



**AUDIT OF THE OFFICE OF JUSTICE PROGRAMS
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY
PREVENTION GRANT AWARDED TO THE
NEW YORK AGENCY FOR COMMUNITY AFFAIRS**

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EXECUTIVE SUMMARY

The U.S. Department of Justice Office of the Inspector General (OIG), Audit Division, has completed an audit of an Office of Justice Programs (OJP), Office of Juvenile Justice and Delinquency Prevention (OJJDP), grant, number 2005-JL-FX-0044, to the New York Agency for Community Affairs (NYACA). The total award amount of the grant was \$138,130, and the grant funding was to be used to sustain the efforts of the Association of Community Organizations for Reform Now (ACORN) Youth Union in providing student leadership training and establishing a committee to recruit 200 student members and 16 core leaders. Additionally, the grant-funded program was to inform students about current issues and to teach them about government processes so that they could increase their knowledge and be better able to address the important issues that affect the quality of life in their communities.

The objective of this audit was to determine whether reimbursements claimed for costs under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and the terms and conditions of the grant. We also assessed NYACA's program performance in meeting grant objectives and overall accomplishments.

We reviewed NYACA's compliance with seven essential grant requirements and determined that NYACA did not fully comply with the grant requirements we tested. Specifically, we found: (1) internal control weaknesses; (2) funding requests that resulted in excess cash on hand; (3) unsupported grant expenditures; (4) weaknesses in budget management and control; (5) lack of contractor monitoring; (6) inadequate grant reporting, including late and inaccurate reports; (7) award special conditions that were not met, including a requirement to notify OJP of any change in key personnel, a change in the project's timeline, and a requirement to request prior OJP approval before using grant funds to support any law, regulation, or policy at any level of government; and (8) deficiencies with the program's overall performance. Because of the deficiencies identified, we questioned \$138,129, or 100 percent, of the grant funds NYACA expended.¹

¹ While the original OJP approved grant award was for \$138,130, NYACA requested and received funding of \$138,129. The difference of \$1 was later deobligated by OJP after the award period ended.

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

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

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INTRODUCTION

The U.S. Department of Justice (DOJ) Office of the Inspector General, Audit Division, has completed an audit of grant number 2005-JL-FX-0044, in the amount of \$138,130, awarded to the New York Agency for Community Affairs (NYACA) by the Office of Justice Programs (OJP), Office of Juvenile Justice and Delinquency Prevention (OJJDP). The purpose of the grant was to sustain the efforts of the Association of Community Organizations for Reform Now (ACORN) Youth Union in providing student leadership training and establishing a committee to recruit 200 student members and 16 core leaders. Additionally, the grant application stated that the program was to inform students about current issues and to teach them about government processes so that they could increase their knowledge and be better able to address the important issues that affect the quality of life in their communities.

The purpose of this audit was to determine whether reimbursements claimed for costs under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and the terms and conditions of the grant. We also assessed NYACA's program performance in meeting grant objectives and overall accomplishments.

Office of Justice Programs

The Office of Justice Programs, within the U.S. Department of Justice, provides the primary management and oversight of the grant we audited. According to its website, OJP works to form partnerships among federal, state, and local government officials in an effort to improve criminal justice systems, increase knowledge about crime, assist crime victims, and improve the administration of justice in America.

Office of Juvenile Justice and Delinquency Programs

The Office of Juvenile Justice and Delinquency Programs (OJJDP) is a component of OJP. According to its website, OJJDP supports states, local communities, and tribal jurisdictions in their efforts to develop and implement effective programs for juveniles. OJJDP sponsors research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states to support local programming.

New York Agency for Community Affairs

The New York Agency for Community Affairs (NYACA) was created in 1998 as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code. According to the program narrative in its grant application, the organization was developed to assist grassroots community organizations in meeting the needs of low and moderate income communities.

According to NYACA's grant application, NYACA worked with the Association of Community Organizations for Reform Now (ACORN) to identify and recruit potential leaders, such as block association officers, parent organization leaders, and other neighborhood-based activists to accomplish its organizational and grant-related goals. NYACA was described by a former ACORN official as a fiscal agent that worked under the auspices of ACORN to carry out programs and other activities on ACORN's behalf.

Association of Community Organizations for Reform Now

According to its website, the Association of Community Organizations for Reform Now (ACORN) was the nation's largest grassroots community organization of low- and moderate-income people, with national headquarters in New York, New Orleans, and Washington, D.C., and more than 1,200 neighborhood chapters in about 75 cities across the country. The website also stated that the members of ACORN took on issues of relevance to their communities, including discrimination, affordable housing, and quality education. In January 2010, the New York chapter of ACORN ceased to exist. We were also told by an outside legal counsel for ACORN that ACORN filed for Chapter 7 bankruptcy in November 2010.

Grant Overview

In performing our audit work, we determined that although NYACA was the recipient of the OJP grant award, it acted as a pass-through entity (fiscal agent) for the grant funds it received. While NYACA's OJP-approved budget was for the allocation of grant funds to payroll and fringe benefit charges, we determined NYACA did not have any paid employees at the time it received the grant or at any time during the life of the grant-funded project. All of the individuals who worked on behalf of NYACA were ACORN employees. Further, the former NYACA Executive Director stated that she served concurrently as the Executive Director for both NYACA and the New York branch of ACORN. NYACA entered into a contractual agreement with ACORN for contract employees and all NYACA grant funds were transferred

to ACORN for contractual payroll and fringe benefit charges paid to ACORN employees.

According to NYACA officials and outside counsel for ACORN, Louisiana-based Citizens Consulting Inc. (CCI) provided all the financial services for NYACA, ACORN, and ACORN affiliate organizations. These services included pension, benefit, and payroll administration. As a result, CCI performed all the accounting functions for this grant, including the maintenance of NYACA's bank accounts. NYACA officials stated that, although certain ACORN employees had read-only access to the accounting records, CCI alone maintained the accounting data.² Certain CCI employees were designated assistant treasurers and were authorized to approve payroll charges on behalf of ACORN.

As part of our audit, we determined that all of the grant funds were essentially transferred from NYACA's bank account to ACORN's account, both of which were maintained by CCI.

Audit Approach

We tested compliance with what we consider to be the most important conditions of the grants. Unless otherwise stated in our report, the criteria we audited against are contained in the *Office of Justice Programs Financial Guide* (OJP Financial Guide) and the award documents. The OJP Financial Guide serves as a reference manual to assist award recipients in their fiduciary responsibility to safeguard and ensure that grant funds are used appropriately and within the terms and conditions of the awards. We tested NYACA's:

- **Internal control environment** to determine whether the financial accounting system and related internal controls were adequate to safeguard grant funds and ensure compliance with the terms and conditions of the grant.
- **Requests for grant funding** to determine whether requests for reimbursement, or advances, were adequately supported and whether NYACA managed its grant receipts in accordance with federal requirements.

² At the time of our audit field work, NYACA was a stand-alone organization with its own employees, including an executive director with whom we spoke. That executive director was not employed by NYACA, however, during the OJP grant period.

- **Expenditures** to determine whether costs charged to the grants were allowable and supported.
- **Budget management and controls** to determine whether NYACA adhered to the OJJDP-approved budget for expenditures of grant funds.
- **Monitoring of contractors** to determine whether NYACA had taken appropriate steps to ensure that contractors complied with grant requirements.
- **Reporting** to determine whether the required Federal Financial Reports and progress reports were filed on time and accurately reflected grant activity.
- **Compliance with other grant requirements** specified in the individual grant award documents.
- **Program performance and accomplishments** to determine whether NYACA achieved the grant objectives and to assess NYACA's performance and accomplishments.

When applicable, we also tested for compliance in the areas of program income, matching funds, accountable property, and indirect costs. For this grant, we determined NYACA had no program income, was not required to provide matching funds, had no accountable property, and did not charge indirect costs.

FINDINGS AND RECOMMENDATIONS

COMPLIANCE WITH ESSENTIAL GRANT REQUIREMENTS

We determined that NYACA did not fully comply with the essential grant requirements in the areas we tested. We found: (1) internal control weaknesses; (2) funding requests that resulted in excess cash on hand; (3) unsupported grant expenditures; (4) weaknesses in budget management and control; (5) lack of contractor monitoring; (6) inadequate grant reporting, including late and inaccurate reports; (7) award special conditions that were not met, including a requirement to notify OJP of any change in key personnel, change in project timeline, and a requirement to request prior OJP approval before using grant funds to support any law, regulation, or policy at any level of government; and (8) deficiencies with the program's overall performance. As a result of these conditions, we questioned \$138,129 or 100 percent of the total grant award requested and received.³ These conditions, including the underlying causes and potential effects, are further discussed in the body of this report.

Internal Control Environment

According to the OJP Financial Guide, the recipient of a grant award is responsible for establishing and maintaining an adequate system of accounting and internal controls. The absence of an adequate and effective internal control environment leaves grant funds at significant risk and weakens the ability of the grant recipient to ensure that federal funds are being adequately safeguarded and spent accurately and properly in accordance with grant objectives.

As part of our audit, we reviewed NYACA's financial management processes, policies, procedures, and Single Audit Report to assess NYACA's risk of non-compliance with laws, regulations, guidelines, and the terms and conditions of the grant. We also interviewed grant officials and requested data from the accounting and processing systems to determine whether the controls were designed to properly account for grant funds and were working as designed.

³ While the original OJP approved grant award was for \$138,130, NYACA requested and received funding of \$138,129. The difference of \$1 was later deobligated by OJP after the award period ended.

Although our audit did not assess NYACA's overall system of internal controls, we did review the internal controls of NYACA's accounting system specific to the administration of DOJ funds during the period under review. We determined that throughout the life of the grant, NYACA did not have a system of internal controls to adequately document, track, and account for grant funds. Specifically, there were no policies and procedures in place to ensure that: (1) grant fund requests were adequately supported; (2) grant funds received were properly segregated from other funding sources in NYACA's accounting system; (3) grant-related expenditures were reliably tracked and monitored; and (4) there was effective contractor monitoring. These internal control deficiencies are further discussed in the body of the report.

Single Audit

According to Office of Management and Budget (OMB) Circular A-133, if a non-federal entity expends \$500,000 or more of federal funds in a year, a Single Audit must be performed, with the audit report due no later than 9 months after the end of the fiscal year.

Because NYACA expended less than \$500,000 in federal funding in 2005, it was not required to have a Single Audit performed for that year. However, NYACA was required to have a Single Audit completed for 2006. The 2006 Single Audit report was issued April 29, 2008, more than 7 months after it was due. NYACA's counsel told us the audit was late because the firm it used was based in New Orleans, Louisiana and suffered hurricane-related damage to its offices, delaying issuance of the report.

Although the Single Audit did not identify any noncompliance with laws and regulations concerning DOJ grants, the auditors determined that NYACA misclassified the income and expenses related to one of its Department of Education funded programs. Given NYACA's errors in the classification of Department of Education grant funds it received, we determined that funds provided under the DOJ grant award were also at risk for similar misclassification.

Retention of Records

According to the OJP Financial Guide, grant recipients are required to maintain all financial records, supporting documents, and any other records pertinent to the award for at least 3 years. The 3-year retention period starts from the date of the closure of the Single Audit report covering the entire award period.

At the start of the audit, NYACA's counsel informed us that NYACA had limited documentation because most of the records pertaining to this audit were destroyed when ACORN ceased operations. NYACA's counsel and current NYACA officials stated they believed that the record retention period ended 3 years after the close of the grant, which occurred in 2006. However, the Single Audit report was not issued until April 2008, Therefore, the grantee was required to have had all grant-related documentation at the time of our audit.

Requests for Grant Funding

The OJP Financial Guide establishes the methods by which the DOJ makes payments to grantees. The methods and procedures for payment are designed to minimize the time elapsed between the transfer of funds by the government and the disbursement of funds by the grantee. Grantees may request grant funding on a reimbursable basis or in advance of making actual outlays. However, if grant funding is requested as an advance, the grantee must ensure that cash on hand is kept to a minimum and disbursed immediately or within 10 days of receipt.

We determined that NYACA requested and received a total of \$138,129 in grant funding between August 29, 2005, and September 16, 2006.

According to NYACA officials present at the time of the award, NYACA did not have any paid employees and all the personnel that worked on behalf of NYACA were employed by ACORN. As a result, NYACA used grant funding to reimburse ACORN for payroll expenditures and related fringe benefit charges.

We determined that grant-related expenditures were not accounted for separately in NYACA's accounting system and that NYACA no longer maintained invoices submitted by ACORN to cover the contractual services its employees provided. Therefore, we relied on bank records to determine when NYACA obtained and disbursed grant funds.

NYACA provided us with a disbursement and receipt schedule, created by the former grant manager, which listed information related to grant expenditures and drawdown requests. This schedule was not part of NYACA's accounting system, but included total grant expenditures by quarter, the dates and amounts of each funding request, and the dates the funds were transferred from NYACA to ACORN's bank account. Our review

of the bank statements and a comparison with OJP drawdown documentation enabled us to verify that the information in the schedule accurately depicted grant-related activities, and determined this to be a reliable source for the information provided.

Based on our review of bank records, and the documentation discussed above, we determined that the time between each drawdown and payment to ACORN ranged between 15 and 145 days.

Expenditures

According to the OJP Financial Guide, grantees are required to maintain accounting records supported by source documentation. Grantees are also required to maintain effective control over and accountability for all grant-related funds, property, and other assets.

We found that NYACA's accounting system did not segregate its grant funds from those funds derived from other sources. In addition, we determined that the records we reviewed were not reliable because NYACA's recorded transactions were not adequately supported. Without reliable records from an audited accounting system, we were unable to complete out transaction testing. However, our review of canceled checks accompanying the NYACA bank statements enabled us to verify that NYACA paid ACORN \$138,129.

According to current NYACA officials, grant funds were paid to ACORN for payroll expenditures and fringe benefit charges. These payments were for ACORN employees working on NYACA's behalf in carrying out grant-funded activities. Although we verified that the ACORN employees were all paid during the pay period under review no documentation adequately supported how much time ACORN personnel worked on implementation of the grant program.

Because NYACA did not have a verifiable payroll allocation methodology and process in place at the time of the grant award, we found that NYACA was unable to provide adequate support for the grant expenditures. The former NYACA Executive Director said that she estimated the time spent on grant activities for the ACORN employees paid with grant funds and charged the grant accordingly. NYACA provided schedules prepared by its former Grant Manager listing the payroll and fringe benefit charges for each ACORN employee who we were told worked on grant-related activities. However, we could not determine the reliability of these schedules because NYACA did not provide further supporting documentation,

such as time and attendance sheets or other payroll records adequately supporting personnel charges to the grant.

Because NYACA's accounting records did not reflect grant expenditures and NYACA did not maintain documentation to support grant expenditures, we are questioning \$138,129 as unsupported. When grantees do not maintain documentation supporting grant expenditures, the potential for fraud, abuse, and the wasteful spending of grant funds is greatly increased.

Budget Management and Control

Upon grant award approval, OJP provides a Financial Clearance Memorandum to grant recipients that includes the approved itemized budget for the grant. The OJP Financial Guide requires that grantees spend grant funds according to the defined budget categories, or request advance approval for reprogramming the funds if actual spending for direct cost categories exceeds 10 percent of the total grant award.

For the NYACA grant award, the OJP-approved budget had two cost categories that included Personnel and Fringe Benefits. To determine whether NYACA adhered to the approved budget, we compared the amounts included in the approved budget to the actual costs.

According to former and current NYACA officials, until January 2010, NYACA had no paid employees and all of the personnel who worked on behalf of NYACA were ACORN-paid employees, including the executive director. To meet the objectives of the grant, NYACA entered into a contract with ACORN to provide personnel services. Under the contractual arrangement with NYACA, ACORN employees performed organizing activities that included recruiting members and helping develop leaders in accordance with the grant award goals and objectives. As a result, NYACA allocated a total of \$138,129, budgeted for payroll and for fringe benefits for contracted staff services, exceeding the allowable 10 percent budget reprogramming requirement by \$124,316. We determined that NYACA did not request or receive advance approval from OJP to make this change to the grant budget.

The ACORN employee who served as the executive director of NYACA and who completed the grant application could not explain why the award budget categories were miscategorized. While we found that the grant application submitted to OJP clearly detailed that ACORN employees would be providing the services, the budget only included payroll and fringe benefit categories for NYACA personnel. The budget did not disclose that the employees would be provided by ACORN under contract. In our judgment, it

is important that NYACA expend grant funds according to the approved budgeted categories. Prudent budget administration and sound financial management requires types of costs to be treated consistently from budget formulation through the actual expenditures. Failure to adequately control grant budgets could lead to the wasteful and inefficient expenditure of grant funds.

Our questioned costs are based on the total budget overage of \$138,129 received by NYACA, reduced by the 10 percent budget reprogramming allowed (\$13,813) for the grant budget. After adjustments, we questioned \$124,316 of grant funds expended as unallowable transfers between budget categories.

Monitoring Contractors

As stated previously in this report, NYACA was approved to use grant funds for two budget categories that included payroll and fringe benefit charges. However, all of the personnel who worked for NYACA in carrying out the grant funded activities were ACORN employees. As a result, NYACA entered into a written agreement with ACORN to provide contract employees to meet its grant-funded goals and objectives.

According to the OJP Financial Guide, grantees should ensure that they monitor organizations under contract to them in a manner that will ensure compliance with their own overall financial management requirements.

Counsel for NYACA explained that NYACA was a "fiscal sponsor" for ACORN and often received funding on behalf of ACORN, but ACORN-paid employees provided the actual services. NYACA counsel further commented that NYACA fully disclosed ACORN's role in the project in its grant application. He also said ACORN's practice was to submit an invoice to NYACA for services provided. Then, NYACA would request grant funds to reimburse ACORN for services rendered.

To assess the adequacy of contract monitoring, we reviewed the agreement between NYACA and ACORN and determined that the contract was general in nature and did not clearly describe services, expected results, a schedule for deliverables, billing schedules, or payment schedules. We also interviewed the ACORN employee who served as NYACA's executive director during the life of the grant. She stated that she generally monitored ACORN employee activities; however, there were no formal mechanisms in place for monitoring the contractor for grant-related activities. She further stated that there were no written policies and

procedures in place to provide a structure for effective monitoring of NYACA contracts.

According to the executive director, the ACORN employees who performed grant-related activities were not told they were working on a grant-funded project. Further, none of these ACORN employees was informed of the goals and objectives related to the grant.

As part of our review of the monitoring of contractors, we requested documentation support the services provided by ACORN. We requested invoices, timesheets, activity reports, and any other available documentation.

Initially, NYACA staff provided a schedule created in response to our request. The schedule contained a list of 20 ACORN employees and the total amount of grant funds allocated to each employee. According to NYACA, this list was created from one employee's memory of grant-related activities performed by ACORN employees whom he supervised throughout the life of the grant. The list was not based on any available or verifiable documentation.

In a separate discussion with the ACORN employee who served as the NYACA executive director, we were provided a different schedule that was said to have been prepared by the ACORN employee who served as the NYACA grant manager throughout the life of the grant. This schedule identified 8 ACORN employees paid with grant funds. The schedule also detailed the total amount of grant funds allocated to each employee, including fringe benefit charges applied for each fiscal quarter.

Because we were unable to verify the accuracy of either schedule, we requested activity reports and timesheets for all ACORN employees identified on each schedule. The executive director explained that NYACA did not require ACORN employees to submit activity reports or any other report that would reflect the time spent performing specific activities. Based on our review of the timesheets, we determined that ACORN employee's only documented hours worked for each pay period and that time was not allocated based on a specific activity. There was no indication on any timesheet of time allocated to the grant. The executive director said she estimated the hours each employee spent performing grant-related activities. As a result, we were unable to verify that the allocation of labor charges was accurate.

In our view, NYACA did not adequately monitor its contract with ACORN throughout the life of the grant. Coupled with the lack of a clearly defined contract and formalized policies and procedures for the monitoring of the contract, NYACA needlessly put grant funds at risk.

Reports

Financial Status Reports

In 2005, OJP monitored the financial aspects of grants through Financial Status Reports (FSR).⁴ FSRs provided OJP grant managers current and cumulative information on expenditures and obligations on a quarterly basis and are one way OJP monitored grants. According to the OJP Financial Guide, FSRs should have been submitted within 45 days of the end of the most recently passed quarterly reporting period. The final FSR report was due 120 days after the end date of the award.

NYACA submitted a total of five FSRs for the grant. We tested these FSRs for both accuracy and timeliness. We attempted to compare the amount of quarterly expenditures reported on the FSRs with expenditure data from the accounting records maintained by NYACA. We were not able to match the quarterly amounts reported on the FSRs to the accounting records because NYACA did not separately account for grant funds. Also, NYACA did not maintain invoices submitted by its contractor, ACORN, for services provided. Therefore, we compared the amounts NYACA reported on its FSRs to NYACA's cancelled checks reflecting payments to ACORN.

We determined that the FSRs did not accurately reflect grant activities. For all five FSRs, the reported grant activity did not match the actual expenses incurred by the grantee. According to the 2005 OJP Financial Guide, FSRs must reflect actual grant expenditures.

We determined that of the five FSRs submitted by NYACA, the first was late by 23 days and the final was late by 50 days. The NYACA executive director did not recall why the FSRs were late. When a grantee submits late or inaccurate reports, it hinders OJP's ability to properly monitor the financial activities related to the grant. As a result, we recommend that NYACA implement policies and procedures to ensure timeliness and accuracy of all required reports.

⁴ These reports are no longer called Financial Status Reports. Effective for the quarter beginning October 1, 2009, grant recipients report expenditures online using the Federal Financial Report (FFR-425) Form no later than 30 days after the end of each calendar quarter.

Progress Reports

Progress Reports are submitted to describe the performance of grant activities and the accomplishment of the objectives set forth in the approved award application. According to the OJP Financial Guide, progress reports are to be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31.

NYACA was required to submit three progress reports over the life of the grant. We reviewed the reports for timeliness and accuracy. We determined NYACA submitted the required progress reports, but two of the three reports were submitted 4 days late. We considered this tardiness to be immaterial and not evidence of a systemic weakness.

As a result of changes NYACA made to the scope of the grant, the information provided in NYACA's progress reports did not always address the goals and objectives set forth in its award application.⁵ We asked NYACA officials to provide documentation to support the achievement of any of its goals and objectives for the grant; however, NYACA was not able to provide documentation to support any grant-funded achievements. NYACA's current executive director acknowledged that when ACORN ceased to exist, documentation related to this grant was discarded and, therefore, unavailable for our review.

Because NYACA's award documentation established performance goals and objectives as measurable grant objectives of the grant, we believe that adequate documentation of grant-funded achievements should have been maintained throughout the life of the grant and could have demonstrated measurable results. However, because no documentation was maintained, we could not determine whether any of the grant's objectives were achieved and we found that the Progress Reports submitted by NYACA were unsupported.

Unsupported progress reports hinder overseers' ability to monitor grant activity and increase the risk for grant funds to be wasted or used for unallowable purposes. Because we could not determine whether the reports submitted by NYACA were accurate, we recommend that NYACA implement policies and procedures to ensure the submission of fully supported, accurate, and timely reports for future DOJ awards.

⁵ We discuss the scope changes in the Program Performance and Accomplishments section of this report.

Compliance with Other Grant Requirements

In addition to the general grant requirements, we tested NYACA's grant administration for compliance with the terms and conditions specified in the individual grant award documents. We reviewed each of the 13 special conditions associated with the award and determined that NYACA did not comply with three special conditions. Specifically, NYACA did not: (1) obtain OJP's prior approval for changing key contractor personnel; (2) obtain OJP's prior approval for deviating from its approved timeline; or (3) obtain OJP's approval for its use of grant-funded resources to advocate for additional educational funding.

Change in Key Contractor Personnel

One of the award's special conditions required that program personnel designated in the application should be replaced only for compelling reasons and only with the concurrence of OJP. NYACA's approved budget for payroll and fringe benefit charges included \$39,275 for a "Brooklyn Schools Organizer" responsible for youth organizing. The ACORN employee who served as NYACA's executive director told us that the Brooklyn Schools Organizer, an ACORN employee, was removed from the project and replaced with additional field staff, resulting in the allocation of an additional \$85,275 in budgeted grant funds for field organizers. The executive director stated that she was not aware that OJP approval was needed for this change. The ACORN employee who first served as the Brooklyn Schools Organizer confirmed that she was removed from the project and was not paid with grant funds.⁶

Because the grantee made a key personnel change without OJP knowledge and advanced approval, OJP's ability to effectively monitor the grant was impaired. In our view, without a good working knowledge of the award requirements, the potential for incurring unallowable costs is greatly increased.

Deviation from Approved Timeline

A special condition in the award required that OJP approve in advance any deviation from the timeline stated in the grant application and approved

⁶ The ACORN employee who served as the NYACA executive director told us that, to achieve the goals and objectives of the grant, grant-funded positions should have been out in the field knocking on doors. The original Brooklyn School's Organizer was removed for failure to do so.

by OJP in connection with the grant award. To determine whether NYACA complied with this special condition, we interviewed former and current NYACA officials and reviewed the grant-approved timeline and the progress reports NYACA submitted to OJP. At the time of its grant application, NYACA submitted a detailed project timeline that spanned the life of the grant period and included specific deliverables, including the formation of the ACORN Youth Union, identifying specific student led campaigns, and formation of a city-wide steering committee.⁷

The ACORN employee who served as NYACA executive director told us that NYACA changed the scope of the project from what OJP originally approved. Rather than focusing on recruiting and training youth leaders, NYACA decided to focus on a community organization campaign to obtain additional educational funding. Accordingly, we were told that when NYACA decided to change the scope of its project, it was not able to adhere to its original project timeline. On this basis, we concluded that NYACA deviated from its approved timeline and was not in compliance with OJP-imposed award special conditions.

As NYACA did not seek OJP's prior advance approval in making these changes, we believe that NYACA should implement policies and procedures to ensure that changes to future project timelines and scope receive prior approval from the awarding agency.

Use of Federal Funds to Advocate for Local Funding

One of the award special conditions prohibited the use of federal funds to support the enactment, repeal, modification or adoption of any law, regulation, or policy at any level of government without OJP's written approval. To determine whether NYACA complied with this special condition, we reviewed NYACA's award documentation and progress reports. NYACA's final progress report stated that grant-funded community organization efforts went toward advocating for a \$100 million increase in after-school funding. The progress report stated that ACORN members paid with grant funds gathered petitions, testified before City Council, and met with City Council members to increase funding for after school programs.

We discussed these activities with NYACA officials who told us they did not consider their actions to violate this special condition. According to the

⁷ The ACORN Youth Union was created as an organization for students. The purpose of this organization was to help students develop leadership skills through political education, critical analysis, and the organizing of and participation in campaigns to effect change in their communities.

current NYACA executive director, the grant-funded activities were for school funding and not the endorsement of specific candidates and, as a result, did not require OJP approval. The executive director was not involved with NYACA during the time of the activity in question.

The special condition, however, required OJP approval for a broader scope of activities than the mere endorsement of particular candidates. Specifically, the condition applies to support for the enactment, repeal, modification or adoption of any law, regulation, or policy at any level of government. In addition, NYACA explicitly stated in its progress report submission to OJP that it advocated for increased funding from the City Council (Brooklyn, NY). We did not identify any post-award approvals from OJP or requests from NYACA concerning this grant-funded advocacy. As a result, we concluded that NYACA was not in compliance with this award special condition specific to lobbying.

Program Performance and Accomplishments

The overall goal of the award was to build a base of trained student leaders that would advocate for improvements and policy changes within New York's public schools and their communities. The grant had three major objectives: (1) to form new Youth Union chapters in four new schools; (2) to establish a citywide youth steering committee of 16 youth leaders to coordinate citywide campaigns; and (3) to recruit an overall base of 16 core student leaders and 200 student members.

To assess NYACA's achievements in meeting its stated goals and objectives, we interviewed former and current NYACA officials, reviewed its progress reports, and requested any data that NYACA compiled, maintained, and used in order to measure and evaluate performance and accomplishments related to each objective.

NYACA officials explained that the scope of the project was expanded from providing training to students to community organizing to obtain additional funding for public schools. The ACORN employee who served as NYACA's executive director told us that, in spite of the change in project scope, the initial project objectives were obtained. Although NYACA provided some documentation that included flyers and meeting agendas, NYACA was unable to demonstrate that 200 student members and 16 core student leaders were recruited or that four Youth Unions had been formed in new schools. Further, we believe NYACA did not maintain adequate documentation to support its other claims of achievement.

Without data that measures performance, it is difficult to evaluate whether DOJ funds were used efficiently and whether DOJ funds effectively addressed the problems for which the money was given.

Change in Project Scope

The 2005 OJP Financial Guide requires that a change in programmatic activities or purpose of a project, inclusive of alterations of goals and objectives, requires prior approval from OJP. To determine whether NYACA changed the scope of its project, we reviewed grant progress reports, grant expenditures, and interviewed NYACA officials. We also reviewed programmatic documentation to determine whether NYACA accomplished its potentially amended programmatic goals.

In each of the progress reports it submitted to OJP, NYACA stated that it changed the scope of its project from recruiting and training youth leaders to mobilizing the community at large to effect positive change in schools through work with two educational collaboratives.

Through its contract with ACORN, NYACA worked to organize community members to advocate for an increase in local funding for after-school programs by a total of \$100 million over 3 years. Although NYACA changed the scope of its project, from the documentation we reviewed that was provided specific to our audit requests during field work, it appeared that NYACA likely accomplished the amended project objectives.

NYACA officials told us that the scope of the project was amended because they perceived the new project could have a greater social impact. However, NYACA officials told us that while they did not receive prior approval from OJP, the submitted progress reports informed OJP of the change in scope and NYACA did not believe further approval was necessary. In our judgment, NYACA was not in compliance with the OJP Financial Guide which explicitly requires OJP notification and prior approval before any changes to the approved project scope.

OJP's ability to monitor the grant's progress was impaired because it was not properly appraised of NYACA's activities, resulting in an increased chance of fraud, waste, and abuse of grant funds.

Because NYACA drastically altered the project scope and did not receive prior approval from OJP, we questioned \$138,129 as unallowable.

Youth Recruitment

NYACA was unable to provide documentation to support the claims in its periodic progress reports that it recruited the number of student leaders and members projected in its grant application. NYACA's former lead field organizer said that NYACA did not maintain sign-in sheets or meeting agendas that would have substantiated the number of youths it recruited. The lead field organizer also said that NYACA recruited far fewer than the 200 members and 16 core leaders it intended to recruit according to its grant application.

We asked NYACA officials why they were unable to recruit their targeted number of participants. The ACORN employee who served as NYACA's executive director told us that the scope of the project was changed to focus on community organizing in order to achieve additional educational funding in economically disadvantaged communities. Because NYACA changed the scope of its project, it did not accomplish all of its stated goals related to youth recruitment.

Conclusion

We found that NYACA did not fully comply with grant requirements and applicable OMB guidance in several areas we tested. These areas included: (1) internal controls, (2) funding requests, (3) grant expenditures, (4) budget management and control, (5) monitoring of contractors, (6) financial and programmatic reporting, (7) compliance with award special conditions, and (8) program performance and accomplishments. As a result of this non-compliance, we are questioning \$138,129, which represents the amount of grant funding requested and received.

Recommendations

We recommend that OJP:

1. Ensure that NYACA develops an appropriate methodology with accompanying policies and procedures for the accounting and documenting of requests for funding.
2. Remedy the \$138,129 in unsupported costs charged to the grant.
3. Ensure that NYACA creates and implements policies and procedures that prevent charges to Department of Justice grants that are not properly documented.

4. Ensure that NYACA receives proper approval for all contracts that are not approved in the budget.
5. Ensure that NYACA implements policies and procedures to effectively monitor entities contracted to perform grant-funded activities.
6. Ensure that NYACA implements policies and procedures that ensure timeliness and accuracy of all required reports.
7. Ensure that NYACA implements policies and procedures that ensure that changes to future project timelines receive prior approval from the awarding agency.
8. Ensure that NYACA implements policies and procedures that ensure grant funds are not used to advocate for local funding.
9. Ensure that NYACA implements policies and procedures that ensure that changes in project scope receive prior approval from the awarding agency.
10. Remedy the \$138,129 in funds that went towards the re-scoped project without OJP approval, including \$124,316 in funds which NYACA reprogrammed to an unapproved budget category.
11. Ensure that NYACA collects and submits performance measurement information and includes the information in its overall plan for evaluating the effectiveness of the project.

OBJECTIVES, SCOPE, AND METHODOLOGY

The purpose of our audit was to determine whether reimbursements claimed for costs under the grant were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and the terms and conditions of the grant. We also assessed grantee program performance in meeting grant objectives and overall accomplishments. The objective of our audit was to review activities in the following areas: (1) internal control environment, (2) requests for grant funding, (3) grant expenditures, (4) budget management and control, (5) monitoring of contractors, (6) federal financial and progress reports, (7) compliance with other grant requirements, and (8) program performance and accomplishments. We determined that program income, property management, indirect costs, and matching funds were not applicable to this grant.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provided a reasonable basis for our findings and conclusions based on our audit objectives.

We audited the Office of Justice Programs Grant Number 2005-JL-FX-0044. NYACA had a total of \$138,129 in requests and receipts of grant funding through September 2006. Our audit covered the entire grant period from September 2005 through September 2006.

We tested compliance with what we considered to be the most important conditions of the grant. Unless otherwise stated in our report, the criteria we audit against are contained in the Office of Justice Programs Financial Guide and grant award documents.

In addition, we reviewed the timeliness and accuracy of Federal Financial Reports and progress reports, evaluated actual program performance and accomplishments to grant goals and objectives, and considered internal control issues. However, we did not test the reliability of the financial management system as a whole.

SCHEDULE OF DOLLAR-RELATED FINDINGS

QUESTIONED COSTS:	AMOUNT	PAGE
Unsupported Expenditures	\$ 138,129	8
Unapproved change in project scope, which includes an unapproved budget modification	138,129	9, 18
TOTAL OF QUESTIONED COSTS:	\$276,258	
LESS DUPLICATION ⁸	(\$138,129)	
TOTAL DOLLAR-RELATED FINDINGS:	\$138,129	

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

⁸ These costs relate to identical expenditures — though questioned for different reasons — and as a result, that portion of questioned costs is duplicated. We reduced the amount of costs questioned by the amount of this duplication.

**NEW YORK AGENCY FOR COMMUNITY AFFAIRS
RESPONSE TO THE DRAFT AUDIT REPORT**

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JUSTICE

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September 19, 2011

Thomas O. Puerzer
Regional Audit Manager
Office of the Inspector General
Philadelphia Regional Audit Office
701 Market Street, Suite 201
Philadelphia, Pennsylvania 19106

Re: Office of Justice Programs
Office of Juvenile Justice and Delinquency Prevention
Grant No. 2005-JL-FX-0044

Dear Mr. Puerzer:

The undersigned is counsel to the New York Agency for Community Affairs ("NYACA"). We have received your draft audit report on the year 2005 Juvenile Justice and Delinquency Prevention Grant #2005-JL-0044. This letter represents our response.

It was made clear in our initial application to the award in question that NYACA was "created in 1998 to provide a vehicle for grassroots community organizations to increase their capacity to meet the needs of low- and moderate- income communities."⁶ At the time the grant was solicited and the work was carried out, NYACA was working closely with the New York Chapter of the Association of Community Organizations for Reform Now ("ACORN"), a grass roots organization, to implement the work articulated in the original proposal. The relationship with ACORN was always made clear by NYACA in every progress report.

As these funds were legally earmarked for NY ACORN with NYACA as a fiscal sponsor, we believe all grant deliverables were reached. The purpose of the OJJDP program was to make a difference in the lives of low-income students and families in New York City through organizing for meaningful changes in schools. We fully met the goals of our program, as documented in our regular reports to the awarding agency. In fact, NYACA expanded the

⁶ NYACA Proposal, p. 6.

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Chartered Attorneys

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impact of our work by reaching more students and parents than originally projected. The DOJ audit recommendations substantially misconstrue the work done by NYACA and NY ACORN.

It should be noted that NY ACORN ceased operations and went into bankruptcy in 2010 and moved its records into storage or onto computer disks. NYACA staff made every effort to work with the auditors to find the records related to this award. The audit is based heavily on two brief interviews with staff whose comments were taken out of context. In the end, we feel the audit makes false accusations and reaches misleading conclusions that deter from the fact that NYACA did accomplish the contract deliverables.

Before we go through the audit point by point we want to make three additional points:

1. NYACA itself ceased doing business at the end of 2010 and now exists only as a wind-up operation. It has no staff and no funds, and is close to completing its corporate dissolution under New York's Not for Profit Corporation Law. Should it have any outstanding debt, a petition will be filed under Chapter 7 of the Bankruptcy Code.

2. This audit, commenced five years after the work was completed, and after the well-publicized shutdown and bankruptcy of ACORN, was clearly politically motivated and designed to lead to the conclusion it reached. NYACA staff and former staff put in scores of hours of work putting together records, even though NYACA was shut down and ACORN staff was gone with the wind. This audit and the time taken to look into the events which occurred five years earlier was and is a total waste of taxpayer money. Not one cent will ever be recovered by OIP.

3. The grant, from the outset, was a political earmark to do community organizing. This audit document attempts to hold NYACA to an extraordinarily high standard of reporting, a standard which few organizations receiving federal grants adhere to. NYACA had an ongoing relationship with OJJDP officials who made not a single complaint about the work being performed or the reimbursement being sought. The application of this high standard, and the ultimate conclusion that OJJDP should attempt, years later, to recover funds from a defunct organization which accomplished the work the earmark was designed to accomplish, is a political act, and a violation of NYACA's due process rights.

Advocates for Justice
Chartered Attorneys

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Please do not hesitate to contact me should you need additional information.

Sincerely,



Arthur Z. Schwarz

cc. Michael Annicette, Esq.
AZS:dr
Encl.

AUDIT RESPONSE

We have responded below to the Recommendations of the audit and discuss why we believe that each is inappropriate.

1. Ensure that NYACA develops an appropriate methodology with accompanying policies and procedures for the accounting and documenting of requests for funding.

Key Finding (p. 6): "We determined that throughout the life of the grant, NYACA did not have a system of internal controls to adequately track, document, and properly account for grant funds. Specifically, there were no policies and procedures in place to ensure that grant funds were adequately segregated in NYACA's accounting system from other funding sources, there was no system in place to adequately track and monitor grant related expenditures, grant funding requests were not adequately supported, and there was no evidence of contractor monitoring."

NYACA Response: NYACA did monitor and track grant-related expenditures, and was able to demonstrate how the funds were spent. NYACA had strong internal controls, policies, and procedures, to the dollar, showing the awarding agency the financial structures, accounting manual policies, financially sound general ledger, timesheets and daily activity reports which clearly demonstrate policies and procedures in place that ensured that award expenses are accurately reported.

Key Finding (p. 6): "According to the OJP Financial Guide, grant recipients are required to maintain all financial records, supporting documents, and any other records pertinent to the award for at least 3 years. The 3-year retention period starts from the date of the closure of the Single Audit report covering the entire award period. At the start of the audit, we were informed by outside legal counsel representing NYACA that NYACA had limited documentation available and that most of the records pertaining to this audit were destroyed."

NYACA Response: The award and contract under this audit covers one NY ACORN federal earmark for the periods of 2005 through 2006. From 2005 through 2006, staff followed the reporting requirements for this grant including: submitting expense reports and accomplishment narratives related to work on this contract to the awarding agency. NYACA never received critical comments or feedback from the awarding agency.

The Department of Justice (DOJ) contacted NYACA in September of 2010, five years after the grant period in question, to audit the contract work and funding expenditures. It was practically impossible to go back and establish entirely what occurred in 2005 since the accounting firm that handled NYACA's financial recordkeeping, Citizens Consulting Inc. (CCI), went bankrupt in 2010. Despite these obstacles, NYACA was able to find back-up expenditures records for this grant which were submitted to the DOJ to review for this audit. It should be noted that the NYACA contract manager responsible for oversight of this grant was no longer employed at NYACA when NYACA was approached in 2010. Staff that assisted with the DOJ audit made

every effort to provide information given the limited exposure to the grant in question. The current staff were either not employees of the agency in 2005-2006 or were not involved in grant activities or program management.

2. Remedy the \$138,129 in unsupported costs charged to the grant.

Key Finding (p. 9): Upon grant award approval, OJP provides a Financial Clearance Memorandum to grant recipients that includes the approved itemized budget for the grant. The OJP Financial Guide requires that grantees spend grant funds according to the defined budget categories, or request advance approval for reprogramming the funds if actual spending for direct cost categories exceeds 10 percent of the total grant award.

NYACA Response: The grant was a NY ACORN earmark. The Department of Justice issued a report in June 2010 which reviewed the NY ACORN DOJ funding that included the \$138,129 in this audit. That report titled "2009 Review of Department of Justice Grants to the Association of Community Organizations for Reform Now, Inc. (ACORN) and its Affiliated Organizations" stated in footnote 21: "While award documentation submitted by the grantee showed that its "legal name" is New York Agency for Community Affairs, Inc., the grantee's "organizational unit" for the grant was New York Association of Community Organizations for Reform Now (NY ACORN)."

The NY ACORN salaries charged to the grant were reasonable, allowable, legal, and provided for in the program budget submitted to the awarding agency. In the grant budget documents, ACORN salaries were listed as an expense item under the salaries category. If the process can be faulted, it would be for the listing of ACORN salaries under personnel. We maintain, however, that it was clear from the budget that funds would be used for ACORN staff salaries.

Key Finding (p. 9): According to former and current NYACA officials, until January 2010, NYACA had no paid employees and all of the personnel who worked on behalf of NYACA were ACORN paid employees, including the Executive Director. To meet the objectives of the grant, NYACA entered into a contract with ACORN to provide personnel services. Under the contractual arrangement with NYACA, ACORN employees performed organizing activities that included recruiting members and helping develop leaders in accordance with the grant award goals and objectives. As a result, NYACA allocated a total of \$138,129, budgeted for payroll and fringe benefits, for contracted staff services and exceeded the allowable 10 percent budget reprogramming requirement by \$124,316. We determined that NYACA did not request or receive advance approval from OJP to make this change to the grant budget.

NYACA Response: The expenditures submitted for this grant account for a small portion of the total resources expended to achieve the award outcomes, as outlined in our response to recommendation #7 below.

It was the understanding of the staff at the time that the program budget had been accepted by OJJDP, with the grant budget to fund salaries and fringe for ACORN staff. Thus, NYACA staff were not aware that any budget amendment was necessary, and, at no time did NYACA receive

communication from OJJDP to this affect, even though progress reports showed payments to ACORN.

All of the funds went to NY ACORN for personnel costs to conduct activities in this grant. Again, NYACA made clear in its proposal and budget submission in 2005 that NY ACORN would perform all activities under the grant. During the interview conducted in late 2010, staff provided the back-up documentation for expenditures for the grant, as clearly stated in this report: " prepared by the former NYACA Grant Manager throughout the life of the grant. This schedule listed a total of 8 ACORN employees as being paid with grant funds. The schedule also detailed the total amount of grant funds allocated to each employee, including fringe benefit charges applied for each fiscal quarter.

3. Ensure that NYACA creates and implements policies and procedures that prevent charges to Department of Justice grants that are not properly documented.

NYACA Response: The award and contract under this audit covers the periods of 2005 through 2006. From 2005 through 2006, staff followed all reporting requirements including the submission of expense reports and narratives related to work on this contract. Again, NYACA never received any critical comments or feedback from the awarding agency. NYACA did not have a mid-year evaluation or an exit interview.

Five years later after the grant has ended, the DOJ chose to pursue an audit. NYACA's former staff and counsel did the best that they could to comply with the discovery process. The fact remains that NYACA executed and achieved all of the documented contract outcomes. NYACA no longer exists and it will no longer be implementing policies.

4. Ensure that NYACA receives proper approval for all contracts that are not approved in the budget.

NYACA Response: NY ACORN entered into a fiscal sponsorship contract, a written agreement between NYACA and NY ACORN, which was fully transparent and reported to OJJDP. All funds were to be passed to ACORN for personnel and fringe benefits. The grantee should not be penalized for adhering to budget descriptions designated by the awarding agency. The line item budget approved by the awarding federal agency was submitted based on personnel and fringe costs for ACORN staff.

All costs submitted on expenditure reports were originally included in the approved grant budget in the personnel cost items. NYACA and NY ACORN accounted for every dollar received through payroll reports, expenditure reports and program reports. NYACA was a diligent fiscal sponsor for this award.

5. Ensure that NYACA implements policies and procedures to effectively monitor entities contracted to perform grant-funded activities.

NYACA Response: This was done. NYACA will not be implementing any further policies and procedures.

6. Ensure that NYACA implements policies and procedures that ensure timeliness and accuracy of all required reports.

NYACA Response: The 2005 earmark was one of the first federal grants NYACA ever administered. It did not receive an introductory training from the awarding agency at the time of the grant. Without clear guidance from federal agencies, anything more than substantial compliance with the myriad of rules and regulations governing awarded funds was nearly impossible.

The FSR's NYACA submitted were reflective of the work carried out by this grant. The reported ACORN costs for personnel and fringe on the FSR's incorporate the dates of paychecks for the 8 ACORN employees paid with grant funds. As stated in our response to #1, in the years after the award, NYACA made several internal reforms to mirror the growing best practices of the not-for-profit sector.

7. Ensure that NYACA implements policies and procedures that ensure that changes to future project timelines receive prior approval from the awarding agency.

NYACA accomplished the program goals within the timeline of the grant period. Attached as Appendix A is a chart listing each goal and the nature of what was completed — on time.

Key Finding (p. 15): The former NYACA Executive Director told us that to achieve the goals and objectives of the grant, grant-funded positions should have been out in the field knocking on doors. As a result, the Brooklyn School's Organizer was replaced with extra field organizers. Additionally, the former Executive Director stated that she was not aware that OJP approval was needed for this change.

NYACA Response: Awarded funds did not go to organizers for door knocking. Grant funded staff organized approved activities to conduct vital community outreach to empower activity participants to participate in the grant program. The comments of the former E.D. were taken out of context. NY ACORN had an award-winning and nationally recognized model for community engagement with low-income communities that was used to execute this grant.

Key Finding (p. 14): "We asked NYACA officials to provide documentation to support the achievement for any of its goals and objectives for the grant; however, NYACA was not able to provide documentation to support any grant-funded achievements. "

"Because NYACA's award documentation established performance goals and objectives as measurable grant objectives of the grant, we believe that adequate documentation of grant-funded achievements should have been maintained throughout the life of the grant and could have demonstrated measurable results. Because we could not determine whether the reports submitted by NYACA were accurate due to a lack of supporting documentation, we recommend that NYACA implements policies and procedures that ensure the submission of fully supported, accurate, and timely reports for future DOJ awards.PG18"

NYACA Response: NYACA did submit a vast amount of documentation to support the program work. NYACA provided volumes of documentation that were presented to the auditors during the interview that were not reflected in the DOJ's audit report.

8. Ensure that NYACA implements policies and procedures that ensure grant funds are not used to advocate for local funding.

Key Finding (p. 16): NYACA's final progress report stated that grant-funded community organization efforts went toward advocating for a \$100 million increase in after-school funding. It also said that ACORN members that were paid with grant funds gathered petitions, testified before City Council, and met with City Council members in order to increase funding for after school programs.

NYACA Response: NY ACORN organizers were never paid with grant funds to organize members to gather petitions or to testify at public hearings. However, it was clearly articulated in the program proposal that NYACA and NY ACORN would work to educate institutional stakeholders and community members about the impact of budget cuts. ACORN, which was not a 501(c)(3), used other funds for this work.

9. Ensure that NYACA implements policies and procedures that ensure that changes in project scope receive prior approval from the awarding agency.

Key Finding (p. 16): "As NYACA did not seek OJP's prior advance approval in making these changes, we believe that NYACA should implement policies and procedures to ensure that changes to future project timelines and scope receive prior approval from the awarding agency"

NYACA Response: It is common knowledge that submitted proposals and work plans change during the course of the year. It should be noted that in the submitted logic model, the only variance was that one of our outputs changed. NYACA was fully transparent with the awarding agency and would have gladly adjusted our programming if they disagreed at the time. It is our position that sound procedures were in place to assure adherence to project scope based on the deliverables reported.

10. Remedy the \$138,129 in funds that went towards the re-scoped project without OJP approval, which includes \$124,316 NYACA reprogrammed to an unapproved budget category.

NYACA Response: As clearly shown in Appendix A, NYACA adhered to the project scope, in the manner proposed, and accomplished its objectives. It should not be required to return funds.

11. Ensure that NYACA collect and submit performance measurement information and include the information in its overall plan for evaluating the effectiveness of the project.

NYACA Response: NYACA and NY ACORN accomplished the stated goals. The DOJ auditors clearly did not grasp the agency's theory of change and the details communicated during the

audit interview were misunderstood. During the course of the grant, NYACA and NY ACORN engaged hundreds of students and developed the leadership of our target population; however, many of the performance measurements around leadership development did not have specific quantitative measurements at the time.

We have attached as Appendix B the Project Abstract submitted in response to Congressman Owens' earmark to ACORN.

We have attached as Appendix C a compendium of the project's progress reports to demonstrate, for the record, the extent of reporting and the project's accomplishments.

OFFICE OF JUSTICE PROGRAMS
RESPONSE TO THE DRAFT AUDIT REPORT



U.S. Department of Justice

Office of Justice Programs

Office of Audit, Assessment, and Management

Washington, D.C. 20531

September 8, 2011

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

FROM: /s/
Maureen A. Henneberg
Director

SUBJECT: Response to the Draft Audit Report, *Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention Grant Awarded to the New York Agency for Community Affairs, New York, New York*

This memorandum is in response to your correspondence, dated August 12, 2011, transmitting the subject draft audit report for the New York Agency for Community Affairs (NYACA). We consider the subject report resolved and request written acceptance of this action from your office.

The report contains **11** recommendations and **\$138,129** in questioned costs. The following is the Office of Justice Programs' (OJP) analysis of the draft audit report recommendations. For ease of review, the recommendations are restated in bold and are followed by our response.

- 1. We recommend that OJP ensure that NYACA develops an appropriate methodology with accompanying policies and procedures for the accounting and documenting of requests for funding.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy of written policies and procedures, developed and implemented, to ensure that requests for funding are properly accounted for and documented, and are in compliance with OJP's cash management policy.

- 2. We recommend that OJP remedy the \$138,129 in unsupported costs charged to the grant.**

We agree with the recommendation. We will coordinate with NYACA to obtain documentation to support the \$138,129 in questioned expenditures that were charged to grant number 2005-JL-FX-0044. If adequate documentation cannot be provided, we will request that NYACA return the funds to the U.S. Department of Justice (DOJ), adjust their accounting records to remove the costs, and submit a revised final Federal Financial Report (FFR) for the grant.

- 3. We recommend that OJP ensure that NYACA creates and implements policies and procedures that prevent charges to Department of Justice (DOJ) grants that are not properly documented.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy written policies and procedures, developed and implemented, to ensure that all charges to DOJ grants are properly documented.

- 4. We recommend that OJP ensure that NYACA receives proper approval for all contracts that are not approved in the budget.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy of written procedures implemented to ensure that NYACA receives prior approval for all contracts that were not included in the approved award budget.

- 5. We recommend that OJP ensure that NYACA implements policies and procedures to effectively monitor entities contracted to perform grant-funded activities.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy of written procedures, developed and implemented, to ensure that entities contracted to perform grant-funded activities are effectively monitored.

- 6. We recommend that OJP ensure that NYACA implements policies and procedures that ensure timeliness and accuracy of all required reports.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy of written policies and procedures, developed and implemented, to ensure that all reports required for OJP awards are accurately and timely submitted.

- 7. We recommend that OJP ensure that NYACA implements policies and procedures that ensure that changes to future project timelines receive prior approval from the awarding agency.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy of written policies and procedures, developed and implemented, to ensure that changes to future project timelines receive prior approval from the awarding agency.

8. **We recommend that OJP ensure that NYACA implements policies and procedures that ensure grant funds are not used to advocate for local funding.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy of written policies and procedures, developed and implemented, to ensure that Federal grant funds are not used to advocate for local funding.

9. **We recommend that OJP ensure that NYACA implements policies and procedures that ensure changes in project scope receive prior approval from the awarding agency.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy of written policies and procedures, developed and implemented, to ensure that changes in project scope receive prior approval from the awarding agency.

10. **We recommend that OJP remedy the \$138,129 in funds that went towards the re-scoped project without OJP approval, which includes \$124,316 NYACA reprogrammed to an unapproved budget category.**

We agree with the recommendation. We will coordinate with NYACA to remedy the \$138,219 in questioned costs related to unapproved funds that went towards the re-scoped project without OJP approval, which includes \$124,316 in funds that NYACA reprogrammed to an unapproved budget category.

11. **We recommend that OJP ensure that NYACA collect and submit performance measurement information and include the information in its overall plan for evaluating the effectiveness of the project.**

We agree with the recommendation. We will coordinate with NYACA to obtain a copy of written policies and procedures, developed and implemented, to ensure that NYACA collects and submits performance measurement information, and includes the information in its overall plan for evaluating the effectiveness of the project.

We appreciate the opportunity to review and comment on the draft audit report. If you have any questions or require additional information, please contact Jeffery A. Haley, Deputy Director, Audit and Review Division, on (202) 616-2936.

cc: Jeffery A. Haley
Deputy Director, Audit and Review Division
Office of Audit, Assessment, and Management

Jeff Slowikowski
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cc: Marilyn Roberts
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Management and Planning Staff
Justice Management Division

OJP Executive Secretariat
Control Number 220111534

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

The OIG provided a draft of this audit report to the New York Agency for Community Affairs (NYACA) and the Office of Justice Programs (OJP) for review and comment. NYACA's response is included as Appendix III of this report, and OJP's response is included as Appendix IV. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Analysis of NYACA's Response

In response to our audit report, OJP concurred with our recommendations and discussed the actions it will implement in response to our findings. However, NYACA included several statements in its response that we believe need to be addressed.⁹ Specifically, NYACA stated that our audit recommendations substantially misconstrued the work done by NYACA. NYACA also stated that the audit was based heavily on two brief interviews with staff whose comments were taken out of context, and that the audit made false accusations and reached misleading conclusions that deter from the fact that NYACA accomplished the grant-funded deliverables. Further, NYACA stated that the audit was a total waste of taxpayer money, that none of the funds will ever be recovered by OJP, and that the audit's application of a high reporting standard, and the conclusion that funds should be recovered from a defunct organization that accomplished the work it was funded to do, was a political act and a violation of NYACA's due process rights. NYACA also stated in its response that: (1) NYACA ceased doing business at the end of 2010 and now exists only as a wind-up operation with no staff or funds and is close to completing its corporate dissolution; (2) this audit was performed 5 years after the grant-related work was completed and the audit was clearly politically motivated and designed to lead to the conclusion it reached; and (3) the grant was a political earmark to do community organizing, and this audit attempts to hold NYACA to an extraordinarily high standard of reporting, a standard which few organizations receiving federal grants meet.

⁹ The NYACA response to our draft audit report was prepared by outside legal counsel that represents NYACA. Because we did not receive an official response directly from NYACA, we confirmed in writing with NYACA's Executive Director that this represented NYACA's official response to our draft audit report.

We provide the following reply to NYACA's statements before discussing the specific responses to each of our recommendations and the actions necessary to close those recommendations.

The OIG conducts its audit work and issues its reports in strict compliance with Government Auditing Standards, commonly referred to as Generally Accepted Government Auditing Standards (GAGAS). Under GAGAS requirements, which were adhered to in this audit, we conducted our audit with an attitude that was objective, fact-based, nonpartisan, and non-ideological with regard to the audited entity (NYACA) and the users of our audit report. Contrary to the NYACA response that characterizes our audit efforts as a waste of taxpayer money, our work is intended to lead to improved government management, better decision making and oversight, effective and efficient operations, and accountability and transparency for resources and results. OIG audits help identify and deter waste, fraud, or abuse of taxpayer dollars and do not contribute to such abuses.

NYACA also stated that our audit recommendations substantially misconstrued the work done by NYACA. However, our audit recommendations are based on the evidence presented in the audit report and are not meant to imply conclusions about NYACA's work beyond those presented in the report. In addition, NYACA stated that the audit makes false accusations and reaches misleading conclusions. While NYACA does not identify which statements in our report it believes are false, our audit does not make accusations, rather only presents audit findings and accurate conclusions that are substantiated by documentation. Further, while the NYACA response makes additional statements regarding the performance of this audit as discussed below, it does not provide evidence or information to support these statements.

We reviewed and fully considered each of the issues raised by NYACA in its response to our report. After conducting our analysis specific to the other matters discussed in the NYACA response, we determined that the report was factually accurate based on the information we were provided by NYACA and the issues were clearly stated. Contrary to the NYACA response, the grant award was not made to ACORN but rather to NYACA as a stand-alone organization, and it was accepted by officials acting in their capacity as NYACA employees. While the NYACA response repeatedly states that it was not the intended grant recipient and that the work was carried out by ACORN, our detailed review of the award documentation confirms that NYACA was the intended grant recipient and the accompanying award documentation includes budget categories for payroll and associated fringe benefit charges associated with NYACA employee personnel. However, as

our audit disclosed, the actual work funded under the award was carried out by ACORN employee personnel under contract with NYACA. As we cited in our audit report, this was a significant change in the scope of the approved award that should have been reviewed and preapproved by OJP, and failure to do so by NYACA was a violation of the award terms and conditions.

The NYACA response concludes that the goals of the award were accomplished and that our audit relied heavily on two brief interviews with staff whose comments were taken out of context. These statements are false and not supported by the evidence we gathered from our audit fieldwork. Our audit included extensive interviews with current and former NYACA management personnel who were in a decision making capacity and also in a position to know what happened at the time the award was active. In addition, our audit findings and conclusions are further supported by grant documentation provided to us by NYACA, NYACA's accounting system reports, and other documentation such as OJP award documents, as well as the grant's regulations, terms, and conditions. Moreover, NYACA could not provide adequate documentation to prove, as it states in its response, that it accomplished and exceeded its grant-funded goals and objectives. NYACA also states that our audit report conclusions deter from the fact that NYACA did accomplish the contract deliverables. However, conclusions about NYACA's accomplishments presented in our audit report are based on the verifiable audit evidence that NYACA provided. Although the award terms and conditions clearly required NYACA to retain award documentation, NYACA did not appear to have adhered to that requirement and, therefore, could not provide adequate proof of the accomplishments it claims to have achieved.

NYACA's contention that it was held to an extraordinarily high standard of reporting compliance is unfounded. When NYACA accepted the DOJ award, it agreed to abide by all the rules, regulations, terms, and conditions we applied in this audit. These grant rules are not uncommon for DOJ awards and similar grant recipients are held to the same level of compliance. While many grant recipients abide by those rules, those recipients that do not are held accountable, as is NYACA.

Further, NYACA contends in its response that "[n]ot one cent will ever be recovered by OJP." In addition, it states that the application of "this high standard" or common grant rules it agreed to abide by, along with the conclusion that OJP should attempt to recover funds from a defunct organization, is a political act and a violation of NYACA's due process rights. While NYACA characterizes itself as defunct, the OIG did not present that conclusion in this audit report. Further, the OIG made recommendations to

remedy the questioned costs that resulted from NYACA's failure to adhere to grant rules, regulations, terms, and conditions. As stated in our report, OJP may remedy these questioned costs by offset, waiver, recovery of funds, or the provision of supporting documentation. The identification of questioned costs and acceptance of remedies of those costs are completed by the OIG in accordance with laws and regulations. This procedure is neither a political act nor a violation of NYACA's due process. Rather, it is standard audit procedure set in place by laws and regulations that help protect taxpayer dollars, ensure government award recipients adhere to award terms and conditions, and reduce waste, fraud, and abuse.

Summary of Actions Necessary to Close the Report

1. **Resolved.** OJP concurred with our recommendation to ensure that NYACA develops an appropriate methodology with accompanying policies and procedures for the accounting and documenting of requests for funding. OJP stated in its response that it will coordinate with NYACA to obtain a copy of written policies and procedures, developed and implemented, to ensure that requests for funding are properly accounted for and documented and are in compliance with OJP's cash management policy.

In its response, NYACA said it monitored and tracked grant-related expenditures. NYACA said it had strong internal controls and policies and procedures in place that ensured that award expenses were accurately reported. However, from our audit field work, we found that NYACA did not have a documented system of internal controls and there were no verifiable policies and procedures in place. NYACA failed to comply with the OJP Financial Guide, which requires recipients of grant awards to establish and maintain an adequate system of accounting and internal controls. While NYACA provided several attachments to its response, none of those attachments constitutes a policy or procedure of the type it discusses in its response.

NYACA also noted in its response that the active award period dates back to 2005 and 2006 and that NYACA never received critical comments or feedback from the awarding agency, OJP. Additionally, NYACA said it was practically impossible to go back and establish what occurred in 2005 since the accounting firm that handled NYACA's financial recordkeeping went bankrupt in 2010. However, NYACA said that it was able to find backup expenditure records and that these were submitted to us.

As we discuss in our audit report, NYACA was required to retain all of the pertinent records associated with the award. NYACA's statements that it received no critical comments or feedback from the awarding agency does not affect our recommendation; nor does the fact that the outside accounting entity NYACA used for recordkeeping has filed for bankruptcy. Additionally, during our audit, the backup expenditure records that were provided to us were either recreated by current NYACA staff from memory or provided as summary schedules of purported original supporting documentation that we could not verify. Because the majority of the grant funded expenditures were related to payroll, we requested required employee activity reports and timesheets, which NYACA could not provide. As a result, it did not appear that NYACA had sufficient internal controls to ensure it adequately accounted for and documented requests for funding.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.

2. **Resolved.** OJP concurred with our recommendation to remedy the \$138,129 in unsupported costs charged to the grant. OJP stated in its response that it will coordinate with NYACA to remedy the \$138,129 in questioned costs that were charged to grant without any supporting documentation.

In its response, NYACA said this award was a New York ACORN earmark, and that the ACORN employee salaries were listed as an expense item under the salaries category. NYACA reaffirmed in its response that ACORN salaries were listed under personnel in the NYACA approved award budget, and stated that this would have been the fault in the process. However, NYACA said that at no time did it receive communication from OJP that a budget modification was necessary, even though the progress reports showed payments to ACORN. NYACA also said that backup documentation for expenditures for the grant was provided to us during the audit. Further, NYACA cited a November 2009 OIG report that stated that award documentation showed that the grantee's "organizational unit" for the grant was New York ACORN.

As we discuss in our audit report, NYACA's approved budget authorized personnel and fringe benefit charges for only the use of NYACA employees. The use of ACORN employees under contract was not authorized in the award budget and resulted in a change of scope that required an OJP approved budget modification. The recipient of the award, according to the award document, was NYACA. The fact that New

York ACORN was identified in OJP documentation as an organizational unit of NYACA is not sufficient to conclude that New York ACORN is in fact a subsidiary of NYACA. In fact, the November 2009 OIG report refers to NYACA as an affiliate of ACORN, but does not conclude that they are the same organization. Additionally, the signed federal tax filings that we reviewed for calendar years 2005 through 2007 (Form 990 – Return of Organization Exempt From Income Tax) list NYACA as a stand-alone entity without any affiliates. In summary, we were not provided any reliable organization documents to prove that New York ACORN was a subsidiary of NYACA; nor did we verify that New York ACORN personnel were also legally personnel of NYACA. As a result, we treated the two organizations, as well as their respective employees, as legally separate. Moreover, the progress reports we reviewed did not explicitly mention that ACORN employees were used or paid under the award.

NYACA also stated that its application proposal and budget submission clearly indicated that New York ACORN would perform all activities under the grant. However, we reviewed the budget that was approved and found it made no reference to New York ACORN. Rather, NYACA only identified the names and titles of three individuals and did not identify which organization they worked for. Further, NYACA listed these individuals under the heading “Personnel,” thereby implying these were employees of NYACA. While the Budget Narrative more clearly showed that individuals to be paid with grant funds were closely affiliated with New York ACORN, they were listed under the heading “Personnel.” Since NYACA, and not New York ACORN, applied for the grant, the budget narrative and final financial clearance memorandum miscategorized these expenditures as costs for NYACA personnel. The issue of miscategorization and re-scoping of the project issue is addressed further under our discussion of recommendation 10.

However, this recommendation concerned costs that were questioned because NYACA did not maintain adequate documentation of expenditures as required. As we previously discussed, back up expenditure records provided to us were either recreated by current NYACA staff from memory or provided as summary schedules of purported original supporting documentation that were not verifiable. Because the majority of the grant-funded expenditures were related to payroll, we requested required employee activity reports and timesheets. However, NYACA was unable to provide such documentation. As a result, we questioned as unsupported all of the expenditures charged to the award.

This recommendation can be closed when we receive documentation demonstrating that OJP has remedied the \$138,129 in unsupported costs.

3. **Resolved.** OJP concurred with our recommendation to ensure that NYACA creates and implements policies and procedures that prevent charges to Department of Justice grants that are not properly documented. OJP stated in its response that it will coordinate with NYACA to obtain a copy written policies and procedures, developed and implemented, to ensure that all charges to DOJ grants are properly documented.

In its response, NYACA said that the active award period dates back to 2005 and 2006, that NYACA staff followed all of the reporting requirements including the submission of expense reports and narratives related to the award, and that it never received critical comments or feedback from the awarding agency – OJP. Additionally, NYACA responded that it achieved all of the award outcomes, that it no longer exists, and that it will no longer be implementing policies.

The contention that NYACA received no critical comments or feedback from the awarding agency has no bearing on the conduct of our audit. Additionally, we have not been provided documentation proving that NYACA has officially ceased operations and, as of October 28, 2011, the New York Department of State's Division of Corporations, State Records and Uniform Commercial Code identified NYACA as an organization with an "active" status.

During our audit NYACA did not have any evidence of available policies and procedures for us to review. The backup expenditure records provided to us during the audit were either recreated by current NYACA staff from memory or provided as summary schedules of purported original supporting documentation that we could not verify. In addition, NYACA stated that it executed and achieved all of the contracted outcomes. However, NYACA could not provide us with adequate documentation to prove its project objectives were accomplished. As a result, we concluded that charges to the grant award were not properly documented and NYACA did not have written policies and procedures to ensure that all charges to DOJ grants are properly documented.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.

4. **Resolved.** OJP concurred with our recommendation to ensure that NYACA receives proper approval for all contracts that are not approved in the budget. OJP stated in its response that it will coordinate with NYACA to obtain a copy of written procedures implemented to ensure that NYACA receives prior approval for all contracts that were not included in the approved award budget.

In its response, NYACA said it entered into a fiscal sponsorship contract with NY ACORN which was fully transparent and reported to OJP. NYACA said all funds were to be passed to ACORN for personnel and fringe benefits and NYACA should not be penalized for adhering to budget descriptions designated by the awarding agency. NYACA also concluded that it was a diligent fiscal sponsor for this award.

However, according to the Standard Form 424, Application for Federal Assistance (SF-424), NYACA identified "New York Agency for Community Affairs" in the field under Applicant Legal Name. According to instructions for SF-424 available on Grants.gov, applicants should use that field to identify the legal name of the organization that will undertake the assistance activity. Based on our audit findings and NYACA's response, it appears that New York ACORN may have been the organization that undertook the assistance activity.

Further, NYACA identified New York Association of Community Organizations for Reform Now as the "Organizational Unit" for its SF-424 application. The SF-424 instructions on Grants.gov explain that applicants should enter in that field the name of the primary organizational unit, department, or division that will undertake the assistance activity. However, we found no documentation that proved New York ACORN was an organizational unit, department, or division of NYACA. In fact, the employees that appeared to have been paid with grant funds were actually employed by the Association of Community Organizations for Reform Now, including its executive director. According to its 2005-2006 financial statement audit report, NYACA was a fiscal agent for ACORN, which was identified as an "affiliated organization." The financial statement report further stated that the affiliated organizations are run by independent boards of directors, but share common functions and costs. As a result, it appears that New York ACORN was not an organizational unit, department or division of NYACA.

As we discussed in our audit report, we found that NYACA did not have a system of internal controls, that there were no verifiable policies and procedures in place, and that NYACA did not adhere to the OJP Financial

Guide as required. Specifically, NYACA's approved budget authorized personnel and fringe benefit charges for the use of NYACA employees only. The use of ACORN employees under contract was not authorized in the award budget and resulted in a change of scope that required an OJP approved budget modification. This distinction is important since different grant regulations apply to contractors and recipient employees.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.

5. **Resolved.** OJP concurred with our recommendation to ensure that NYACA implements policies and procedures to effectively monitor entities contracted to perform grant-funded activities. OJP stated in its response that it will coordinate with NYACA to obtain a copy of written procedures developed and implemented to ensure that entities contracted to perform grant-funded activities are effectively monitored.

In its response, NYACA said what we are recommending was done and that it would not be implementing any further policies and procedures.

In fact, however, the NYACA response did not specifically address this recommendation. As discussed in our audit report, NYACA did not require ACORN employees to submit activity reports or any other reports that would reflect the time spent performing specific activities funded under the award as required by the OJP Financial Guide. As a result, during our audit fieldwork, there was no verifiable documentation to demonstrate contract oversight, leading to our conclusion that NYACA did not monitor its contract with ACORN.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.

6. **Resolved.** OJP concurred with our recommendation to ensure that NYACA implements policies and procedures that ensure timeliness and accuracy of all required reports. OJP stated in its response that it will coordinate with NYACA to obtain a copy of written procedures developed and implemented to ensure that all reports required for OJP awards are accurately and timely submitted.

In its response, NYACA said the 2005 earmark was one of the first federal grants NYACA ever administered and that it did not receive introductory training from the awarding agency. NYACA noted that its Financial Status Reports (FSR) were reflective of the work carried out by this grant.

As we discussed in our audit report, NYACA submitted late FSRs and we could not determine whether the reports were accurate due to a lack of supporting documentation. Moreover, if NYACA believed that it lacked training in proper grant administration, NYACA should have communicated this to the responsible OJP Program Manager before NYACA agreed to comply with the award terms and conditions in accepting the award, including the following conditions listed in the award document:

- The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
- The recipient agrees to submit quarterly financial reports on Standard Form SF 269A. These reports will be submitted within 45 days after the end of the calendar quarter, and a final report is due 120 days following the end of the award period. The reports shall be submitted to the Office of Justice Programs, Grants Management System.
- The recipient shall submit semiannual progress reports. Progress reports shall be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31, for the life of the award. These reports will be submitted online through the Office for Justice Programs Grants Management System.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.

7. **Resolved.** OJP concurred with our recommendation to ensure that NYACA implements policies and procedures that ensure changes to future project timelines receive prior approval from the awarding agency. OJP stated in its response that it will coordinate with NYACA to obtain a copy of written policies and procedures, developed and implemented, to ensure that changes to future project timelines receive prior approval from the awarding agency.

In its response, NYACA said it accomplished the program goals within the timeline of the grant period. However, we were not provided documentation adequately supporting the accomplishment of these goals. Further, NYACA noted that it submitted a vast amount of documentation to support the program work and that documentation was presented to us during our audit. However, as we discussed in our report, NYACA

provided us with limited documentation, including flyers and meeting agendas. But overall, NYACA was unable to demonstrate through verifiable documentation that it could support all of its claims of achievement.

NYACA also responded that the audit report took comments of the organization's former executive director out of context. Yet, NYACA failed to describe which comments were taken out of context and in what manner. NYACA added that an award-winning and nationally recognized model for community engagement was used to execute the grant. We believe all of the comments discussed in our audit report were included with sufficient context to accurately describe the views NYACA management expressed to us.

As we discussed in our audit report, a special condition in the award required that any deviation from the approved timeline provided in the grant application receive OJP's prior approval. NYACA's former staff confirmed that the scope of the project was changed from what was originally approved by OJP. We were also told that when NYACA decided to change the scope of its project, it was not able to adhere to the original project timeline approved by OJP. Moreover, from our audit fieldwork, we determined that NYACA did not receive OJP's advance approval and, therefore, was not in compliance with the award mandated special condition.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.

8. **Resolved.** OJP concurred with our recommendation to ensure that NYACA implements policies and procedures that ensure grant funds are not used to advocate for local funding. OJP stated in its response that it will coordinate with NYACA to obtain a copy of written policies and procedures developed and implemented to ensure that federal grant funds are not used to advocate for local funding.

In its response, NYACA said that NY ACORN organizers were never paid with grant funds to organize members to gather petitions or to testify at public hearings. However, NYACA said that its award proposal clearly mentioned that NYACA and NY ACORN would work to educate institutional stakeholders and community members about the impact of budget cuts.

As discussed in our report, one of the award special conditions prohibited the use of federal funds to support the enactment, repeal, modification or

adoption of any law, regulation, or policy at any level of government without OJP's written approval. NYACA's progress reports stated that grant-funded community organization efforts went toward advocating for a \$100 million increase in after-school funding. They also stated that ACORN members paid with grant funds gathered petitions, testified before City Council, and met with City Council members to increase funding for after-school programs. We believe the activities described in these progress reports conflict with and render disingenuous NYACA's response to recommendation #8 in our report. We discussed this issue with NYACA officials who told us they did not consider their actions to constitute a violation of the award special condition. During our audit fieldwork, we also did not identify any post-award approvals from OJP or any requests from NYACA concerning this grant-funded advocacy. As a result, we concluded that NYACA was not in compliance with this award special condition specific to lobbying.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.

9. **Resolved.** OJP concurred with our recommendation to ensure that NYACA implements policies and procedures that ensure changes in project scope receive prior approval from the awarding agency. OJP stated in its response that it will coordinate with NYACA to obtain a copy of written policies and procedures developed and implemented to ensure that changes in project scope receive prior approval from the awarding agency.

In its response, NYACA said it is common knowledge that submitted proposals and work plans change during the course of the year. NYACA said it was fully transparent with the awarding agency and would have adjusted its programming if the awarding agency disagreed at the time. NYACA concludes that sound procedures were in place to ensure adherence to project scope based on the deliverables reported.

As discussed in our report, NYACA, in accepting the award, agreed to comply with all of the terms and conditions outlined in the grant award documents. A special condition in the award required prior OJP approval for any deviation from the timeline established in the grant application and approved by OJP in its award. During our interview with the ACORN employee who served as NYACA's executive director, we were told that when NYACA decided to change the scope of its project, it was not able to adhere to the original project timeline approved by OJP. In its response, NYACA simply said that work plans change. However, as we concluded in

our report, NYACA was required to obtain OJP's prior approval before making changes to the project scope and timeline.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.

10. **Resolved.** OJP concurred with our recommendation to ensure that OJP remedy the \$138,129 in funds that went towards the re-scoped project without OJP approval, which includes \$124,316 NYACA reprogrammed to an unapproved budget category. OJP stated in its response that it will coordinate with NYACA to remedy the \$138,219 in questioned costs related to unapproved funds that went towards the re-scoped project without OJP approval, and that includes \$124,316 in funds that NYACA reprogrammed to an unapproved budget category.

In its response, NYACA said it adhered to the project scope in the manner proposed and accomplished its objectives. NYACA also said it should not be required to return funds.

As we discussed in our report, NYACA officials told us that the scope of the project was amended because they perceived the new project could have a greater social impact. Moreover, NYACA officials told us that while they did not receive prior approval from OJP, the progress reports it submitted informed OJP of the change in scope and NYACA did not believe further approval was necessary. In our judgment, NYACA was not in compliance with the OJP Financial Guide, which explicitly requires OJP notification and prior approval before making any changes to the approved project scope. With regard to NYACA's returning funds, questioned costs may be remedied by offset, waiver, recovery of funds, or the provision of supporting documentation.

This recommendation can be closed when we receive documentation demonstrating that OJP has remedied the \$138,129 in funds that went toward the re-scoped project without OJP approval.

11. **Resolved.** OJP concurred with our recommendation to ensure that NYACA collect and submit performance measurement information and include the information in its overall plan for evaluating the effectiveness of the project. OJP stated in its response that it will coordinate with NYACA to obtain a copy of written policies and procedures developed and implemented to ensure that NYACA collects and submits performance measurement information and includes the information in its overall plan for evaluating the effectiveness of the project.

In its response, NYACA said it accomplished the stated goals of the award specific to leadership development. NYACA stated that the OIG did not grasp its theory of change and misunderstood the information NYACA officials communicated to us during audit fieldwork. Additionally, NYACA commented that hundreds of students were engaged and leadership of the target population was developed. However, many of the performance measurements for leadership development did not have specific quantitative measurements at the time of the award.

As we discussed in our report, NYACA provided us with limited documentation that included flyers and meeting agendas but, overall, was unable to demonstrate through verifiable documentation that it could support all of its claims of achievement. In our judgment, without collecting data that measures performance, it is difficult to evaluate whether award funds expended by NYACA were used efficiently and effectively to address the problems for which the funding was given. Furthermore, we tested the verifiable outcomes of the programs, not the theories on which the design of the program was based. Because NYACA did not retain adequate documentation, this verification was not possible.

This recommendation can be closed once sufficient action has been taken to adequately address the recommendation.