



Florida Department of TRANSPORTATION

Office of Inspector General
Robert E. Clift, Inspector General

A handwritten signature in blue ink, appearing to read "Robert E. Clift", is positioned to the right of the printed name.

Audit Report No. 15I-9005
Department Monitoring of Speed Control Grant

September 9, 2016

What We Did

The Office of Inspector General conducted a review of the Florida Department of Transportation's (department) Safety Office monitoring of the Wakulla County Sheriff's Office (WCSO) Speed Control Program grant for Fiscal Year (FY) 2012-13, Contract AQV42.

The purpose of this engagement was to ensure monitoring was sufficient to determine whether:

- the vehicle purchase, use, and reporting were in compliance with contract terms, policies, laws, rules, and regulations;
- employee overtime and benefits were paid in compliance with contract terms, laws, rules, and regulations; and
- the contract reporting requirements were completed with sufficient documentation and were timely submitted to the Safety Office contract manager.

What We Found

We determined the Safety Office, as evidenced by the following, did not conduct adequate monitoring of the Wakulla County Speed Control Program grant:

- Contract monitoring of vehicle use and overtime reimbursements was not sufficient. For example:
 - The grant vehicle was used for grant permissible activities; however, it was also used for purposes other than those outlined by the contract terms, conditions, and Catalog of Federal Domestic Assistance (CFDA) 20.600, State and Community Highway Safety;
 - The contract did not include clear provisions defining permissible reimbursements related to overtime;
- Contract AQV42 did not include specific and measureable deliverables as required by Section 215.971, Florida Statutes (2010).

We observed the Safety Office did not define overtime or how it would be calculated and reimbursed from the contract. The basic definition of overtime¹ was not the

¹ Hours worked in excess of 40 in a workweek at a rate not less than one and one-half the employee's regular rate of pay.

determining factor in whether or not overtime would be paid. While the Fair Labor Standards Act (FLSA), Wage and Hour Division has a basic definition of overtime, it does not prohibit an employer from exceeding the threshold established by FLSA.

If department contracts do not clearly define the circumstances under which overtime will be reimbursed, it may lead to inconsistent treatment of overtime among sub-grantees, as well as an increased monitoring burden on the Safety Office. In extreme cases, this may result in a grantee using Federal funds to pay for overtime under a more liberal definition than it uses for locally funded activities. By doing so, a grantee goes beyond using Federal funds to supplement locally-funded activities, to subsidizing those activities and thereby supplanting local resources.

What We Recommend

We recommend the Chief Safety Officer:

- Ensure contracts contain specific, measureable deliverables and include explanations of allowable uses of grant funds for all budgetary line items;
- Develop an overtime compensation policy based on the thresholds set forth in 29 United States Code, Section 207(k) and implement by inclusion in future grant agreements. Update section 4 of the Highway Traffic Safety Program Manual reflecting this method of overtime compensation reimbursements; and
- Ensure the use of grant vehicles are only for activities identified within the contract terms and federal regulations, during and, if applicable, subsequent to the grant period.

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BACKGROUND AND INTRODUCTION

This engagement developed as the result of a special request the department received from the Florida Department of Law Enforcement (FDLE). An allegation was made regarding improper use of a grant-funded vehicle that was passed through the department's Safety Office to the Wakulla County Sheriff's Office (WCSO). As a result, the OIG performed a review of cost-reimbursement Contract AQV42 for \$106,850. This contract was for the grant period of December 11, 2012 through September 30, 2013, and was 100 percent federally funded through the National Highway Traffic Safety Administration (NHTSA) under the Catalog of Federal Domestic Assistance (CFDA) 20.600, State and Community Highway Safety. The contract contained 26 cost reimbursement claims (claims), and we tested 19 payroll claims and 5 Operating Capital Outlay (OCO) claims.

Highway Safety Performance Plan

The department's Safety Office submits a State of Florida Highway Safety Plan each year to the department's Secretary for approval. Congress requires each state to set performance goals and report performance measures in the Highway Safety Performance Plan.

In the FY 2012-13 State Highway Safety Plan, WCSO was awarded funding in the amount of \$106,850 (Project Number SC-13-13-05) under the Speed Control program area. This project's description states the funds will be used as follows:

The Wakulla County Sheriff's office will receive first year funding for OT [overtime] enforcement, speed trailer, radar speed measuring devices, and one fully equipped police vehicle including one video system to be used for traffic. They have set goals to increase traffic contacts by 10%, reduce crashes and injuries by 3% and increase citations by 5%.

The department's Safety Office awarded WCSO Contract AQV42 to support Wakulla County's Speed Control Program, with funding² provided for the following:

- One police equipped Chevrolet Tahoe (including lights, siren, mobile radio, printer and mount, and integrated video system with peripherals) for \$35,506;
- Operating Capital Outlay (OCO) purchases (to include direction radar, radar speed trailer, speed spy device³, and video system) totaling \$34,896;
- Overtime duty for enforcement officers (includes patrol for traffic and driving under the influence (DUI) enforcement) for \$33,798; and
- Training for officer to become a Certified Traffic Reconstructionist for \$2,650.

² Per Contract AQV42 Budget Narrative and Project Detail Budget.

³ Tool to conduct speed studies in order to determine whether speed limits need to be increased.

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WCSO submitted, and the department approved, two budget amendments during the contract period. The first budget amendment, dated March 20, 2013, updated the personnel authorized to work on the contract and changed the contract to include overtime compensation for both enforcement officers and non-sworn dispatchers and administrative staff. The second budget amendment, dated June 21, 2013, shifted grant dollars between funding categories (\$2,650 reduction to the expense category, an increase to OCO, and a reduction to other expense line items within the expense category) to purchase three additional radar speed signs.

RESULTS OF REVIEW

We identified two findings, as follows.

Finding 1 – Specific and Measureable Contract Deliverables

We determined the contract executed between the department's Safety Office and WCSO did not include specific tasks and deliverables or clearly define the uses and restrictions of grant-funded activities, as required by Florida Statutes.

While the objectives stated in the contract met the characteristics of specific, measureable deliverables, the Safety Office treated these objectives as goals and did not independently assess WCSO's performance towards achieving the objectives of the contract. The Safety Office reported the contract's milestones as the contract deliverables.

The following objectives were listed in Contract AQV42:

1. Four presentations and updates to the Wakulla Community Traffic Safety Team (CTST) in year one
2. Four presentations in year one to civic and faith partners
3. Traffic contacts increase by 10%
4. Decrease speed and aggressive driving crashes by 5% from last year
5. Monthly saturation patrols will be conducted

The milestones listed in the contract consisted of the following:

1. Order equipment
2. Order fully equipped vehicle
3. Presentation and updates to the Wakulla Community Traffic Safety Teams (CTST)
4. Presentations to civic and faith partners
5. Saturation patrols conducted
6. Collect SpeedSpy data

Section 215.971, Florida Statutes (F.S.)⁴ requires agencies that provide state or federal financial assistance to sub-recipients include the following requirements in contract agreements:

- a. A provision specifying a scope of work that clearly establishes the tasks that the recipient or sub-recipient is required to perform.
- b. A provision dividing the agreement into quantifiable units of deliverables that must be received and accepted in writing by the agency before payment.
Each deliverable must be directly related to the scope of work and specify the

⁴ Federal monitoring requirements for pass-through entities has been updated in 2 C.F.R. 200.331 (effective December 26, 2014).

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required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.

The milestones listed in the contract were not specific or measureable in accordance with the definition above. Without the specific, measureable deliverables required by section 215.971, F.S., the department risks approving expenditures for activities outside the agreement's scope.

As an example, Contract AQV42 did not include clear provisions expected of the grantee that directly relate to the scope of work governing the appropriate use of the grant vehicle. Purchasing the vehicle, not the intended use of the vehicle, was the only vehicle-related milestone stated in the agreement. As an outcome, the vehicle was used for purposes other than those identified under CFDA 20.600 (see Finding 2).

Additionally, Contract AQV42 did not include clear provisions defining the extent to which overtime would be reimbursed from the contract, how it would be calculated, and what standard would be used in making this determination.

Although section 4 of the department's Highway Traffic Safety Program Manual states each sub-grantee's compensation policy will be used to determine the application of overtime, this practice can lead to inconsistent invoicing for similar services as well as an increased monitoring burden on the Safety Office.

WCSO's compensation policy states, "grant and contract off duty details will be paid as follows: Hours worked over 84 in a pay period will be paid at the employee's overtime rate; hours worked less than 84 will be paid at the overtime rate of pay with applicable leave time taken."⁵

Law enforcement agencies are permitted to utilize the exemption outlined in 29 United States Code (USC) Chapter 8, Section 207(k) ("Section 7k exemption"). The Section 7k exemption allows those employed by a public agency who are engaged in fire protection or law enforcement activities to pay overtime on a work period basis of at least 7 but less than 28 days, when the aggregate number of hours which bears the same ratio to the number of consecutive days in the work period to the number of hours (reference Attachment A). Once the aggregate number of hours exceeds the threshold, compensation at a rate not less than one and one-half times the employee's regular rate must be paid. The term "employ" is defined in 29 USC 203(g) as "suffer or permit to work" and means time when the employee is actually performing services for the employer. These are the only hours which must be included when determining if FLSA overtime is due.

Had the Safety Office limited grant reimbursements to the thresholds stated in Section 207(k), reimbursements to WCSO would not have been made until WCSO employees physically worked more than 86 hours in a 14 day work period, rather than 84 hours in a

⁵ Wakulla County General Order 22.2, Employee Compensation, Section O.2. (approved by Sheriff).

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14 day work period, which in some cases also included time not worked when the employee was on annual, sick, or holiday leave. The grant dollars which were reimbursed to WCSO were worked on the Traffic Safety Grant; however, the employee's regular hours of employment may have included time not worked to reach 84 hours, as allowed by WCSO Policy.

Table 1 shows reimbursements made to WCSO, compared to what may have been reimbursed if the Safety Office disallowed payments attributable in the same pay period leave was taken.

Table 1: Reimbursements to WCSO

	Over 84-hours worked ^B	Under 84-hours worked ^B	Total claimed on grant ^D
Hours ^A	779	272	1,051
Dollars	\$ 25,094	\$ 8,670	\$ 33,764
^A Based on timesheet data provided by WCSO.			
^B Excludes hours attributed to leave.			
^C Portion claimed attributed to leave; amount not physically worked over 84 hours.			
^D Summary Statement of Personnel Services Costs form submitted to Safety Office.			

We recommend the Chief Safety Officer:

- Ensure contracts contain specific, measureable deliverables and include explanations of allowable uses of grant funds for all budgetary line items; and
- Develop an overtime compensation policy limiting overtime reimbursements to sub-grantees to the thresholds set forth in 29 USC 207(k) and implement by inclusion in future grant agreements. We also recommend section 4 of the Highway Traffic Safety Program Manual is updated to reflect this method of overtime compensation reimbursements.⁶

Finding 2 – Contract Monitoring and Oversight

We observed the department's Safety Office properly monitored the budgeted line item for the grant vehicle to ensure no over payment was made for the grant vehicle purchase, as evidenced by the following:

- WCSO purchased the grant vehicle via a contract through the Florida Sheriff's Association for full size utility vehicles.
- Budgeted amounts are reflected in the contract budget narrative and reconcile to the Florida Sheriff's Association contract prices.

⁶ This does not limit a sub-grantee from paying its employees prior to reaching the requirement set forth in 29 USC 7(k); it limits the amount that is eligible for reimbursement under the grant to the established amount required by law.

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- The Safety Office deducted \$726.69 from the final claim submitted by WCSO for the grant vehicle (Claim No. 21) to ensure final payment did not exceed the contract budget line item amount.

We also observed the department's Safety Office conducted monitoring activities documenting a lack of citations being issued by the WCSO and for Personnel Services Timesheets⁷ not reconciling to officer logs for overtime. The department's Safety Office held multiple meetings with WCSO regarding the lack of citations and unallowable vehicle usage; however, after these meetings, the activity continued. As a result, the department's Safety Office Traffic Safety Program Mangers recommended WCSO not be awarded future grant funding for this project.⁸

While not a part of this engagement, a subsequent grant was awarded to WCSO (ARC65) for FY13-14 in the amount of \$56,032 for overtime and benefits for the WCSO Speed Control Program. In a monitoring report dated 7/23/2014, the Safety Office referenced the noncompliance issues noted from the previous year (contract under review AQV42) and noted WCSO continued to be off track in carrying out the grant terms until June 23, 2014. In a follow-up meeting, the Safety Office stated after "an initial review of activities indicates the performance issues have been resolved...and WCSO is making a concerted effort to improve traffic safety community and comply with the requirements of the award." Based on this information, the Safety Office "...recommended that funding be continued for the remainder of FY14."

We determined the department's Safety Office did not have adequate controls to ensure sufficient monitoring and oversight over the use of the grant vehicle, funded by Contract AQV42 under CFDA 20.600, State and Community Highway Safety.

The objectives of CFDA 20.600 funding are to provide a coordinated national highway safety program to reduce traffic crashes, deaths, injuries, and property damage and the contract requires adherence to the requirements of CFDA 20.600.

Grant-funded activities may be used for problems identified within the nine national program areas identified by CFDA 20.600, which include:

1. Alcohol and other drug countermeasures
2. Police traffic services
3. Occupant protection
4. Traffic records
5. Emergency medical services
6. Motorcycle safety
7. Pedestrian and bicycle safety
8. Speed control and roadway safety

⁷ Department Safety Office form that captures grant hours for which sub-grantee's request reimbursement. These forms do not capture all hours worked.

⁸ As referenced in Monitoring Report dated 9/24/2013.

9. Other program areas identified by a State as constituting a highway safety problem in that State

The monitoring requirements in Office of Budget and Management (OMB) Circular A-133 section 400(d)(2) and (3),⁹ pass-through entities' responsibilities include:

Advis[ing] sub-recipients of requirements imposed on them by Federal Laws, regulations, and the provisions of the contract or grant agreements, as well as any supplemental requirements imposed by the pass-through entity. Monitor the activities of the sub-recipient as necessary to ensure that Federal awards are used for authorized purposes in compliance with law, regulations, and the provisions of contracts or grant agreements in that performance goals are achieved.

The department's Safety Office did not require WCSO to submit supporting documentation evidencing the use of the grant vehicle during the grant period.

Computer Aided Dispatch (CAD) logs for the period of this contract were obtained based on audit inquiries and were not requested by the Safety Office as a consistent monitoring tool. CAD logs report officers' activities; however, CAD logs do not contain data that correlates vehicle use to the uses and restrictions for which grant funding may be authorized, per CFDA 20.600. Additionally, because records regarding time and mileage of the vehicle were not maintained, nor were they required to by the grant terms, time and mileage analytics could not be conducted as part of our review; therefore, we reviewed CAD activity logs since it was the only data available that covers the grant period, and the period subsequent to the grant period.

We compared CAD logs to allowable activities pursuant to CFDA 20.600. For the period of July 3, 2013, through August 15, 2015, CAD logs for the grant vehicle contained 2,142 records, of which we questioned approximately half as non-grant related or could not be classified as either grant or non-grant. In response, WCSO reviewed their CAD logs and asserted that in all but 49¹⁰ cases the dispatch was for grant permissible activities. Additionally, there were 40 instances where WCSO could not classify the activity as being grant or non-grant related. Had the Safety Office monitored the grant vehicle usage during the grant period, questionable vehicle usage could have been corrected.

As the federal funding source, NHTSA maintains an interest in the grant vehicle for three years following the end of the sub-grant agreement.¹¹ The department's Safety

⁹ A-133 was effective during the contract period, and was superseded on December 26, 2014 by 2 C.F.R. 200.331(d), which states pass-through entities are required to "[m]onitor the activities of the sub-recipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved."

¹⁰ WCSO identified these items as 15 non-grant related and 34 as funeral related activities.

¹¹ Section 4 of the Non-Expendable Property Accountability Record.

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Office requested vehicle activity reports during the monitoring of a subsequent contract, and WCSO provided CAD logs.

The department's Safety Office did not adhere to monitoring and oversight requirements for grant-funded activities. WCSO's use of the grant vehicle for purposes other than those identified in Contract AQV42 and CFDA 20.600, were not sufficiently detected through the Safety Office's monitoring activities.

We recommend the Chief Safety Officer implement mechanisms to ensure grant-funded vehicles are used for allowable activities, as specified within the contract in accordance with grant funding requirements. For example, monitoring of allowable usage could include: 1) the submission of mileage and activity logs to the Safety Office, 2) attestation that grant vehicle use is for activities allowable per the contract terms and conditions, and 3) ensuring grant activity reports are reviewed for accuracy and validity.

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ATTACHMENT A – Maximum Non-Overtime Hours Under Section 207K Exemption

Days in Work Period	Fire Protection	Law Enforcement
28	212	171
27	204	165
26	197	159
25	189	153
24	182	147
23	174	141
22	167	134
21	159	128
20	151	122
19	144	116
18	136	110
17	129	104
16	121	98
15	114	92
14	106	86
13	98	79
12	91	73
11	83	67
10	76	61
9	68	55
8	61	49
7	53	43

WCSO opted for a 14-day work period at 84 hours, not the 86 hours specified in Section 207(k). U.S. DOL confirmed this option is not in violation of FLSA standards because it exceeds the thresholds established by law.

APPENDIX A – Purpose, Scope, and Methodology

Section 20.055, F.S., requires the Office of Inspector General (OIG) to conduct audits, examinations, investigations, and management reviews related to programs and operations of the department. We performed this review as a part of the OIG's mission to promote accountability, integrity, and efficiency for the citizens of Florida by providing objective and timely audit and investigative services.

The **purpose** of this engagement was to determine if the vehicle purchase, use, and reporting complied with contract terms, policies, laws, rules, and regulations; employee overtime and benefits were paid in compliance with the contract terms, laws, rules, and regulations; and the contract oversight and monitoring requirements were sufficiently completed and documented.

The **scope** of this audit included 26 claims totaling \$105,679.77 that WCSO submitted for reimbursement on Contract AQV42 during December 11, 2012, through September 30, 2013.

The **methodology** used to conduct this engagement included:

- A review of department, state, and federal procedures and criteria relevant to traffic safety, to include:
 - Contract AQV42;
 - The department's traffic safety program manual;
 - The department's Strategic Highway Safety Plan;
 - 215.971, Florida Statutes (effective 2010);
 - 29 C.F.R. 553.211(g);
 - 29 C.F.R. 553.230;
 - Fair Labor Standards Act Fact Sheet #8;
 - Fair Labor Standards Act 207(k);
 - Fair Labor Standards Act 207(p); and
 - Office of Management and Budget Circular A-133.
- Wakulla County Sheriff's Office Policies and Procedures - General Order 22.2, Employee Compensation.
- Catalog of Federal Domestic Assistance (CFDA) 20.600.
- Florida Sheriff's Association Contract Price List.

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APPENDIX B – Wakulla County Sheriff's Office Response

Wakulla's Sheriff's Office reviewed the preliminary and tentative report and on September 8, 2016 stated the report was fairly presented.

APPENDIX C – Department’s Safety Office Response

On September 7, 2016, the Chief Safety Officer submitted the following in response to our audit.

Finding 1 (A) – Specific and Measurable Contract Deliverables

Office of Inspector General’s Finding: The contract executed between the department’s Safety Office and Wakulla County Sheriff’s Office (WCSO) did not include specific tasks and deliverables or clearly define the uses and restrictions of grant-funded activities, as required by Florida Statutes.

Office of Inspector General’s Recommendation: Ensure contracts contain specific, measureable deliverables and include explanations of allowable uses of grant funds for all budgetary line items.

Safety Office Response: We concur with the finding and recommendation.

The subject grant was awarded under a previous Traffic Safety Administrator. Given today’s criteria it is questionable that the subject grant would be awarded.

Additionally, the Safety Office started working with the Florida Department of Financial Services and FDOT Comptroller’s Office in July of 2016 to ensure future grants include specific tasks and deliverables that are acceptable to both agencies and are in compliance with Florida Statutes. The Safety Office is updating Part V of its standard agreement to expand on the allowable uses of grant funds.

Finding 1 (B) – Specific and Measurable Contract Deliverables

Office of Inspector General’s Finding: Contract AQV42 did not include clear provisions defining the extent to which overtime would be reimbursed from the contract, how it would be calculated, and what standard would be used in making this determination.

Office of Inspector General’s Recommendation: Develop an overtime compensation policy limiting overtime reimbursements to sub-grantees to the thresholds set forth in 29 USC 207(k) and implement by inclusion in future grant agreements. We also recommend section 4 of the Highway Traffic Safety Program Manual is updated to reflect this method of overtime compensation reimbursements.

Safety Office Response: We concur with the finding and recommendation; however, an alternative correction will be taken.

The thresholds set forth in 29 USC 207(k) are minimums for which a law enforcement agency must meet. Law enforcement agencies are subject to their own town/city/county policies and collective bargaining units, and have the ability to set the overtime threshold at a different level than the minimum. Since the primary intent of grant funded overtime is the enhanced/increased traffic safety enforcement, we propose that grant recipients abide by their own policies for overtime pay. The Safety Office is updating Part V of its standard agreement to clarify that "overtime will be reimbursed in accordance with the law enforcement agency's payroll policies." It will also clarify that the agency's policy must conform to the FLSA thresholds and that a grant award subjects the recipient to audit at any time and as part of on-site monitoring.

Finding 2 – Contract Monitoring and Oversight

Office of Inspector General's Finding: The department's Safety Office did not have adequate controls to ensure sufficient monitoring and oversight over the use of the grant vehicle, funded by Contract AQV42 under CFDA 20.600, State and Community Highway Safety.

Office of Inspector General's Recommendation: The Chief Safety Officer implement mechanisms to ensure grant funded vehicles are used for allowable activities, as specified within the contract in accordance with grant funding requirements. For example, monitoring of allowable usage could include: 1) the submission of mileage and activity logs to the Safety Office, 2) attestation that grant vehicle use is for activities allowable per the contract terms and conditions, and 3) ensuring grant activity reports are reviewed for accuracy and validity.

Safety Office Response: We concur with the finding and recommendation.

The subject grant was awarded under a previous Traffic Safety Administrator. Given today's criteria it is questionable that the subject grant would be awarded. The Chief Safety Officer did not previously review on-site monitoring reports. This has since been corrected.

Monitoring reports from 2013 and 2014 of this grant reflects that program managers did, indeed, monitor, identify and make recommendations regarding the "deficiencies". The previous Traffic Safety Administrator did not take action. Management changes were made to address these issues.

The Safety Office began working with a consultant in March of 2016 to make updates to its property monitoring procedures. The second recommendation will be included in the new procedure when it is finalized.

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Matt Ubben, Executive Director, Florida Transportation Commission

James Christian, Division Administrator, Federal Highway Administration Florida Division

Charlie Creel, Wakulla County Sheriff

Project Team:

Engagement was conducted by Ashley Clark, Senior Auditor

Under the supervision of:

Kristofer B. Sullivan, Director of Audit

Approved by: Robert E. Clift, Inspector General

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STATEMENT OF ACCORDANCE

The department's mission is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.

The Office of Inspector General's mission is to promote integrity, accountability, and process improvement in the Department of Transportation by providing objective, fact-based assessments to the DOT team.

This work product was prepared pursuant to section 20.055, Florida Statutes, in accordance with the Association of Inspectors General *Principles and Standards for Offices of Inspector General*, and conforms with The Institute of Internal Auditors *International Standards for the Professional Practice of Internal Auditing*.

Please address inquiries regarding this report to the department's Office of Inspector General at (850) 410-5800.