to their involvement with the PSN Program. For example, similar to the Attorney General’s guidelines discussed earlier, U.S. Attorneys are expected to express their views if there is any reason why a particular applicant is an inappropriate candidate for PSN funds, but they are prohibited from appearing before the Office of Justice Programs on behalf of an applicant seeking grant monies associated with PSN.

Weed and Seed Grants

In December 2002, EOUSA also issued guidance that outlined the roles and responsibilities of U.S. Attorney’s and their staff regarding the Weed and Seed Program.³ Similar to the Attorney General’s and EOUSA’s PSN ethics guidelines, EOUSA’s Weed and Seed guidance covered topics ranging from working with nonprofit organizations to prohibitions against fundraising and listed what activities U.S. Attorneys and their staff can perform in support of the Weed and Seed Program. In regard to grants, the guidance stated that U.S. Attorneys and their staff may, among other things

²According to BJA guidelines, the selection committee may select any government agency—such as a state agency or local jurisdiction—or a legal nonprofit organization to be the fiscal agent. The guidelines stated that selection committees are free to select any organization or establish a new nonprofit agency. However, the guidelines encouraged selection committees to select established organizations that have experience administering grant funds. According to BJA, the grant funds, once awarded by BJA, may be used for any number of purposes—such as targeting new prosecutors to key areas or augmenting task force research and outreach efforts—consistent with the local PSN strategy and at the discretion of the selection committee.

³EOUSA had guidance in place for the process to be followed in securing and administering Weed and Seed grants, but the guidance was not directed at U.S. Attorneys Offices. Rather, it was designed to assist communities and stakeholders in their efforts to secure grant funding under the Weed and Seed Program and briefly discussed the role of the U.S. Attorney in that process.

**Appendix I: Summary of Guidelines Issued for
U.S. Attorneys Regarding Grants Awarded
under the PSN and Weed and Seed Programs**

- serve as that chair or co-chair of the Weed and Seed Steering Committee;
- certify to the Executive Office for Weed and Seed (EOWS) via a “letter of intent” that a potential Weed and Seed site can receive “official recognition,” that is the site has developed a strategy sufficient to make them eligible to apply for a Weed and Seed grant;
- review Official Recognition applications and prepare a cover letter for submission to EOWS supporting the site and its strategy;
- review funding applications to ensure technical accuracy and consistency with the Weed and Seed strategy;
- sign a statement of support for the Weed and Seed strategy; and
- supervise the site, as chair or co-chair of the steering committee, throughout the life of the initiative.

The Weed and Seed guidelines also instructed U.S. Attorneys that, among other things, they may not become advocates for individual grant applicants; communicate with or appear before any federal agency on behalf of a nonprofit organization; or draft grant proposals or applications. Furthermore, U.S. Attorneys were told that they are authorized to assist EOWS in monitoring the performance of the project under the grant to ensure federal grant dollars are not misused, but they are not to act on EOWS’ behalf. The guidelines stated that U.S. Attorneys are to inform EOWS of site implementation problems or irregularities to enable EOWS to take appropriate action.

GAO's Mission

The General Accounting Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through the Internet. GAO's Web site (www.gao.gov) contains abstracts and full-text files of current reports and testimony and an expanding archive of older products. The Web site features a search engine to help you locate documents using key words and phrases. You can print these documents in their entirety, including charts and other graphics.

Each day, GAO issues a list of newly released reports, testimony, and correspondence. GAO posts this list, known as "Today's Reports," on its Web site daily. The list contains links to the full-text document files. To have GAO e-mail this list to you every afternoon, go to www.gao.gov and select "Subscribe to daily E-mail alert for newly released products" under the GAO Reports heading.

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. General Accounting Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
 TDD: (202) 512-2537
 Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Public Affairs

Jeff Nelligan, Managing Director, NelliganJ@gao.gov (202) 512-4800
U.S. General Accounting Office, 441 G Street NW, Room 7149
Washington, D.C. 20548