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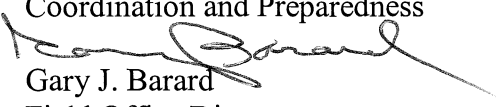


Homeland
Security

September 7, 2005

MEMORANDUM

TO: Matt Mayer
Acting Executive Director, Office of State and Local Government
Coordination and Preparedness

FROM: Gary J. Barard 
Field Office Director

SUBJECT: Audit of First Responder Grant Funds Awarded to the Virgin
Islands Law Enforcement Planning Commission
Audit Report No. DA-28-05

Introduction and Background

The Office of Inspector General performed an audit of first responder grant funds awarded by the Office for Domestic Preparedness to the Virgin Islands (VI) Law Enforcement Planning Commission (LEPC). The audit objectives were to determine whether the VI Government had (1) adequate controls to account for and ensure appropriate use of grant funds and (2) implemented the first responder program according to federal regulations and grant requirements.

In 1998, the Office of Justice Programs (OJP), U.S. Department of Justice, acting under the direction of the U.S. Attorney General and pursuant to Public Law 105-119 (Departments of Commerce, Justice, and Related Agencies Appropriations Act of 1998), established the Office for Domestic Preparedness (ODP). The ODP has responsibility for developing and administering a domestic preparedness program to provide training and equipment assistance to state, territorial and local governments to prepare for threat of terrorist incidents. This assistance is commonly referred to as "first responder grants" because it is targeted for public entities that are first to respond to incidents of terrorism (police, fire, and emergency medical personnel, etc). In 2002, ODP was transferred to the newly created Department of Homeland Security (DHS). Since then, ODP has awarded grants to purchase specialized equipment for responding to incidents of terrorism and to develop and conduct

training courses and exercises to enhance first responders' capabilities to prevent and respond to such incidents.

A condition to the ODP grant required the VI to develop and maintain an updated Homeland Security Strategy for terrorist incidents that reflects (1) risks and threats; (2) equipment, training, exercises and other program needs for first responders; (3) goals and objectives to enhance capabilities; and (4) an evaluation plan to measure the accomplishment of the goals and objectives.

In June 2003, the Governor of the VI issued an executive order establishing the VI Homeland Security Council with responsibility for reviewing and assessing all homeland security needs of the Territory, implementing the VI's Homeland Security strategy, and coordinating efforts in updating the strategy. The Council is comprised of the Governor, the Adjutant General of the VI National Guard, Commissioners of all first responder agencies, the Director of the VI Territorial Emergency Management Agency (VITEMA), the Drug Policy Advisor to the Governor, and the Commissioner of the Department of Planning and Natural Resources and Assistant Director of Environmental Protection.

The VI Governor designated the LEPC as the State Administrative Agency for the ODP grants with fiscal and programmatic oversight of grant funds. In the VI, the LEPC manages the spending of ODP funds by purchasing all equipment, developing and conducting exercises, and coordinating training for all of the first responders (Police Department, Fire Services, Emergency Medical Service, hospitals, Department of Public Works, and Department of Agriculture). The LEPC has four full-time employees whose salaries are 100 percent grant funded: a project director, grant manager for training, grant manager for exercises, and grant manager for equipment.

Scope and Methodology

The LEPC received four awards, providing 100 percent Federal funding, from DHS ODP during Fiscal Years (FY) 2002 to 2004, totaling \$12.5 million. Our audit was limited to the \$6,488,000 awarded under the FY 2002 and FY 2003 grants (see Exhibit). At the time we began our audit in November 2004, the FY 2004 grant had expenditures of only \$5,124 and was therefore excluded from the audit.

The audit covered the period April 2003 to September 2004. During this period, LEPC expended \$4,492,301 (see Exhibit) and received \$4,412,823 of ODP FY 2002 and 2003 funds. Our audit included a review of the appropriateness of \$4,397,998 of these expenditures.

Audit fieldwork was performed at the LEPC on St. Thomas, US Virgin Islands. We interviewed LEPC and VI Department of Finance officials on St. Thomas, VI and ODP officials in Washington, D.C. To evaluate LEPC's program cost and compliance with financial and program requirements, we applied regulations contained in the OJP Financial Guide (2002), the FY 2002 and 2003 ODP Program Guidelines, Title 28 of the Code of Federal Regulations (CFR) Part 66, U.S. Office of Management and Budget (OMB) Circular

A-87 ("Cost Principles for State, Local and Indian Tribal Governments") (8/29/1997), and applicable VI laws and regulations.

We performed the audit between November 2004 and June 2005, under the authority of the Inspector General Act of 1978, as amended, and according to generally accepted government auditing standards. The audit included tests of the VI Government's accounting records, a judgmental sample of expenditures, and other auditing procedures considered necessary under the circumstances.

Results of Audit

The VI Government needs to improve its controls over the accountability and use of program funds. Specifically, reconciliations of accounting data were not performed and the LEPC incurred questionable charges of \$111,540 resulting from purchases made prior to the grant period and poor contracting and spending practices. Also, LEPC did not follow ODP reporting requirements for the preparation of progress reports.

- A. Grant Accounting. The VI Department of Finance and the LEPC had not reconciled their accounting data and had not always charged expenditures to appropriate accounts. The VI Department of Finance is responsible for maintaining the official accounting records of the VI Government and accounting for the receipt and expenditure of all federal grant funds. To account for the receipt and expenditure of ODP funds, the Department of Finance established separate cost centers for each fiscal year grant.

The LEPC, on the other hand, is responsible for preparing purchase orders and other forms to initiate expenditures. LEPC is also responsible for coding and allocating expenditures to the appropriate category for accounting purposes. LEPC maintained a manual record reflecting expenditures initiated and used this manual record to prepare financial status reports for submission to ODP.

Both LEPC and the Department of Finance were responsible for coordinating their efforts and reconciling their accounts. This, however, was not done resulting in inaccurate expenditure records at the Department of Finance. For the period ending September 30, 2004, LEPC records for the FY 2002 ODP grant showed expenditures of \$192,962. However, Department of Finance records reflected expenditures of \$195,318. The difference of \$2,356 resulted from errors made by the Department of Finance when it incorrectly posted \$1,178 of travel expenses three times, instead of once.

We also noted that when LEPC initiated expenditures, it failed to properly allocate costs to the appropriate fund. ODP awarded grant funds for major categories and established guidelines on the type of costs authorized for each category, i.e. equipment, exercise, training, and administrative costs. The Department of Finance established separate accounts for each category. However, when LEPC initiated expenditures, it did not always allocate the expenditures to the appropriate category.

Specifically, the LEPC used \$10,458 of FY 2002 exercise funds to pay labor costs for the equipment manager and to acquire office equipment. These charges should have been allocated to the administrative fund. Similarly, LEPC used \$60,202 of FY 2003 exercise funds to pay the project director's salary and to buy office equipment. These charges also should have been allocated to the administrative fund. LEPC also used the FY 2003 planning and administrative fund to pay contract costs of \$4,024 for a training coordinator. However, these costs should have been charged to the training fund.

At the time of our review, each of the appropriate accounts contained sufficient funds to accommodate these charges. Accordingly, the LEPC should initiate action to have these charges allocated to the appropriate accounts.

- B. Questionable Expenditures. LEPC incurred questionable charges of \$111,540 for (1) pre-award expenditures, and (2) personal service contract charges that did not comply with ODP or VI Government regulations and which could not be validated as reasonable, necessary, or proper.

1. Pre-award Costs. ODP prohibits the use of grant funds for costs incurred prior to the approved grant period (OJP Financial Guide Part III, Chapter 16). However, as illustrated below, LEPC expended \$61,581 for goods and services acquired months, or in some cases, over a year before the approved grant period.

<u>Grant</u>	<u>Grant Period</u>	<u>Expenditure</u>	<u>Questioned Cost</u>
FY 2002 SDPP	4/1/03 – 3/31/05	Equipment ordered 4/1/02	\$42,930
FY 2002 SDPP	4/1/03 – 3/31/05	Program Management Cost for 1/7/03 – 3/20/03	10,346
FY 2002 SDPP	4/1/03 – 3/31/05	Equip. Management Cost for 1/15/02 – 8/12/02	4,961
FY 2002 SDPP	4/1/03 – 3/31/05	VI Fire Service Training and Exercise Overtime Cost for 3/14/02 – 4/6/02	3,344
			<u>\$61,581</u>

With respect to the above items, we determined that LEPC purchased protective gear equipment for use by first responders in the event of hazardous material incidents. Additionally, the overtime for training and exercise of Fire Service personnel were related to potential incidents involving weapons of mass destruction. Thus, other than for the fact that these costs were incurred before the grant period, the charges are grant related and would otherwise be allowable. However, as illustrated below, the appropriateness of the management costs could not be validated as reasonable, proper, or necessary for the grant program.

2. Personal Services Contracts with Non-Employees. Federal regulations (28 CFR 66.36) contain procurement standards that grantees must comply with under ODP grants. The regulation requires grant recipients to maintain records detailing the significant history of procurements, including the rationale for the method of such procurements, the basis for contractor selection, and the basis for contract price. In addition, recipients are required to use their own procurement procedures when not inconsistent with Federal law and standards identified in 28 CFR 66.36.

Pursuant to the VI Procurement Manual, contracts for personal services are to be procured through the use of a Request for Proposal. The Director of Personnel must first approve personal services contracts. The requesting agency must then submit a letter of justification with the request to the VI Department of Property and Procurement for approval. Then, the contract must be sent to the VI Department of Justice for “legal sufficiency” review and, if approved, to the Governor for final approval.

LEPC, prior to hiring full-time permanent staff, contracted with several individuals to perform various functions under the ODP grant and paid these individuals \$57,276. These contracts, however, were verbal in nature and no documentation existed detailing the significant history. Also, LEPC had not received the required approval from the VI Personnel Office, VI Department of Property and Procurement, VI Department of Justice, or the Governor’s office. Moreover, LEPC accepted and paid the contractors whatever they billed without an established compensation plan or physical evidence of work performed. Based on these conditions, we question the entire \$57,276 paid to the contractors.

- a. In January 2003, the former LEPC Director requested but failed to receive the governor’s approval to hire an individual for the position of ODP Program Director. Nonetheless, LEPC entered into a verbal contract and paid the individual \$24,519 (\$20,288 under FY 2002 grant and \$4,231 under FY 2003 Part I grant) for services reportedly provided during January 2003 to July 2003.

According to the contractor’s seven invoices, these services included preparing grant application packages and budgets for FY’s 2000, 2001, 2002 and 2003 ODP grants, inventorying equipment, establishing an equipment tracking system, paying vendors, distributing equipment, inspecting sites and preparing WMD training courses. However, the invoices did not indicate the number of hours worked or the specific dates services were provided. Further, there was no evidence of deliverables. (We questioned \$10,346 of the above amount under the previous finding, Pre-award Costs).

- b. In January 2002, LEPC entered into a verbal contract with another individual and paid \$21,497 for services reportedly provided from January 2002 to October 2003. Of this amount, \$4,961 was for services from January 2002 to August 2002 and February 2003 to March 2003. According to the contractor’s invoices, these services included inventorying equipment and transporting equipment from St. Thomas to St. Croix and St. John, and assisting in training. The contractor submitted two invoices; one indicated the number of days worked while the other indicated both the number of days worked and a daily rate of \$100. The invoices, however, did not indicate the specific dates services were provided, or the number of hours worked to support the \$4,961 payment. Also, there was no evidence of deliverables. (The \$4,961 derived from FY2002 funds was questioned under the previous finding, Pre-award Costs).

The same contractor reportedly provided similar personal services for LEPC during April and October 2003, and received payment of \$16,536 from FY 2002 funds. The six invoices for this payment indicated that the contractor worked 1,114 hours and was paid a rate of \$14.42 per hour. However, the invoices did not specify the specific days worked and there was no evidence of deliverables.

- c. LEPC entered into a verbal contract in August 2003, with another individual to manage ODP grants and paid the contractor \$7,236 from FY 2002 funds for services reportedly provided from August 2003 to October 2003. According to the contractor's three invoices, services provided included preparing budgets for the FY 2003 grant, inspecting sites, ordering equipment, meeting with agency heads to prepare needs assessments, and developing the strategic plan. The contractor's invoices indicated that the contractor worked 296 hours and was paid at a rate of \$25.24 an hour. However, no documentation existed showing the specific dates that services were provided, and there was no documentation of deliverables.
- d. LEPC entered into another verbal contract with an individual to coordinate training for first responders. The contractor submitted invoices totaling \$4,024 for coordinating training during February and April 2004, and for vehicle mileage, gasoline, telephone charges, secretarial expenses, car rental and faxes. The contractor's invoices indicated that he worked a total of 87 hours and was paid at an hourly rate of \$35. However, no documentation existed as to the specific dates that services were provided, except for evidence that 15 training courses were held during February and April 2004.

In conclusion, the LEPC did not comply with ODP's or its own requirement for procuring personal services. The basis or rationale for the contractors' selected was not documented, written contracts were not prepared to indicate specific services required or the method of compensation, LEPC did not maintain evidence of work done by the contractor, and the contracts were not approved as required by V.I. regulations. These conditions raise serious questions concerning the appropriateness of the \$57,276 paid to these contractors and render the use of ODP funds for such purposes questionable.

3. Personal Service Contracts with Employees. LEPC also entered into verbal personal services arrangements with two of its full-time employees to perform work they were already required to do as government employees. LEPC used \$7,990 of ODP funds to compensate the two LEPC employees beyond their established government salaries. These arrangements also were not approved by the Personnel Director, Commissioner of Property and Procurement, VI Department of Justice, or the Governor, and were not supported by details of when work was done or actual work deliverables. Additionally, these payments were made in violation of standard grant principles, as shown below.

The former LEPC Director approved payment of \$4,990, from FY 2002 ODP funds, to LEPC's Executive Secretary based on an invoice the Secretary submitted for:

“services rendered in the preparation of consultation and inventory documents for St. Thomas/St. Croix District; distribution of WMD reports; preparation of management of local and state program certification for FY 2002-FY 2003; preparation of memorandums for conferences held in St. Thomas/St. Croix District; payment for administrative and secretarial duties for Domestic Preparedness Division for the period February 1, 2003-September 30, 2003.”

During this time period, however, the Executive Secretary was a full-time government employee with responsibility for performing all clerical and administrative duties of the LEPC, including those related to ODP. The \$4,990 payment was in addition to the employees regular government salary, with no evidence of the specific amount of time spent on the ODP program that may have occurred out-side normal work hours, the specific dates services were provided, or work products to substantiate work performed. Hence, sufficient information is not available to validate this payment.

LEPC also paid \$3,000 of FY 2003 ODP funds to its Financial Management Director based on an invoice the Director submitted for:

“services rendered related to the Homeland Security Program accounting of all funds under these grants. This entails the preparation of all budgets, budgets revision, posting of expenditures, drawdowns of funds and the preparation of fiscal reports. Also inclusive is the fiscal oversight of all the grants.”

However, similar to the case of the Executive Secretary, the Financial Management Director was a full-time government employee with responsibility for performing financial management duties of the LEPC, including those related to ODP programs. The \$3,000 payment was in addition to the employee's regular salary with no evidence of the period covered by the invoice, the amount of time spent on the ODP program that may have occurred out-side normal work hours, or work products to substantiate work performed. Thus, the basis for this payment is questionable.

To be allowable under a Federal grant program, the OMB Circular A-87 states that the cost must be necessary and reasonable for the proper and efficient performance and administration of the federal award. The circular further provides that when determining reasonableness of a given cost, consideration shall be given to whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the federal award. Significant deviations from established practices of the governmental unit, which unjustifiably increase program cost, are prohibited.

We determined that the \$7,990 of payments did not satisfy the “reasonableness test.” The work for which payment was made was normal and ordinary work performed by these employees in their official capacity as government employees and whose salaries were set in accordance with established VI standards. The VI Government has no provision for providing extra compensation to its employees for Federal grant program efforts.

- C. Progress Reports: ODP’s FY 2003 State Homeland Security Grant Program Guidelines require LEPC to prepare progress reports for the six-month periods ending on June 30 and December 31. In this regard, the LEPC must report on activities that occurred during the reporting period for each funding category and progress made in achieving the overall goals and objectives identified in its homeland security strategy. LEPC must also identify any problems in program implementation and actions taken to address those problems.

For the period ending June 30, 2004, LEPC’s progress reports identified the amounts awarded under each funding categories and related costs. However, the report did not address progress made or problems encountered in the implementation of the VI Homeland Security Strategy. Thus, ODP did not have information on the status of the VI’s implementation of its strategic plan.

LEPC officials stated that ODP required them to submit progress reports electronically and the online reporting format allowed for data on amounts spent, but not narratives data on the status of activities. However, an ODP official stated that the narrative data was to be sent by mail rather than on line.

- D. Program Administration. Pursuant to ODP requirements, LEPC prepared a strategic plan indicating that the VI’s major areas of risk were government buildings and facilities. The plan also indicated that threats to the territory were incendiary, chemical, explosive and biological in nature.

To address these risks and threats, the territorial needs and related goals were to develop and implement (1) an infrastructure security enhancement plan, (2) quick response teams, (3) weapons of mass destruction (WMD) response training, (4) WMD exercises, (5) an interoperable communications system, and (6) border security.

The status of the VI’s efforts to meet these needs is as follows:

1. Infrastructure Security Enhancement Plan: The plan envisions the development of a perimeter and access control system to protect critical assets of the territory. The plan identified a target date of December 2004 for the development and institutionalization of the control system. In support of this need, LEPC officials advised that they have purchased some infrastructure security enhancement equipment. Also, in January 2005, they requested technical assistance from ODP. The revised target date for completion of the system is December 2005.

2. Response Teams and Related Equipment: The plan envisions the development of three response teams: (1) Quick Response Team for hazardous material, (2) Explosive Ordinance Disposal Team for explosives and (3) Special Weapons and Tactics (SWAT) Team for general weapons of mass destruction. According to LEPC officials, each team consists of, or will consist of, members from one or more of the first responder organizations. LEPC officials stated that the Quick Response Team for hazardous materials was ready to respond with trained, equipped and identified members; the Explosive Ordinance Disposal Team was in place with the necessary equipment, but members had not yet received all training for the desired certification; and the SWAT Team has not yet been established.
3. Weapons of Mass Destruction (WMD) Response Training: The plan envisions providing WMD training to all first responders. In support of this initiative, the plan identified several courses to address the need for training at the awareness, operational, technical and planning levels. These courses include Emergency Planning, Terrorism Planning, Emergency Response to Terrorism- Basic Concepts, Senior Officials Workshop on Terrorism, Basic Incident Command System Awareness, Senior Officials Incident Command System, Intermediate Incident Command System, and Emergency Responders Special Operations Considerations. At the time of our audit, first responders had received training in the following areas: National Incident Management System, HazMat Technician, Incident Command System, Technical Emergency Response to Terrorism, and WMD Awareness. The plan identified September 2004 as the completion date for all training. However, a revised target date for completion of training had not been established.
4. WMD Exercises: The plan envisions that all response agencies would participate in WMD exercises to ensure a maximum level of readiness. The plan indicated that one tabletop exercise would be conducted for St. Thomas and St. John, and another for St. Croix by October 2004 and annually, thereafter. LEPC conducted a WMD exercise for first responders on St. Thomas and St. John, but not St. Croix for the period ending October 2004. During January 2005, a WMD exercise was conducted for St. Croix.
5. Interoperable Communications System: The plan envisions the acquisition of state of the art communication equipment that would ensure reliable and interoperable communication among all first responder agencies as they respond to terrorist attacks. To support this initiative, LEPC purchased interoperable communications equipment that was provided to first responder agencies to meet communication needs. VITEMA is responsible for developing an island-wide communication plan that once implemented will allow for multi-agency communication among the first responder agencies, as well as provide for mass communication to inform the general public in the event of a terrorist incident. This communication plan was to be completed by December 2004. VITEMA officials indicated that the plan is in progress. According to the strategic plan, the interoperable communications system will be ready for implementation by December 2005.

6. Border Security: The plan envisions the development of operational guidelines for border security response and information sharing to prevent terrorist attacks. These guidelines were to be in place by December 2004. According to LEPC officials, however, no action has been initiated to develop guidelines for border security response because responsibility for this task has not been assigned within the VI Government. LEPC officials advised that guidelines should be completed by 2005.

Recommendations

We recommend that the ODP Acting Executive Director:

1. Require the LEPC to coordinate their accounting efforts with the Department of Finance to ensure that records on program expenditures are timely and appropriately reconciled;
2. Require the LEPC to reallocate to the appropriate fund, costs that were charged to the wrong fund;
3. Disallow the \$111,540 of questioned charges unless the LEPC can justify or document the appropriateness of such charges; and
4. Require the LEPC to comply with applicable procurement and progress reporting requirements for ODP grants.

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

The results of the audit were discussed with ODP officials on June 9, 2005, and with LEPC officials on June 16, 2005. LEPC officials concurred with Findings A, B.1 and 3, and D, but withheld comments on Findings B.2 pending receipt of the audit report. Their comments on Finding C are included in the body of the report.

Please advise the Atlanta Field Office, Audit Division, by December 7, 2005, of the actions taken to implement the OIG recommendations. Should you have any questions concerning this report, please contact George Peoples or me at (770) 220-5242.

Government of the U.S. Virgin Islands
Fiscal Year 2002 and 2003 First Responder Grant Awards
Schedule of Award and Expenditures by Funding Categories

	<u>Amount</u> <u>Awarded</u>	<u>Amount</u> <u>Expended</u>	<u>Amount</u> <u>Questioned</u>	<u>Findings</u>
<u>FY2002 Award</u>				
Equipment	\$673,000	\$ 54,711	\$ 42,930	B.1
Exercise	38,000	22,396	6,344	B.1
Administrative	<u>150,000</u>	<u>115,855</u>	<u>51,011</u>	B.1, B.2 (a,b,c), B.3
Total	<u>\$861,000</u>	<u>\$192,962</u>	<u>\$100,285</u>	
<u>FY2003 Award Part I</u>				
Equipment	\$1,082,000	1,082,000		
Exercise	271,000	89,106		
Training	81,000	46,393		
Administrative	<u>108,000</u>	<u>36,718</u>	<u>\$ 11,255</u>	B.2 (a,d), B.3
Total	<u>\$1,542,000</u>	<u>\$1,254,219</u>	<u>\$ 11,255</u>	
<u>FY2003 Award Part II</u>				
Equipment	\$3,540,000	\$3,045,122		
Infrastructure Security	<u>545,000</u>	<u>0</u>		
Total	<u>\$4,085,000</u>	<u>\$3,045,122</u>		
Grand Total	<u>\$6,488,000</u>	<u>\$4,492,301</u>	<u>\$111,540</u>	