



# **FOLLOW-UP AUDIT OF THE DEPARTMENT OF JUSTICE COUNTERTERRORISM FUND**

U.S. Department of Justice  
Office of the Inspector General  
Audit Division

Audit Report 03-33  
September 2003

# FOLLOW-UP AUDIT OF THE DEPARTMENT OF JUSTICE COUNTERTERRORISM FUND

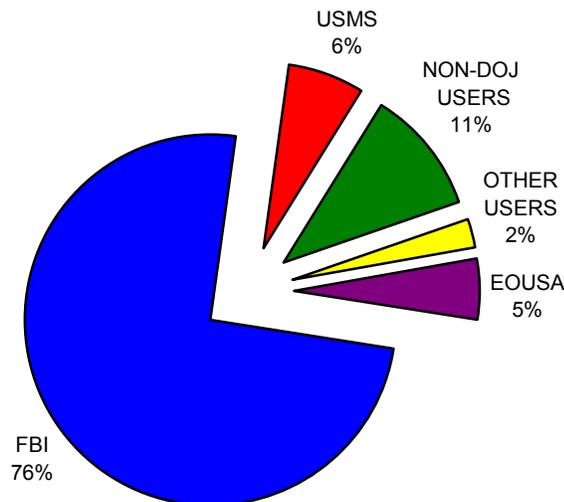
## EXECUTIVE SUMMARY

After the September 11, 2001 terrorist attacks, the Attorney General declared that fighting terrorism was the Department of Justice's (Department's) top and overriding priority. One of the resources available to address terrorist activity is the Department Counterterrorism Fund (the Fund), which was created by Congress in July 1995 in the wake of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma.

### Fund History

The Fund was established to assist Department components with the unanticipated costs of responding to and preventing terrorism. Since its inception in 1995, Congress has appropriated over \$360 million to the Fund, of which about \$290 million has been obligated for reimbursement of certain counterterrorism expenses of agencies such as the Federal Bureau of Investigation (FBI), the Executive Office for United States Attorneys (EOUSA), and the United States Marshals Service (USMS).

### COUNTERTERRORISM FUND USERS<sup>1</sup>



Source: JMD Budget Staff

<sup>1</sup> This chart does not include \$151 million provided to the Office of Justice Programs (OJP) for grants to state and local agencies. These funds were reviewed in a previous audit conducted by the Office of the Inspector General (OIG), entitled Office of Justice Programs State and Local Domestic Preparedness Grant Programs, report number 02-15, issued March 2002.

Legislative and Department guidelines stipulate that only extraordinary expenses are to be reimbursed from the Fund. In other words, the Fund should only be used to pay for expenses that are beyond what the agency's general appropriation could reasonably be expected to fund. At times, however, Congress has earmarked portions of the Fund appropriations for specific initiatives such as a 5-year counterterrorism plan and the creation of an alternate government facility for the continuation of Department operations in the event of an emergency.

According to the initial legislation, the Fund was established to provide reimbursement to Department components only. Since 1996, however, Congress has allowed over \$167 million to be passed through the FBI, the Justice Management Division (JMD), and OJP to support counterterrorism initiatives of non-DOJ agencies, often when these activities are performed in conjunction with Department initiatives.<sup>2</sup> Aside from the fact that the Fund has been used to reimburse agencies outside of the Department, the intent of the Fund has not changed since its inception.

### **Administration of the Fund**

JMD, the administrative arm of the Department, administers the Fund for the Attorney General. The JMD Budget Staff handles the Fund's day-to-day operations, while the JMD Finance Staff executes all financial transactions between Department agencies. Components seeking resources from the Fund submit a request to the JMD Budget Staff detailing the counterterrorism initiative (e.g., the investigation of the U.S. embassy bombings in Africa) and the types of expenditures for which it is requesting reimbursement (e.g., travel and overtime expenses). The Budget Staff reviews the request and makes a recommendation to the Attorney General. Ultimately, each request must be approved by the Department, the Office of Management and Budget, and Congress. Once an initiative has been approved, JMD can enter into reimbursement agreements (RAs) with the requesting agencies; these agencies then bill for actual expenditures. The RA is a binding document, which includes the Fund mission, the approved counterterrorism initiative, the types of expenditures eligible for reimbursement, and the approved amount of funding. The RA requires the receiving component to certify that the reimbursed expenditures are allowable and fully supported. As the Fund administrator, the JMD Budget Staff is ultimately responsible for ensuring that the Fund is used appropriately and that the expenditures are adequately supported.

---

<sup>2</sup> Several different non-DOJ agencies have received reimbursement from the Fund, including the state of Georgia; the city and county of Denver, Colorado; the Department of the Interior; and the Department of the Treasury.

## **Audit History**

In 1998, the OIG conducted an audit of the Fund covering fiscal years (FYs) 1995 through 1997. We found that JMD needed to take a more proactive approach to its administration of the Fund. Specifically, JMD needed to strengthen its controls over the distribution and use of Fund monies, particularly those passed through to non-DOJ agencies. We identified dollar-related deficiencies totaling over \$4 million, or almost 17 percent of the total funds tested, resulting from expenditures that were either improper or not adequately supported at the Drug Enforcement Administration, EOUSA, the FBI, the USMS, and other non-DOJ agencies. Although primary responsibility for ensuring the appropriate use of Fund monies rests with the components incurring the costs, JMD was still accountable for the Fund and these deficiencies pointed to weaknesses in JMD's oversight. The report concluded that increased oversight by JMD would help ensure that Fund resources are used properly and would increase the availability of additional resources to respond rapidly and effectively to unanticipated terrorist incidents.

We initiated this follow-up audit because of the significance of the deficiencies found during the prior audit as well as the considerable amount of recent appropriations to the Fund.<sup>3</sup> In our current audit, we reviewed Fund expenditures for FYs 1998 through 2002 at the Criminal Division, EOUSA, the FBI, the Security and Emergency Planning Staff (SEPS), the USMS, and other non-DOJ agencies.<sup>4</sup> These expenditures were made in support of a wide range of counterterrorism activities, including the investigations and prosecutions related to the federal building bombing in Oklahoma, the U.S. embassy bombings in Africa, and the Freemen antigovernment extremists in Montana; responding to the September 11, 2001, terrorist attacks; and security preparations for the 2002 Winter Olympics in Utah.

## **Results in Brief**

We found that some improvements had been made in JMD's administration of the Fund. Specifically, during the initial audit, we identified several inactive reimbursement agreements (RAs) that needed to be closed so that the unused funds could be made available in the event of an emergency. JMD took appropriate action to close these RAs, and in our current audit, we found that JMD continued to actively monitor the status of RAs. In addition, our testing of expenditures for reasonableness,

---

<sup>3</sup> Between FYs 1998 and 2003, about \$279.5 million was appropriated to the Fund. In contrast, during our initial audit covering FYs 1995 through 1997, about \$80.6 million was appropriated.

<sup>4</sup> Our audit objectives, scope, and methodology are contained in Appendix I.

appropriateness, compliance with Fund legislation, and adequacy of supporting documentation revealed that the overall error rate improved from about 17 percent in the prior audit to 8 percent in our follow-up review.<sup>5</sup>

In response to our prior audit, JMD stated that it would review component billings, including back-up documentation, prior to processing the billings. However, our current audit findings indicate that JMD has not fully implemented an effective review process and, as a result, Fund users were inappropriately reimbursed for some expenditures, as detailed in the following table.

AGENCY	REIMBURSEMENT AMOUNTS <sup>6</sup>		AMOUNT REVIEWED	QUESTIONED COSTS <sup>7</sup>
	FUNDED	BILLED		
CRIMINAL DIVISION	\$1,000,000	\$944,351	\$196,141	\$0
EOUSA	3,845,039	2,763,817	1,043,611	17,491
FBI	82,618,139	75,892,377	32,607,795	1,319,691
SEPS <sup>8</sup>	510,000	510,000	656,251	19,504
USMS	6,026,138	2,640,368	1,503,420	1,284,453
NON-DOJ USERS <sup>9</sup>	3,966,550	2,744,478	2,324,541	430,132
TOTALS	\$97,965,866	\$85,495,391	\$38,331,759	\$3,071,271

Source: JMD Budget Staff and OIG analysis

<sup>5</sup> The error rate was calculated using the total dollar value tested and the dollar value of the exceptions identified.

<sup>6</sup> Some agencies have not billed the Fund for the entire amount made available by the RAs. The billed amounts shown reflect funds received as of September 10, 2002, the end date of our review period.

<sup>7</sup> The Inspector General Act of 1988 contains our reporting requirements for questioned costs and funds to better use. See Appendix II for the definitions of these terms.

<sup>8</sup> SEPS was unable to distinguish the reimbursed transactions from its total expenditures for its counterterrorism initiative. Therefore, we selected a sample of transactions to test based upon the entire universe of transactions expended on the initiative, which totaled \$1,158,134.

<sup>9</sup> Non-DOJ agencies receiving Fund reimbursements during this audit period included: 1) the Georgia Department of Corrections; 2) the Denver, Colorado Police Department; 3) the U.S. Department of Agriculture (USDA) Forest Service; and 4) the city of Ogden, Utah.

In total, we tested more than \$38.3 million in expenditures, including about \$36 million expended directly by Department components and over \$2.3 million passed through to non-DOJ users.<sup>10</sup> Our testing revealed, in the aggregate, over \$3 million in questioned costs from Fund monies expended by Department components and non-DOJ users.

## **Department Component Expenditures**

At the Department components, we identified about \$2.6 million in dollar-related deficiencies resulting from expenditures that were either improper or not adequately supported. Specifically:

- The USMS did not adequately manage its reimbursements from the Fund. The USMS improperly used or could not support almost \$1.3 million of the \$1.5 million we reviewed. This represented an error rate of approximately 85 percent. These questioned costs included approximately \$560,000 for which the agency could not provide supporting documentation. The remaining \$720,000 was comprised of unallowable costs, including expenses that were not related to the approved counterterrorism initiative or costs that were denied. For example, the USMS billed the Fund for overtime, equipment, and supplies that JMD had explicitly denied for reimbursement when the RA was signed.
- Our testing at the FBI resulted in over \$1.3 million in questioned costs, or 4 percent of the \$32.6 million reviewed. These exceptions included almost \$530,000 in unsupported transactions. In addition, we identified about \$791,000 in expenditures that were not approved, were not clearly connected to the approved initiative, or were erroneously billed. The FBI has shown progress since the prior audit when its error rate was 12 percent.
- We found about \$19,500 in deficiencies, or 3 percent of the dollars tested, related to expenses incurred by SEPS. In FY 1999, Congress earmarked \$1 million in Fund monies to be used to create an alternate location from which Department officials could conduct operations in the event of an emergency. Our review of related transactions disclosed \$17,339 in unsupported expenses and an accounting error of \$2,165.

---

<sup>10</sup> We also reviewed about \$8 million in FBI overtime costs related to the attacks on the World Trade Center and the Pentagon. However, these costs were calculated as an estimate based on historical data for the agency. These expenses are not included in our total amount tested due to differences in our methodology.

- At EOUSA, we identified over \$17,000 in questioned costs, including expenses prior to the effective date of the RA and inappropriate authorization of travel vouchers. This represented an error rate of less than 2 percent. Compared to its error rate of 15 percent in our prior audit, EOUSA has made significant improvements in the management of its expenditures.

### Non-DOJ Users

Funds disseminated to non-DOJ agencies continued to be at risk due to the lack of federal oversight, as evidenced by the \$430,000 in funds that were either improperly used or unsupported. These findings amounted to 19 percent of the pass-through expenditures reviewed; this is comparable to the 20 percent error rate we identified in our prior audit and indicates that very little improvement has been achieved. Details of the end-users, amounts reimbursed, and our findings are shown in the following table.

END-USER	PASS-THROUGH AGENCY	REIMBURSEMENT AMOUNTS		AMOUNT REVIEWED	QUESTIONED COSTS
		FUNDED	BILLED		
City of Ogden, Utah <sup>11</sup>	JMD	\$3,000,000	\$1,993,863	\$2,082,331	\$187,922
Denver Police Department	FBI	108,290	108,290	108,290	108,290
Georgia Department of Corrections	FBI	652,560	525,772	17,367	17,367
USDA Forest Service	FBI	205,700	116,553	116,553	116,553
TOTALS		\$3,966,550	\$2,744,478	\$2,324,541	\$430,132

Source: FBI Budget Execution Unit, JMD Budget and Finance Staffs, and OIG analysis

In general, the funds passed through to non-DOJ users were not adequately monitored by the Department components acting as pass-through agencies. We found that:

- JMD allowed payments for expenses expressly prohibited in the funding agreement with the city of Ogden, Utah. Although the agreement clearly stated that funds were to be provided for only direct costs related to communications enhancements in preparation for the 2002 Winter Olympic Games, indirect costs were also reimbursed.

<sup>11</sup> We reviewed approximately \$90,000 more than the amount reimbursed because the city of Ogden reduced one of its billings to account for an expenditure that it thought had been billed to the Fund twice. However, based upon our testing, no expenditures were charged to the Fund more than once.

- In each of its arrangements, the FBI failed to obtain or maintain documentation to support the overall amounts billed by the end-users. Therefore, we could not perform testing on many of the transactions because neither the end-user nor the pass-through agency was able to provide adequate records.
- The Georgia Department of Corrections, which assisted the FBI in its pursuit of a terrorism suspect, received over \$17,000 in reimbursement for equipment, telephone charges, and other costs even though the agreement stipulated that only travel and overtime were to be reimbursed.

## **JMD Oversight**

Although our current audit has revealed that the rate of unallowable and unsupported costs for Department components and non-DOJ users has decreased, the dollar value of these exceptions, over \$3 million, continues to be significant. Many of the exceptions we identified could have been avoided if JMD had strengthened its controls over the administration of the Fund, particularly during its review of billings. Our review revealed that components were billing and receiving funds for expenditures that: 1) were not approved costs of the Fund, 2) were explicitly denied, or 3) lacked supporting documentation for costs incurred. Further, we found that significant weaknesses persisted or worsened at the USMS and that funds provided to non-DOJ users continued to be at risk of misuse.

Since JMD is ultimately responsible for the integrity of the Fund, it must implement and utilize controls that will preserve that integrity. Due to the large scale of recent terrorist attacks and the immediate and costly response that follows, it is critical that the Fund be adequately monitored to ensure that sufficient monies are available to respond to unexpected terrorist incidents. If controls are enhanced, additional resources should be available when necessary.

Based upon our review, we offer 13 recommendations to improve JMD's administration of the Fund. Specifically, we recommend that JMD work with the individual Fund recipients to remedy the questioned costs we identified and improve controls where necessary. We also recommend that JMD increase its oversight of the Department components, particularly the USMS, including periodically monitoring actual expenditures. For the instances in which funds are to be passed through a Department component to an external agency, we recommend that JMD establish a framework for this process that provides guidance for the pass-through agencies.

**FOLLOW-UP AUDIT OF THE DEPARTMENT OF JUSTICE  
COUNTERTERRORISM FUND**

**TABLE OF CONTENTS**

	<u>Page</u>
INTRODUCTION .....	1
Legislative History .....	1
Fund Guidelines .....	3
Administration of the Fund .....	4
Prior Audit Results .....	6
Follow-up Audit .....	6
FINDINGS AND RECOMMENDATIONS .....	10
1. Reimbursements to Department Components .....	10
Fund Expenditures .....	11
Overall Assessment of Department Components .....	23
Recommendations .....	24
2. Reimbursements to Non-DOJ Components .....	26
Non-DOJ Component Reimbursement Process .....	26
Prior Audit Results .....	27
Current Non-DOJ Users & Initiatives .....	27
Funding Agreements .....	29
Conclusion .....	33
Recommendations .....	34
3. JMD Oversight of the Fund .....	35
Prior Report .....	35
Improvements .....	36
Continuing Weaknesses .....	37
Conclusion .....	40
Recommendations .....	41
STATEMENT ON MANAGEMENT CONTROLS .....	43

APPENDIX I - AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY .....	44
APPENDIX II - SCHEDULE OF DOLLAR-RELATED FINDINGS .....	50
APPENDIX III - SAMPLE OF REIMBURSEMENT AGREEMENT .....	51
APPENDIX IV - JUSTICE MANAGEMENT DIVISION'S RESPONSE TO THE DRAFT REPORT .....	52
APPENDIX V - OFFICE OF THE INSPECTOR GENERAL, AUDIT DIVISION ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT .....	57

## INTRODUCTION

Following the events of September 11, 2001, the U.S. Government intensified its efforts to fight terrorism using many available tools, including diplomacy, intelligence gathering, military operations, and law enforcement. The Department of Justice (Department) plays a critical role in the counterterrorism mission. Specifically, the Department's counterterrorism mission is to: 1) prevent terrorism before it occurs; and 2) mount an immediate and overwhelming investigative response, should an act of terrorism occur. In order to accomplish this mission, the Attorney General announced that the Department would devote resources to disrupt, weaken, and eliminate terrorist networks; to prevent or thwart terrorist operations; and to bring to justice the perpetrators of terrorist attacks. The Department's Counterterrorism Fund (the Fund) has been one of the resources made available and utilized in pursuance of this counterterrorism mission.

### Legislative History

Congress established the Fund in July 1995 in response to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, and placed the Fund in the custody of the Attorney General. The purpose of the Fund is stated in the 1995 Emergency Supplemental Act:<sup>12</sup>

*[The] Counterterrorism Fund is hereby established . . . to reimburse any Department of Justice organization for the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of the bombing of the . . . federal building in Oklahoma City or any domestic or international terrorism event . . . funds . . . may also be used to reimburse the appropriation account of any Department of Justice agency engaged in, or providing support to, countering, investigating or prosecuting domestic or international terrorism, including payment of rewards . . . and to conduct a terrorism threat assessment of Federal agencies and their facilities. . . .*

Congress initially provided \$34.22 million for the Fund and has continued to appropriate money each year to the Fund. The following table

---

<sup>12</sup> Public Law 104-019, Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-Terrorism Initiatives, for Assistance in the Recovery from the Tragedy that occurred at Oklahoma City, and Rescissions Act, 1995.

provides the appropriations made to the Fund for fiscal years (FYs) 1995 through 2003.

**COUNTERTERRORISM FUND APPROPRIATIONS**

<b>YEAR</b>	<b>LEGISLATIVE REFERENCE</b>	<b>FUNDS PROVIDED<sup>13</sup></b>
1995	Public Law 104-019	\$ 34,220,000
1996	Public Law 104-134	16,898,000
1997	Public Law 104-208	29,450,000
1998	Public Law 105-119	52,700,000
1999	Public Law 105-277	145,000,000
2000	Public Law 106-113	10,000,000
2001	Public Law 106-553	5,000,000
2001	Public Law 107-038	40,800,000
2002	Public Law 107-077	4,989,000
2003	Public Law 108-007	993,000
2003	Public Law 108-011	20,000,000
	<b>TOTAL</b>	<b>\$360,050,000</b>

According to the initial legislation, the Fund was established to provide reimbursement to Department components only. Since 1996, however, Congress has allowed over \$167 million to be passed through the Federal Bureau of Investigation (FBI), the Justice Management Division (JMD), and the Office of Justice Programs (OJP) to other federal, state, and local users outside the Department.

<sup>13</sup> Generally, the funds were provided under no-year appropriations; therefore, funds appropriated in a given fiscal year are not restricted to spending in that same fiscal year. However, the \$20 million provided under Public Law 108-011 is available only through December 31, 2003.

## Fund Guidelines

The congressional committee reports related to Public Law 104-019 established the following legislative guidelines on the type of expenditures reimbursable from the Fund:

*The conference agreement allows for the payment of expenses of an extraordinary nature of Department of Justice agencies engaged in, or providing support to, countering, investigating, or prosecuting domestic or international terrorism. [Emphasis added.]*

"Extraordinary" is interpreted by JMD to refer to the nature of the expenses rather than to the act of terrorism that caused the expenses. Prior to April 1, 2000, JMD had not issued formal policies or comprehensive guidelines concerning the proper uses of the Fund. Instead, JMD used the guidelines incorporated in the language of the initiating legislation documents that stated expenditures should be extraordinary in nature and related to the following purposes:

- reestablishing the operational capability of a facility damaged by a terrorism event;
- providing support to countering, investigating, or prosecuting terrorism, including the payment of rewards; and
- conducting a terrorism threat assessment of federal agencies and their facilities.

JMD provided additional guidance to the components regarding the use of the Fund in a memorandum dated April 1, 2000. The memorandum asserted that the Attorney General would use Fund monies only for extraordinary counterterrorism-related costs and included regular salaries for personnel who would normally be on duty as an example of costs that would not be appropriate. In addition, the memorandum reiterated that the Senate Appropriations Committee expected the "extraordinary costs to be incurred in response to an unexpected terrorist threat or act and not the cost incurred with day-to-day counterterrorism operations." In other words, the Fund should only be used to pay for expenses that are beyond what the agency's general appropriation could reasonably be expected to fund. Appropriate expenditures that have been reimbursed from the Fund include overtime, travel, and equipment costs pertaining to national events (e.g., the Olympics and political conventions) and the investigations and prosecutions related to large-scale acts of terrorism.

## **Administration of the Fund**

As the administrative arm of the Department, JMD manages the Fund for the Attorney General. As the Fund administrator, JMD's primary responsibility is to ensure that the Fund is used in a manner consistent with its intended purpose and not merely to replace the components' general appropriations. The JMD Budget Staff handles the Fund's day-to-day operations, including requesting appropriations from Congress, reviewing component requests for funding, submitting reimbursement recommendations to the Attorney General, and executing agreements with agencies for reimbursement from the Fund.

Federal regulations require the head of each agency to establish and maintain systems of accounting and internal controls for the safeguarding of assets and the assurance of reliable accounting records.<sup>14</sup> The head of JMD is the Fund administrator and, therefore, is ultimately accountable for ensuring that Fund expenditures are reasonable, appropriate, adequately supported, and compliant with legislation.

Appropriation Requests — JMD compiles the Department's annual request for appropriations to the Fund. When compiling the request, JMD takes into account the needs of the components and the current available balance.<sup>15</sup> The request is then submitted to Congress, which has ultimate control over the amount appropriated to the Fund.

Review Process — After appropriations have been made, the JMD Budget Staff can disseminate monies from the Fund to Department components. Prior to April 1, 2000, the Budget Staff informed the components on an annual basis that money was available for the reimbursement of certain counterterrorism expenses, and components would then submit requests for evaluation. However, the Budget Staff no longer annually solicits component requests for resources from the Fund. Instead, the balance remains available at all times. If a terrorist incident occurs, the Budget Staff immediately issues special instructions to address any extraordinary costs requiring the use of the Fund, and the components submit requests accordingly.

When component requests are submitted to JMD, budget analysts review them to determine if the expenditures would be an appropriate use of

---

<sup>14</sup> 31 USC 3512, Executive Agency Accounting and Other Financial Management Reports and Plans.

<sup>15</sup> As of June 30, 2003, the available balance of the Fund was approximately \$70.3 million.

the Fund. The JMD Budget Staff reviews Department components' requests in detail for reasonableness, appropriateness, and applicability. These assessments also include a review of each agency's general appropriation funds to ensure that monies requested are for extraordinary expenses and not for expenditures already planned. Further, budget analysts work with agency representatives to resolve any concerns and obtain necessary additional information to complete each assessment. For FYs 1998 through 2002, JMD approved components' requests of about \$100 million while denying requests totaling almost \$25 million.

Approval Process — After completing its assessments of the components' requests, JMD issues a memorandum to the Attorney General detailing the Budget Staff's assessments and recommendations for the use of Fund monies in support of various counterterrorism initiatives. If approved by the Attorney General, the recommendation is forwarded to the Office of Management and Budget (OMB) for approval. If OMB approves the planned reimbursements, the recommendation is sent to the Appropriations Committees in both houses of Congress, which also must agree before any recipient can receive Fund monies.

Congress has earmarked some Fund monies for specific initiatives.<sup>16</sup> During these instances, the usual approval process is bypassed. The recipient does not submit a funding request to JMD, and the Budget Staff does not conduct an assessment of the request.

Execution of Reimbursement Agreements — After Congress approves funding for certain initiatives, JMD enters into reimbursement agreements (RAs) with the requesting agencies.<sup>17</sup> Generally, all funds are allotted to the components through an RA, which is a binding document between JMD and the recipient. The RA includes the Fund mission and the purpose of the agreement, including the counterterrorism initiative and the amount of funding to support that initiative.

In order to receive reimbursement from the Fund, components submit quarterly billings of their actual expenditures to the JMD Budget Staff. The Budget Staff is responsible for reviewing the billings and processing them for payment by the JMD Finance Staff.

---

<sup>16</sup> "Earmarking" Fund monies signifies that Congress has designated a certain amount of money from the Fund to a particular recipient for a specific initiative. For example, Congress earmarked \$1 million during FY 1998 to the Department for its development and implementation of a 5-year inter-departmental counterterrorism and technology crime plan.

<sup>17</sup> See Appendix III for an example of an RA.

## **Prior Audit Results**

In 1998, the OIG conducted an audit of the Fund that included a detailed review of funding provided to Department components during FYs 1995 through 1997.<sup>18</sup> We reviewed funding used to support activities related to the Oklahoma City bombing; the 1996 Summer Olympics in Atlanta, Georgia; the 1996 political conventions; and combating and investigating Middle Eastern terrorism activities in the United States.<sup>19</sup> Our audit found that although JMD maintained strong controls during the RA review and approval process, JMD needed to take a more proactive approach to its distribution of Fund monies, especially those passed through to non-DOJ users.<sup>20</sup> We also found that non-DOJ users were not always required to submit supporting documentation for their expenditures prior to reimbursement, nor were they always made aware of the appropriate use of Fund monies.

In addition, JMD did not have a system to monitor Fund recipients to ensure that actual expenditures were allowable, supported, and used in accordance with authorized purposes. As a result, components were reimbursed for expenditures that were not allowed by the RA, were not related to counterterrorism, were not extraordinary in nature, or were not adequately supported. Further, some funds that were obligated to components were unused for extended periods of time. As a result of the weak controls, we identified over \$4 million in dollar-related deficiencies out of the approximate \$26 million reviewed, and more than \$3 million was returned to the Fund.

## **Follow-up Audit**

We initiated this follow-up audit because of the significant deficiencies found during the prior audit, the considerable amount of funds appropriated subsequent to that audit, and the increased emphasis the Department has placed on countering terrorism. Our audit objectives were to determine if: 1) Fund expenditures were authorized, supported, and used in accordance

---

<sup>18</sup> Office of the Inspector General (OIG) report number 99-28, entitled The Department of Justice Counterterrorism Fund, issued September 1999.

<sup>19</sup> Six Department components received funding during FYs 1995 through 1997 and were included in our prior audit, namely the Drug Enforcement Administration (DEA), the Executive Office for United States Attorneys (EOUSA), the FBI, the former Immigration and Naturalization Service (INS), JMD, and the United States Marshals Service (USMS).

<sup>20</sup> Examples of non-DOJ users included the state of Georgia; the city and county of Denver, Colorado; the Department of the Interior; and the Department of the Treasury.

with the intent of the law; and 2) JMD has taken appropriate efforts to close RAs in an expeditious manner.

We reviewed funding provided to components during FYs 1998 through 2002. During this period, the Fund has been used for a wide range of activities, including the investigation and prosecution of bombing incidents (e.g., the Oklahoma City bombing and the U.S. embassy bombings in Africa), preparations to combat terrorism (e.g., the development and implementation of a 5-year inter-departmental counterterrorism and technology crime plan, and security enhancements for the 2002 Winter Olympics in Utah), and responding to terrorist attacks (e.g., the terrorist attacks of September 11, 2001). From FY 1998 through 2002, a total of over \$258 million was made available to the components, as shown in the following table.

**SUMMARY OF REIMBURSEMENT AGREEMENTS  
FISCAL YEARS 1998 THROUGH 2002**

COMPONENT	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	TOTALS
BOP <sup>21</sup>	\$0	\$0	\$0	\$9,200,000	\$0	\$9,200,000
CRIMINAL DIVISION	1,000,000	0	0	0	0	1,000,000
EOUSA	2,950,883	0	894,156	0	0	3,845,039
FBI (DIRECT)	30,632,566	15,085,573	0	36,900,000	0	82,618,139
FBI (PASS-THROUGH)	966,550	0	0	0	0	966,550
OGDEN, UTAH <sup>22</sup>	3,000,000	0	0	0	0	3,000,000
OJP (PASS-THROUGH) <sup>23</sup>	16,000,000	135,000,000	0	0	0	151,000,000
SEPS (JMD) <sup>24</sup>	0	0	510,000	0	0	510,000
USMS <sup>25</sup>	2,126,138	0	38,560	3,900,000	0	6,064,698
<b>TOTALS</b>	<b>\$56,676,137</b>	<b>\$150,085,573</b>	<b>\$1,442,716</b>	<b>\$50,000,000</b>	<b>\$0</b>	<b>\$258,204,426<sup>26</sup></b>

Source: JMD Budget Staff

<sup>21</sup> In FY 2001, the Federal Bureau of Prisons (BOP) received an RA in the amount of \$9.2 million for overtime costs and equipment and supply purchases in response to the terrorist attacks of September 11, 2001. The BOP did not expend any of this funding and JMD deobligated the money. Thus, this RA was excluded from our detailed review.

<sup>22</sup> In 1998, JMD entered into a grant agreement with the city of Ogden, Utah, instead of a reimbursement agreement. This was the only occurrence in which an RA was not used.

<sup>23</sup> The funds provided under this RA were reviewed as part of a previous audit conducted by the OIG, entitled Office of Justice Programs State and Local Domestic Preparedness Grant Programs, report number 02-15, issued March 2002. Thus, we excluded this funding from our follow-up audit.

<sup>24</sup> The Security and Emergency Planning Staff (SEPS) is an office within JMD.

<sup>25</sup> In FY 2000, the USMS received an RA in the amount of \$38,560. The USMS did not expend any of this funding and JMD deobligated the money. Thus, this RA was excluded from our detailed review.

<sup>26</sup> This amount does not agree with the \$100 million recommended by JMD that is reported on page 5. The difference is mainly due to Congressional earmarking that increased the funding provided to the components. Additionally, OMB and Congress made revisions to JMD's recommendations that decreased the funding for some RAs.

To review JMD's administration of the Fund and the Fund recipients' management of the reimbursed monies, we requested detailed transaction listings for Fund expenditures related to each of the RAs. Using the listings received, we selected a judgmental sample of transactions for testing to ensure that the items were reasonable, appropriate, adequately supported, and compliant with Fund legislation; details of our sampling methodology are presented in Appendix I.

From the sample of transactions selected, we conducted a thorough review of Fund activities and expenditures incurred by Department components. The results of this detailed review are presented in Finding 1. We also conducted an examination of Fund monies that were passed through Department components and used by non-DOJ agencies. The results of this review are contained in Finding 2. Finally, our analysis of JMD's monitoring and oversight of Fund activities is presented in Finding 3.

## FINDINGS AND RECOMMENDATIONS

### 1. Reimbursements to Department Components

Our review of over \$36 million in component expenditures disclosed \$2.6 million in questioned costs, which resulted from expenditures that were either improper or were not adequately supported. These deficiencies represented a combined component error rate of 7 percent. Although this reflects that improvements have been made since our last audit, during which we identified a 16 percent error rate for Department component expenditures, our findings show that Department components need to improve further their management of Fund monies.

For FYs 1998 through 2002, JMD entered into RAs totaling about \$94 million with five Department components – the Criminal Division, EOUSA, FBI, SEPS, and USMS. As of June 30, 2003, the components had billed the Fund for about \$91.4 million against these RAs. These components spent the funds in support of various initiatives, primarily in support of the Oklahoma City Bombing Trial of Terry Nichols; the investigation of the U.S. embassy bombings in Africa; the 1998 trial of the Freemen antigovernment extremists in Montana; the 1998 manhunt of fugitive Eric Rudolph;<sup>27</sup> and the response to the September 11, 2001, terrorist attacks. In addition, funding was expended on a 5-year inter-departmental counterterrorism and technology crime plan, arrangements to ensure the continuation of Department operations in the event of an emergency, counterterrorism and technology crime research and development, and bomb technician training.

Fund recipients are responsible for ensuring that expenditures are allowable, supported, and used in accordance with authorized purposes. Specifically, the RAs state:

*The Chief Financial Officer [CFO] for your organization must certify that all amounts billed under this agreement have been expended only for the specified purposes & will retain all supporting documents associated with billings under this agreement.*

This was reiterated in a memorandum JMD sent to Department components on April 1, 2000. JMD officials informed the components that the

---

<sup>27</sup> Rudolph, who was on the FBI's Ten Most Wanted Fugitives list, was charged in relation to various bombing incidents in the Southeastern section of the United States. He was arrested in May 2003 in Murphy, North Carolina.

CFO of each agency must ensure that the billings submitted for reimbursement include only approved expenses pertaining to the counterterrorism initiative stated in the RA and in congressional notifications. Additionally, the memorandum stated that each CFO should maintain appropriate supporting documentation for the agency's Fund expenditures.

### **Fund Expenditures**

We tested a sample of the monies distributed from the Fund to the five Department components noted previously. In general, the types of expenditures made by the components for FYs 1998 through 2002 were overtime, travel, equipment, supplies, utilities, and rent payments. We examined the expenditures for reasonableness, appropriateness, compliance with Fund legislation, and adequacy of supporting documentation. We reviewed over \$36 million, or 44 percent of the amount billed.

We found that the components did not have adequate documentation for transactions totaling \$1,110,606. Further, we identified \$1,530,533 in unallowable expenditures. Thus, we questioned over \$2.6 million, or 7 percent of the expenditures reviewed, as shown in the following table.

## RESULTS OF EXPENDITURE TESTING<sup>28</sup>

A	REIMBURSEMENT AMOUNTS <sup>29</sup>		AMOUNT REVIEWED	TOTAL AMOUNT QUESTIONED	QUESTIONED COSTS <sup>30</sup>	
	FUNDED	BILLED			UNALLOWED	UNSUPPORTED
CRIMINAL DIVISION	\$1,000,000	\$944,351	\$196,141	\$0	\$0	\$0
EO	3,845,039	2,763,817	1,043,611	17,491	14,475	3,016
FBI	82,618,139	75,892,377	32,607,795	1,319,691	791,300	528,391
SE	510,000	510,000	656,251	19,504	2,165	17,339
USMS	6,026,138	2,640,368	1,503,420	1,284,453	722,593	561,860
T	\$93,999,316	\$82,750,913	\$36,007,218	\$2,641,139	\$1,530,533	\$1,110,606

Source: JMD Budget Staff and OIG analysis

**Federal Bureau of Investigation** — During the prior audit, the FBI was the largest recipient of Fund monies. The FBI once again received the majority of the funds between FYs 1998 and 2002. During this period, the FBI entered into nine RAs amounting to \$82,618,139.<sup>32</sup> During our review timeframe, the FBI was reimbursed \$75,892,377 for expenditures related to counterterrorism initiatives.

The following table identifies each RA with the year it was issued and the approved uses for the Fund monies. In addition, the table provides the amount the FBI billed against each RA, the dollar amount that we tested, the questioned costs we identified, and the breakdown of questioned costs as unallowed or unsupported. Of \$32,607,795 in transactions selected for detailed testing at the FBI, which represented 42 percent<sup>33</sup> of the universe, we questioned a total of \$1,319,691 (4 percent) as unsupported or unallowable.

<sup>28</sup> These figures do not include our results for non-DOJ users, which are presented in Finding 2.

<sup>29</sup> Some agencies have not billed the Fund for the entire amount made available by the RAs. The amounts billed reflect transactions as of September 10, 2002, the end date of our review period.

<sup>30</sup> Unallowed costs are expenditures that do not comply with the Fund legislation, the approved initiatives, or costs stipulated in the RA; or for which the allowability could not be determined. Unsupported costs are transactions that were not adequately supported at the time of the audit.

<sup>31</sup> SEPS was unable to distinguish the reimbursed transactions from its total expenditures related to its RA. Therefore, we tested a sample of transactions based upon the entire universe of transactions expended on the initiative, which totaled \$1,158,134.

<sup>32</sup> In addition, the FBI was provided with \$966,550 to pass on to other federal, state, and local agencies. The pass-through monies are discussed in Finding 2.

<sup>33</sup> This percentage was calculated by using the entire universe of transactions at the FBI, as discussed in Appendix I and detailed in the table on page 46.

### FBI EXPENDITURE TESTING

FY	REIMBURSEMENT AGREEMENT	APPROVED CATEGORIES & USES OF FUNDING <sup>34</sup>	AMOUNT BILLED	AMOUNT TESTED	TOTAL AMOUNT QUESTIONED	QUESTIONED COSTS	
						UNALLOWED	UNSUPPORTED
1998	COUNTERTERRORISM & TECHNOLOGY CRIME RESEARCH & DEVELOPMENT	Travel, other services, supplies, and equipment for the research and development of explosives detection technology	\$9,358,493	\$2,295,128	\$16,626	\$10,823	\$5,803
1998	BOMB TECHNICIAN TRAINING	Travel, supplies, other services, and equipment to improve the capabilities of state and local agencies responding to bombing incidents	4,462,987	1,669,254	647,611	479,745	167,866
1998	OKLAHOMA CITY BOMBING INVESTIGATION	Overtime; travel; rent, communications, & utilities; other services; supplies; and equipment pertaining to the Oklahoma City bombing investigation	2,507,151	1,349,667	19,924	17,226	2,698
1998	SOUTHEAST BOMBINGS TASK FORCE	Overtime; travel; rent, communications, & utilities; other services; supplies; and equipment related to the manhunt of fugitive Eric Rudolph	4,344,833	880,235	259,321	232,146	27,175
1998	U.S. EMBASSY BOMBINGS IN AFRICA	Overtime; travel & transportation; rent, communications, & utilities; other services; supplies; and equipment necessary for investigating the bombings in Kenya and Tanzania	7,709,007	1,146,237	339,433	34,470	304,963
1999	NATIONAL INFRASTRUCTURE PROTECTION CENTER (NIPC)	Travel; rent, communications, & utilities; other services; supplies; and equipment for improvements to the NIPC	9,108,236	4,649,574	25,351	9,680	15,671
1999	CONTINUITY OF GOVERNMENT FACILITY	Other services, supplies, and equipment for establishing an alternate government facility for the continuation of Department operations	1,638,579	1,043,055	31	31	0
1999	U.S. EMBASSY BOMBINGS IN AFRICA	Overtime and travel necessary for investigating the bombings in Kenya and Tanzania	3,432,361	488,506	7,426	7,179	247
2001	WORLD TRADE CENTER/PENTAGON BOMBINGS	Overtime; travel; rent, communications, & utilities; other services; and equipment in response to the September 11 terrorist attacks	33,330,730	19,086,139	3,968	0	3,968
	TOTALS		\$75,892,377	\$32,607,795	\$1,319,691	\$791,300	\$528,391

Source: JMD Budget Staff, FBI Budget Execution Unit, and OIG analysis

<sup>34</sup> The category "other services" consists of various types of expenses, including construction, consulting, and interpreter services.

In total, we identified \$528,391 of unsupported costs in the categories of travel; rent, communications, and utilities; other services; supplies; and equipment. FBI officials stated that there was a fire at the National Records Center that destroyed boxes of records, which may be the reason for some of the missing documents. However, they were unable to definitively state that FBI boxes were destroyed and did not provide us with any documentation from the National Records Center as to when the fire happened, how many boxes were destroyed, and which boxes were the FBI's. Beyond those records that may have been destroyed by the fire, we noted instances of additional unsupported costs. For example:

- \$22,500 was inadvertently billed for equipment because of an input error on the documentation submitted to JMD for reimbursement. The cost of the equipment was recorded as \$25,000 instead of the actual expense of \$2,500. We considered the difference of \$22,500 to be unsupported.
- \$62,509 was billed for other services; however, the FBI could only support \$54,016. The difference of \$8,493 was questioned as unsupported.

In addition to these unsupported costs, we identified unallowable costs totaling \$791,300 attributed to the FBI. Specifically:

- \$488,366 was unallowable because, although the FBI provided the requisite documentation to support the disbursement of funds (e.g., accounting reports, purchase orders, invoices, vendor receipts), it was unable to provide us documentation that clearly linked the expenditure to the specific counterterrorism initiative stipulated in the RA.
- \$48,252 in billing errors was identified, including service charges for late payments on purchases (\$18,410), expenses from the prior fiscal year (\$17,226), a fax machine that was charged to the Fund twice (\$10,480), and improper travel charges (\$2,136). We spoke with personnel from the JMD Budget Staff regarding the late payment charges, and they concurred that late fees were not an allowable Fund expense. Regarding the prior fiscal year charges, the FBI's request for monies from the Fund explicitly stated that the expenses would be incurred during FY 1998. The travel expenses were unallowable because they were not related to the approved counterterrorism initiative.

- \$254,682 was unallowable because the cost categories charged to the RA had not been approved by JMD. This included \$123,212 for the reimbursement of services provided by state agencies, along with medical services in the amount of \$107,480 charged to the Southeast Bombings Task Force RA. These types of expenses were not included in the FBI's description of costs for which they sought reimbursement from the Fund. Therefore, these services were not approved, as required, by JMD, the Attorney General, OMB, and Congress. In addition, the FBI received \$23,990 in cash advances pertaining to one of the RAs for the African Embassy bombings. However, the FBI could not provide sufficient detail of how the funds were used. Thus, we considered these costs to be unallowable.

Our review of the FBI's Fund expenditures revealed an error rate of 12 percent in our prior audit and 4 percent in our current audit. Comparing the two error rates, the FBI has shown improvement in the management of its Fund expenditures. However, the FBI continues to have a significant amount of dollar-related findings, as evidenced by the \$1,319,691 of questioned costs disclosed during our current review.

We discussed our findings with the FBI prior to the issuance of this report. The FBI agreed with our figures and continued to search for the missing documentation for the expenditures that we determined to be unsupported. FBI officials stated that, for some of the RAs, they had expenditures in excess of the amounts billed to the Fund and these could offset some of the questioned costs. In addition, the officials declared that they were provided with little guidance on the allowability of expenditures. For example, the officials acknowledged that they charged the interest and penalties from late payments to the Fund, and explained that: 1) the fees pertained to equipment purchases that were billable to the Fund, and 2) the guidance provided by JMD did not specifically indicate that these costs were not reimbursable.

United States Marshals Service — In general, the USMS did not adequately account for the reimbursements it received from the Fund. At the time we issued our prior report in September 1999, the USMS did not have an effective system to capture expenditures that would be reimbursed by the Fund. We encountered this situation again during our follow-up audit.

After four months of requesting from the USMS summary ledgers and detailed transaction listings for the 1998 RAs, we received information that was pieced together and incomplete. Several entries on the summary

ledgers did not have detailed listings from which we could review individual transactions; we therefore considered these to be unsupported. From the remaining items on the summary ledgers, we selected a sample of transactions to test and identified such a high error rate associated with an RA related to the Oklahoma City bombing trial that we tested virtually all of the expenditures.

In contrast, we received the data for the 2001 RA for the World Trade Center and Pentagon bombings immediately upon request and our testing revealed no discrepancies. The expenditures for this RA were made up entirely of overtime transactions; however, the prior RAs included expenses in addition to overtime, such as travel, guard services, equipment, rent, and other services. The limited nature of the 2001 RA precludes us from concluding that the USMS has resolved the problems of the past, because only overtime expenditures were incurred.

The following table identifies each USMS RA with the date it was issued, the approved counterterrorism initiative, and the types of expenses eligible for reimbursement. In addition, it provides the amount the USMS billed against each RA, the dollar amount that we tested, the questioned costs we identified, and the breakdown of questioned costs as unallowed or unsupported.

**USMS EXPENDITURE TESTING**

FY	REIMBURSEMENT AGREEMENT	APPROVED CATEGORIES & USES OF FUNDING	AMOUNT BILLED	AMOUNT TESTED	TOTAL AMOUNT QUESTIONED	QUESTIONED COSTS	
						UNALLOWED	UNSUPPORTED
1998	OKLAHOMA CITY BOMBING TRIAL	Travel; guards; communications; overtime for judge protection detail, witness security inspectors, and the bomb dog squad; and equipment for costs associated with security at the trial	\$1,097,394	\$1,089,298	\$964,969	\$438,768	\$526,201
1998	FREEMEN TRIAL	Travel, guards, services, rents & communications, overtime for judge protection detail and the bomb dog squad, and equipment for costs pertaining to the physical security of the courthouse during the trial	526,219	390,902	319,484	283,825	35,659
2001	WORLD TRADE CENTER/PENTAGON BOMBINGS	Overtime in response to the September 11 terrorist attacks	1,016,755	23,220	0	0	0
	TOTALS		\$2,640,368	\$1,503,420	\$1,284,453	\$722,593	\$561,860

Source: JMD Budget Staff, USMS Management and Budget Division, and OIG analysis

- Oklahoma City Bombing RA: The USMS billed the Fund for \$1,097,394 for the reimbursement of some of its costs related to the Oklahoma City bombing trial. In the process of testing our initial sample of expenditures, we found that all or part of each sample transaction contained errors. As a result, we selected a much larger sample and tested nearly every transaction. In total, we reviewed \$1,089,298 and found \$964,969 in questioned costs, resulting in an error rate of 89 percent. Of the total amount questioned, \$526,201 was unsupported, as detailed below:

- In preparing the records for our review, the USMS determined that it could not provide adequate documentation to support disbursements totaling \$209,191. These expenditures consisted of travel, supplies, and equipment expenses.
- \$317,010 in unsupported expenditures was identified during our testing of travel and guard services transactions. The USMS was unable to provide us with proper supporting documents, including travel vouchers, travel authorizations, receipts, and invoices.

The remaining \$438,768 of our questioned costs was unallowable, as detailed below:

- We identified \$384,937 in costs charged to the Fund for categories that were not approved by JMD for reimbursement. Specifically, the USMS was reimbursed from the Fund for Deputy U.S. Marshals' overtime (\$380,529), office supplies (\$1,005), and vehicle expenses (\$3,403) even though these items were explicitly denied by JMD in its assessment of the USMS request.
- \$40,810 in travel expenses was unallowable because: 1) the travel was not related to the Oklahoma City bombing trial, 2) the expenses were incurred during the fiscal year prior to the effective date of the RA, or 3) the travel was not authorized.
- \$13,021 charged for computer equipment was not related to the Oklahoma City bombing RA. This expense was billed to the Fund under both the Freeman trial and Oklahoma City bombing trial RAs. This equipment was

purchased for the Freeman trial and should not have been charged to the Oklahoma City bombing trial RA.

- Freeman Trial RA: The USMS also received \$526,219 for the reimbursement of some of its costs related to the Freeman trial. We tested \$390,902 of its expenditures, which was 74 percent of the universe. Our testing again revealed a high error rate, amounting to 82 percent of the expenditures reviewed. The total questioned costs were \$319,484, of which \$35,659 was unsupported because the USMS was unable to provide us with proper supporting documents (e.g., travel vouchers, receipts, and invoices). The remaining \$283,825 in questioned costs was unallowable, as detailed below:
  - The USMS billed the Fund \$286,500 for the purchase and installation of a video-teleconferencing system for the Freeman trial. In the initial request for funding, the USMS asked for \$275,000 for the system. In JMD's analysis of the request and the subsequent approvals by the Attorney General, OMB, and Congress, only \$50,000 was approved. Therefore, we questioned the difference of \$236,500. The USMS stated that they would reimburse the Fund for the amount overcharged.
  - \$11,360 was unallowable because, although the USMS could fully support the financial transaction, officials could not provide documentation that clearly connected the equipment purchase to the Freeman trial.
  - \$32,165 of Deputy U.S. Marshals' overtime charged to the Fund was unallowable because it was explicitly denied by JMD in its assessment of the USMS request.
  - \$3,800 in travel expenditures was erroneously charged to the Fund twice.
- World Trade Center and Pentagon Bombings RA: The USMS was reimbursed \$1,016,755 for overtime costs related to the September 11, 2001, terrorist attacks. The results of our testing identified no deficiencies.

In the previous audit, our testing at the USMS revealed that the agency did not have an effective system for tracking expenditures, and we identified an overall error rate of about 24 percent. As a result, we advised

JMD that it needed to ensure that funds provided to the USMS were used appropriately. However, weak management of Fund monies continued to exist; our current review disclosed an overall error rate of 85 percent.

We discussed these findings with USMS officials who agreed with our figures. In response to billing the Fund for costs that had been explicitly denied by JMD during the RA approval process, USMS officials explained that the staff members preparing the bills had not been informed by their superiors of the JMD denials; the staff was only aware of what had been in the initial request submitted by the USMS.

The officials added that they now have a new accounting system. They stated that the new system has improved their financial operations and commented that the funding provided under the 2001 World Trade Center and Pentagon bombings RA was adequately tracked. In response, we noted that all of the expenditures reimbursed under this RA were for overtime; thus, we could not conclude that the USMS had taken corrective action in its other expenditure areas because the control systems for payroll are different than those for other disbursement transactions.

Executive Office for United States Attorneys — EOUSA received \$2,763,817 from the Fund for the reimbursement of expenses related to three RAs for prosecutions pertaining to the terrorist bombings in Oklahoma and Africa. The following table identifies each RA with the year it was issued and the allowable uses of funds for the approved counterterrorism initiative. In addition, it provides the amount EOUSA billed against each RA, the dollar amount that we tested, the questioned costs we identified, and the breakdown of questioned costs as unallowed or unsupported.

**EOUSA EXPENDITURE TESTING**

FY	REIMBURSEMENT	APPROVED CATEGORIES & USES OF FUNDING	AMOUNT BILLED	AMOUNT TESTED	TOTAL AMOUNT QUESTIONED	QUESTIONED COSTS	
						UNALLOWED	UNSUPPORTED
1998	OKLAHOMA CITY BOMBING TRIAL	Personnel costs; travel; rent, utilities, & communications; litigation services; supplies; and equipment related to the prosecution of Terry Nichols	\$1,869,661	\$565,332	\$17,151	\$14,135	\$3,016
2000	TRIAL FOR THE U.S. EMBASSY BOMBINGS IN AFRICA	Travel; rent & communications; litigation, contract, & interpreter services; supplies; and equipment for the proceedings of the trial	805,717	466,011	0	0	0
2000	OKLAHOMA CITY BOMBING TRIAL	Personnel costs, travel, litigation services, supplies, and equipment necessary to close out the trial	88,439	12,268	340	340	0
	TOTALS		\$2,763,817	\$1,043,611	\$17,491	\$14,475	\$3,016

Source: JMD Budget Staff, EOUSA Resource Management and Planning Staff, and OIG analysis

Our review of a sample of transactions totaling \$1,043,611 (34 percent of the universe<sup>35</sup>) resulted in the identification of \$17,491 in questioned costs. We identified:

- unsupported costs in the amount of \$3,016, which consisted mainly of lodging costs claimed on travel vouchers; the supporting lodging bills could not be located.
- unallowable costs totaling \$14,475 for: 1) expenditures that were made prior to the effective date of the RA, or 2) travel vouchers that were not properly approved; the traveler had signed as the approving official.

<sup>35</sup> This percentage was calculated by using the entire universe of transactions at EOUSA, as discussed in Appendix I and detailed in the table on page 46.

Our testing at EOUSA revealed only minor discrepancies as indicated by an overall error rate of 2 percent. In comparison, our prior audit identified a 15 percent error rate. Thus, it appears that EOUSA has significantly improved its management of reimbursements from the Fund. We discussed our findings with EOUSA officials who expressed their belief that every transaction the agency had charged to the Fund was fully supported and allowable. Also, they stated that they had additional expenses that could be charged to offset a majority of the questioned costs.

Security and Emergency Planning Staff — Since the initiation of the Fund in 1995, SEPS has only received one RA. SEPS received \$510,000 from the Fund in FY 2000 for the reimbursement of expenses related to ensuring the continuation of government operations in times of emergency. This involved assembling an undisclosed, alternate location from which Department officials could continue to operate in the event of a disaster affecting the Department or one of its components. SEPS was unable to distinguish the reimbursed transactions from its total expenditures for this initiative. Therefore, our universe of transactions to be tested was \$1,158,134. This consisted of rent, equipment, supplies, travel, furniture, and other services. Our sample of transactions totaled \$656,251, which was 57 percent of the universe of expenditures.

Our review resulted in the identification of \$19,504 in dollar-related deficiencies, which amounted to an error rate of 3 percent. Specifically, \$17,339 was unsupported and consisted of a computer purchase for which the invoice could not be located. SEPS acknowledged that the invoice could not be found, and SEPS returned the money to the Fund. In addition, we identified \$2,165 in unallowable costs that was due to an accounting error. This expense was not a continuation of operations cost and was inadvertently charged to this initiative. SEPS has corrected this error and returned the money to the Fund. Although the total of these two exceptions (\$19,504) has been returned, JMD has not yet officially deobligated this amount. As previously discussed, SEPS did not receive monies from the Fund during FYs 1995 through 1997, the review period of our first audit.

Criminal Division — In FY 1998, Congress earmarked \$1 million from the Fund for the development of a 5-year inter-departmental counterterrorism and technology crime plan to be prepared by the Criminal Division. The legislative conference report stated: ". . . *this plan will serve as a baseline strategy for coordination of national policy and operational capabilities to combat terrorism and will be updated annually to institutionalize this effort.*"<sup>36</sup>

---

<sup>36</sup> Conference Committee Report 105-405, dated November 13, 1997, contains more specific information pertaining to the creation of this inter-departmental plan.

The Criminal Division was reimbursed \$944,351 for expenditures incurred for this initiative. The costs included salaries and benefits, consulting services, equipment, and overhead expenses. Our review of \$196,141 of the related expenditures, which represented 21 percent of the universe, disclosed no exceptions. The Criminal Division did not receive monies from the Fund during FYs 1995 through 1997, the review period of our first audit.

### Overall Assessment of Department Components

During our initial audit, we identified significant deficiencies related to the management of Fund monies at many of the components audited, resulting in a combined component error rate of almost 16 percent of the expenditures reviewed. In response, JMD officials stressed that receiving components were primarily responsible for adequately managing the funds received. Our current audit has revealed that, in general, there has been some improvement in the management of funds, as evidenced by the decrease in the combined error rate for all direct component expenditures, which is currently 7 percent.

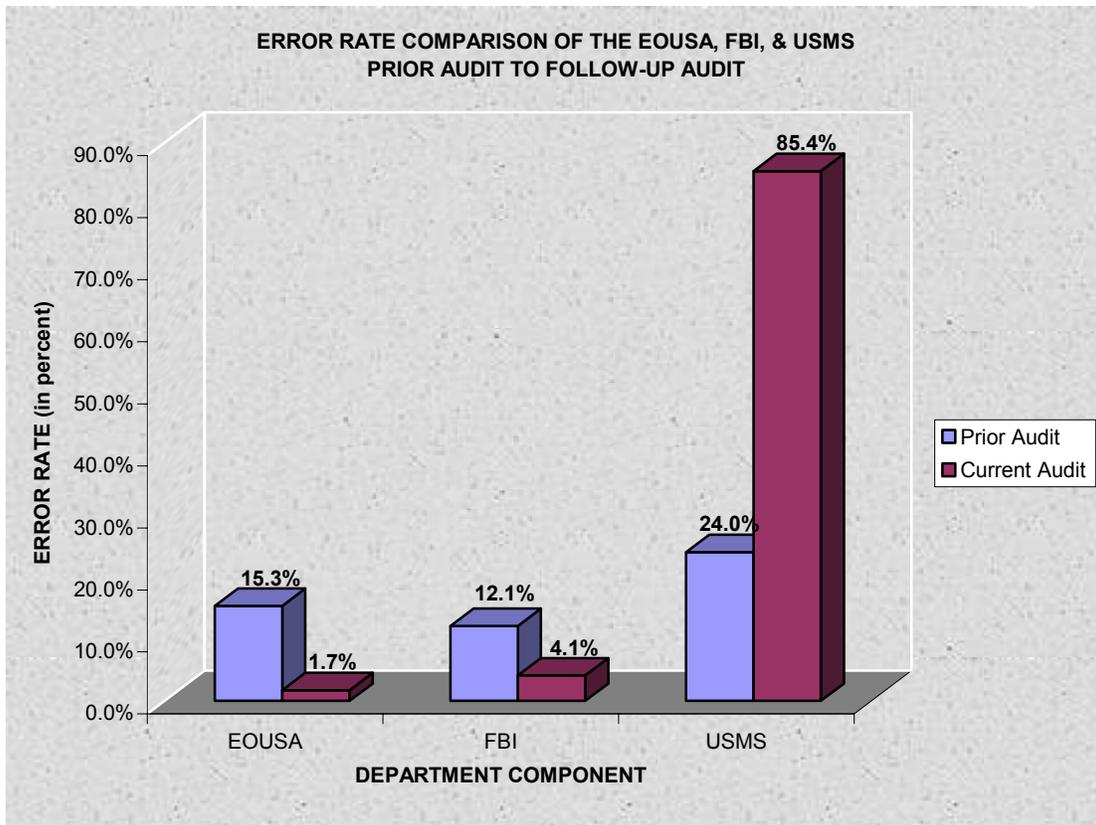
The combined error rate has decreased; however, our current audit revealed significant questioned costs, totaling over \$2.6 million. In addition, fiscal management weaknesses persisted at the component level. The following table compares the error rate for each of the components that received funding during our prior and follow-up audits.

#### COMPARISON OF DEPARTMENT COMPONENTS' ERROR RATES<sup>37</sup>

COMPONENT	PRIOR AUDIT	FOLLOW-UP AUDIT
CRIMINAL DIVISION	N/A	0.0
DEA	77.5	N/A
EOUSA	15.3	1.7
FBI	12.1	4.1
INS	0.0	N/A
SYSTEMS TECHNOLOGY STAFF (JMD)	0.0	N/A
SEPS (JMD)	N/A	3.0
USMS	24.0	85.4

<sup>37</sup> The error rates are the questioned costs as a percent of the dollars reviewed at each component.

Since the FBI, USMS, and EOUSA are the Department’s primary investigating and prosecuting agencies involved in terrorism matters, it is logical that they continue to be heavy users of the Fund. Therefore, these components should ensure that: 1) they have a system to adequately track expenditures reimbursed with Fund monies, and 2) expenditures billed against the Fund are allowable and fully supported. As illustrated in the following chart, the condition at each of these components changed significantly following our previous audit. Although the dollar amount of questioned costs at the FBI was significant, the FBI and EOUSA both improved their operations, as evidenced by a lower error rate. In contrast, the situation at the USMS has dramatically worsened.



## Recommendations

We recommend the Assistant Attorney General for Administration:

1. In consultation with EOUSA, remedy the \$17,491 in questioned costs.
2. In consultation with the FBI, remedy the \$1,319,691 in questioned costs.

3. In consultation with the USMS, remedy the \$1,284,453 in questioned costs.
4. Remedy the \$19,504 in questioned SEPS expenditures that have been reversed but have not been deobligated.
5. Ensure that the FBI and USMS improve their controls over Fund monies to reduce the likelihood that reimbursements are requested for inappropriate items, particularly those that were not authorized by JMD in the RA approval process.

## **2. Reimbursements to Non-DOJ Components**

Between FYs 1998 and 2002, a total of \$2.7 million in Fund monies was passed through the FBI and JMD to other federal, state, and local agencies. Our audit revealed that these funds were not adequately monitored by these two components, putting the funds at a greater risk of misuse. We identified over \$430,000 in questioned costs, representing 19 percent of the \$2.3 million we tested. Our prior audit disclosed similar findings, and it appears that little improvement has been made in the management of these pass-through funds.

### **Non-DOJ Component Reimbursement Process**

Congress has approved the Fund's use to reimburse certain state and local governments as well as other federal agencies for costs related to terrorism initiatives and investigations. At times, Congress has directly approved these reimbursements by earmarking Funds for particular uses. For example, the Fund's annual appropriations legislation has included a stipulation that state and local agencies of New York receive funding in FY 1997 for their response to the crash of TWA flight 800. In addition, Congress directed that the city of Ogden, Utah, receive reimbursement for costs related to security preparations for the 2002 Winter Olympics.

When funding is not earmarked by Congress, the non-DOJ agencies generally submit requests to one of the Department components, which in turn submits the requests to JMD on their behalf. For example, the Georgia Department of Corrections and the U.S. Department of Agriculture (USDA) Forest Service each submitted a reimbursement request to the FBI to recover funds expended in support of the FBI Southeast Bombings Task Force's manhunt of Eric Rudolph. These requests then go through the normal review and approval processes discussed on page 4.

Generally, these pass-through funds are processed in much the same way as the direct component reimbursements. JMD executes an RA with a Department component containing a provision that certain funds are to be passed on to another user. This agreement makes the pass-through component responsible for managing and transferring the funds to the non-DOJ agencies. Specifically, the pass-through agency receives the billing documentation submitted by the end-user and provides JMD with a bill for the reimbursement of Fund monies to that agency. We encountered one instance, however, in which funding was provided directly to the city of Ogden, Utah, via a grant agreement with JMD. In this instance, the JMD Finance Staff assumed the responsibility for the management of the funds.

## **Prior Audit Results**

In our prior audit, the FBI was the only Department component that acted as a pass-through agency to provide monies to non-DOJ recipients. We reported that a significant portion of these funds was improperly used, in part because the FBI did not adequately manage these monies. As a result, we identified over \$1.1 million in questioned costs and funds to better use, which reflected 20 percent of the pass-through expenditures reviewed. One of the weaknesses identified was that written agreements detailing the purpose and appropriate costs of the reimbursement were not always utilized between the FBI and the non-DOJ agency, increasing the risk that unallowable expenses would be charged to the Fund. In addition, the FBI did not require the end-users to submit detailed documentation of their expenditures prior to reimbursement. A significant portion of our dollar-related findings (36 percent) was due to transactions lacking appropriate supporting documentation.

## **Current Non-DOJ Users & Initiatives**

During FYs 1998 through 2002, non-DOJ components were approved to receive funding totaling almost \$4 million for various terrorism-related initiatives.<sup>38</sup> The following table provides an overview of this pass-through funding. Specifically, it identifies the amount of monies obligated to Department components (*i.e.*, pass-through agencies) for the reimbursement of costs incurred by non-DOJ agencies (*i.e.*, end-users) for each agreement, including the fiscal year it was issued. In addition, the table explains the purpose of each agreement, the approved expenditures for each initiative, and whether Congress had earmarked the funds.

---

<sup>38</sup> As noted on page 8, OJP received an additional \$151 million during FYs 1998 and 1999 to pass on to state and local agencies; however, this funding was excluded from our review.

**OVERVIEW OF FUNDING PROVIDED TO NON-DOJ USERS**

<b>FY</b>	<b>PASS-THROUGH AGENCY</b>	<b>END-USER</b>	<b>PURPOSE</b>	<b>APPROVED EXPENDITURES</b>	<b>EARMARKED INITIATIVES (Yes/No)</b>	<b>AGREEMENT AMOUNT</b>
1998	JMD	City of Ogden, Utah	To improve the security enhancements for the 2002 Winter Olympics in Utah	Communication consulting services; the design, engineering, and construction of a communications facility; and communication-related equipment	Yes	\$3,000,000
1998	FBI	Denver Police Department	Additional security at the trial of Oklahoma City bombing suspect Terry Nichols	Overtime	No	108,290
1998	FBI	Georgia Department of Corrections	To assist the FBI's Southeast Bombings Task Force in the manhunt of Eric Rudolph	Overtime and travel & transportation	No	652,560
1998	FBI	USDA Forest Service	To assist the FBI's Southeast Bombings Task Force in the manhunt of Eric Rudolph	Overtime, travel & transportation, other services, supplies, and equipment	No	205,700
<b>TOTAL</b>						<b>\$3,966,550</b>

Source: JMD Budget and Finance Staffs, FBI Budget Execution Unit, and OIG analysis

## Funding Agreements

As stated earlier, the agreements signed by JMD and the Fund recipients stipulate that the recipients are responsible for ensuring that expenditures are allowable, supported, and used in accordance with authorized purposes. The JMD Budget Staff applies this same requirement to the Department components that receive the monies to be passed through to non-DOJ agencies. In other words, the Department component that enters into an RA on behalf of a pass-through agency is accountable for the amounts billed to the Fund. Therefore, the Department component should ensure that supporting documentation is maintained for the expenditures charged to the Fund and review the costs submitted by the end-user for allowability.

Between FYs 1998 and 2002, only two Department components – the FBI and JMD – acted as pass-through agencies. Our review of these agreements and related expenditures totaling over \$2.3 million revealed more than \$430,000 in questioned costs, or 19 percent of the amount tested. We examined, if possible, the selected expenditures for reasonableness, appropriateness, compliance with Fund legislation, and adequacy of supporting documentation.

### RESULTS OF EXPENDITURE TESTING

AGENCY	REIMBURSEMENT AMOUNTS		AMOUNT REVIEWED	TOTAL AMOUNT QUESTIONED	QUESTIONED COSTS	
	FUNDED	BILLED			UNALLOWED	UNSUPPORTED
City of Ogden, Utah <sup>39</sup>	\$3,000,000	\$1,993,863	\$2,082,331	\$187,922	\$84,030	\$103,892
Denver Police Department	108,290	108,290	108,290	108,290	0	108,290
Georgia Department of Corrections	652,560	525,772	17,367	17,367	17,367	0
USDA Forest Service	205,700	116,553	116,553	116,553	0	116,553
<b>TOTALS</b>	<b>\$3,966,550</b>	<b>\$2,744,478</b>	<b>\$2,324,541</b>	<b>\$430,132</b>	<b>\$101,397</b>	<b>\$328,735</b>

Source: JMD Budget and Finance Staffs, FBI Budget Execution Unit, and OIG analysis

<sup>39</sup> We reviewed approximately \$90,000 more than the amount reimbursed because the city of Ogden reduced one of its billings to account for an expenditure that it thought had been billed to the Fund twice. However, based upon our testing, no expenditures were charged to the Fund more than once.

In general, we found that the FBI did not adequately manage the Fund monies provided to other users. In each of its arrangements, the FBI failed to obtain or maintain documentation to support the overall amounts billed by the end-users. In addition, we found that JMD had allowed payments for expenses expressly prohibited in the funding agreement. Details of our findings related to each user follow.

City of Ogden, Utah — In the FY 1998 appropriations, Congress stipulated that the city of Ogden, Utah (Ogden), was to receive \$3 million from the Fund for security enhancements at the 2002 Winter Olympics.<sup>40</sup> JMD entered into a grant agreement with Ogden on November 4, 1997, which entitled Ogden to receive reimbursement of specific expenditures incurred in the construction of communications towers as well as the purchase of communications equipment. According to the JMD Budget Staff, this agreement was unique because: 1) a grant agreement had never been used before as a vehicle for providing Fund reimbursements to non-DOJ users, and 2) Ogden dealt directly with JMD instead of working through another Department component. The JMD Finance Staff was placed in charge of administering the grant agreement.

We reviewed all Ogden transactions, which totaled \$2,082,331.<sup>41</sup> Our analysis of the Fund expenditures resulted in the identification of \$187,922 in dollar-related deficiencies, of which \$103,892 was unsupported and \$84,030 was unallowable. For example:

- In violation of the grant agreement, Ogden received reimbursement for overhead charges. The grant agreement explicitly stated, "*Ogden is not entitled to reimbursement of indirect costs, such as salaries and administrative expenses of its employees and operations.*" Ogden submitted a letter to the JMD Finance Staff indicating that it would like to charge overhead costs at a rate of 5 percent for each of its expenditures. In response to Ogden's request, the JMD Finance Staff allowed Ogden to bill the Fund for indirect costs at the 5 percent rate. As a result, Ogden began including indirect expenses in its billings and had been reimbursed \$83,584 for these charges. However, the JMD Finance Staff did not request or receive approval to override the grant agreement that was signed by the Assistant Attorney General for Administration.

---

<sup>40</sup> Public Law 105-018, Chapter 2, General Provisions, Section 2001.

<sup>41</sup> A detailed explanation of our methodology is contained in Appendix I.

- Ogden billed the Fund and received reimbursement for an encumbrance (i.e., obligation) rather than an actual expense. Ogden did not have supporting documentation for the \$101,931 charged since it had not yet incurred the expense.

As part of its billing process, Ogden submitted a cover page stating the amount requested for reimbursement as well as a progress report explaining the status of the security improvements, which generally did not include amounts of the specific expenditures. The JMD Finance Staff did not ask Ogden to provide documentation to support its expenditures. If the JMD Finance Staff had regularly requested supporting documents for review, this billing error could have been discovered. Ogden officials were aware of this situation at the time of our review and indicated that they would take corrective action for this error in their final billing.

Denver Police Department — On November 21, 1997, the Denver Police Department (Denver PD) submitted a request to the JMD Budget Staff for reimbursement from the Fund. At the time, the request was only an estimate of its costs associated with security at the trial of Oklahoma City bombing suspect Terry Nichols. JMD had a copy of a November 27, 1997 memorandum that was circulated within the FBI, which stated that the FBI supported the Denver PD's request for reimbursement of overtime expenses. This memorandum further stated that the FBI's National Security Division could not verify the total amount requested or confirm that the amount requested did not also include salaries and benefits. On June 18, 1998, the Denver PD submitted a revised request to JMD that provided the actual overtime costs incurred. In September 1998, the FBI entered into an RA with the Department stipulating that the FBI was to reimburse the Denver PD \$108,290 for overtime costs in relation to the trial.

According to billing documentation provided by the FBI, the Denver PD was reimbursed the entire \$108,290. To test these pass-through funds, we asked the FBI for a transaction listing of the overtime costs included in the billing. In response, we were informed that the FBI did not have a detailed transaction listing or a written agreement with the Denver PD. The FBI then attempted to obtain a listing from the Denver PD; however, the Denver PD was unresponsive and never provided a listing. Thus, we questioned the entire amount reimbursed to the Denver PD as unsupported.

Georgia Department of Corrections — In September 1998, the FBI entered into an RA with the Department that included \$652,560 to reimburse the Georgia Department of Corrections (Georgia) for overtime and

travel expenses related to the assistance provided to the FBI Southeast Bombings Task Force's pursuit of Eric Rudolph. According to documentation provided by the FBI, Georgia was reimbursed a total of \$525,772.<sup>42</sup> We asked the FBI for documentation to support the payments, including a transaction listing of Georgia's expenditures. The FBI provided us with the reimbursement agreement it executed with Georgia, correspondence pertaining to the reimbursement requests submitted by Georgia, and a transaction listing for a portion of the overtime costs charged to the Fund totaling \$159,852. The FBI did not have detailed transaction listings for the remaining \$365,920 paid to Georgia. In response to our inquiry, the FBI requested and received a listing from the agency.

Our review of the transaction listings and billing documents that the FBI was able to provide revealed that Georgia was reimbursed for unapproved expenses totaling \$17,367. Specifically, Georgia charged the Fund for regular operating expenses, telephone charges, and cabling and splicing kits for perimeter security. According to the agreement between the FBI and Georgia, only overtime and travel expenses were to be reimbursed. As a result, we questioned the \$17,367 as unallowable.

From the remaining transactions on the listings provided, we selected a sample of expenditures totaling \$174,508 for review. After providing the selected transactions to Georgia, the FBI informed us that Georgia had destroyed all of the records for these expenditures. Georgia provided a letter indicating that its records had been destroyed in accordance with its record retention policy and provided us with a copy of the official notice of records destruction.

We did not question any of these charges (except the \$17,367 noted above) as unsupported because: 1) the FBI was able to provide transaction listings that were sufficiently detailed, and 2) Georgia provided us with documentation that the records had been destroyed in accordance with its official retention policy; the written agreement between the FBI and Georgia did not specify a record retention period.

USDA Forest Service — In September 1998, the FBI entered into an RA with the Department stipulating that the FBI was to reimburse the USDA Forest Service (Forest Service) \$205,700 for overtime, travel, other services, supplies, and equipment expenses. This funding was for the Forest Service's assistance with the FBI Southeast Bombings Task Force's pursuit of Eric Rudolph. Based upon documentation provided by the FBI, the Forest

---

<sup>42</sup> The FBI informed JMD that the remaining funds totaling \$126,788 would not be expended and were deobligated by JMD.

Service was reimbursed for expenditures totaling \$116,553.<sup>43</sup> We asked the FBI for a listing of the Forest Service's expenditures that were reimbursed from the Fund. The FBI provided us with correspondence pertaining to the reimbursement request submitted by the Forest Service and various computer-generated reports that could not be interpreted; no written agreement between the FBI and Forest Service was provided.

We asked FBI officials for an explanation of the computer-generated reports; they informed us that they could not explain them. The FBI then obtained a clear listing of transactions from the Forest Service, and we selected a sample of expenditures totaling \$72,926 for review. After providing the selected transactions to the Forest Service, we were informed by the FBI that the Forest Service no longer had supporting documentation for the expenditures. However, we were not provided with any documents from the Forest Service supporting this assertion. As a result, we questioned the entire \$116,553 billed to the Fund as unsupported.

## **Conclusion**

The Fund was initially established to reimburse Department components for extraordinary expenses incurred while combating and reacting to unanticipated and catastrophic terrorist incidents. However, Congress has, on several occasions, directed that Fund monies be provided to reimburse other federal, state, and local agencies for certain terrorism-related initiatives. To execute these reimbursements, the funds were passed through Department components. The pass-through agencies are required to ensure that Fund expenditures incurred by non-DOJ components were allowable, supported, and used in accordance with authorized purposes.

In the prior audit, we disclosed significant weaknesses in this area and concluded that funding provided to non-DOJ users had to be monitored more closely to ensure that funds were used properly. Our current audit has revealed that this problem continues to exist. We identified \$430,132 in questioned costs, which represents 19 percent of the \$2.3 million reviewed, or about the same error rate as the 20 percent error rate identified in this area during our initial audit. In addition, written agreements were not always issued, and in instances where an agreement was formalized, these guidelines did not reduce the likelihood that unallowable costs would be reimbursed. Department components need to improve their monitoring of the funds reimbursed to pass-through recipients to ensure that Department resources are safeguarded and used for their intended purpose.

---

<sup>43</sup> The FBI informed JMD that the remaining funds totaling \$89,147 would not be expended and were deobligated by JMD.

## **Recommendations**

We recommend the Assistant Attorney General for Administration:

6. In consultation with the city of Ogden, Utah, remedy the \$187,922 in questioned costs.
7. In consultation with the FBI, remedy the \$108,290 in questioned costs attributable to the Denver Police Department.
8. In consultation with the FBI, remedy the \$17,367 in questioned costs attributable to the Georgia Department of Corrections.
9. In consultation with the FBI, remedy the \$116,553 in questioned costs attributable to the USDA Forest Service.

### **3. JMD Oversight of the Fund**

As the Fund administrator, JMD needs to carefully monitor Fund expenditures to ensure its availability during times of extreme need. Our prior audit disclosed that JMD needed to take a more proactive approach in monitoring Fund expenditures, as indicated by our identification of \$4.1 million in dollar-related findings, or 17 percent of the total funds reviewed. In comparison, our current audit has revealed a total of \$3.1 million in dollar-related findings, or 8 percent of the overall funds reviewed, resulting from expenditures that were either improper or were not adequately supported. The current results illustrate that JMD has made some improvement in its controls over the use of Fund monies, but it needs to further strengthen controls. Funds continue to be at risk of misuse and fewer resources could be available to the Department for responding rapidly and effectively to unanticipated terrorist acts.

In the prior report, we provided JMD with several recommendations to assist in improving its oversight of the Fund. As noted in Findings 1 and 2 of our current audit, we reviewed Fund expenditures for FYs 1998 through 2002 to determine whether there had been improvement in the recipients' management of Fund monies since the prior audit. Although JMD has strengthened its administration by taking timely action to close RAs and overseeing the improvements at EOUSA and the FBI, there remain areas of continued weaknesses. Specifically, we found that components were billing and receiving funds for expenditures that: 1) were not approved costs of the Fund, 2) were explicitly denied, or 3) lacked supporting documentation. Further, we found that significant weaknesses persisted or worsened at the USMS and that funding provided to non-DOJ users continued to be at risk of misuse. In order to maintain the integrity of the Fund, JMD must strengthen its controls over the administration of the Fund.

#### **Prior Report**

The prior report stated that JMD had no system to monitor Fund recipients to ensure that actual expenditures were allowable and supported, and that Fund monies were used in accordance with authorized purposes. According to JMD, Fund recipients are responsible for ensuring the appropriateness of their expenditures. As previously discussed, the RAs between JMD and Department components state: *"The Chief Financial Officer [CFO] for your organization must certify that all amounts billed under this agreement have been expended only for the specified purposes, and will*

*retain all supporting documents associated with the billings under this agreement."*

In our prior audit, we made several recommendations to JMD to improve its administration of the Fund, and to help ensure that adequate funds remained available to the Department for responding rapidly and effectively to terrorism-related incidents. For example, we recommended that JMD: 1) develop and issue guidance for all Fund users regarding the appropriate use of Fund monies; 2) develop and implement a plan to increase oversight of the Fund, including periodic monitoring of actual expenditures; and 3) determine if inactive RAs can be closed, and if so, deobligate the remaining unexpended funds and make them available to others. The JMD Budget Staff responded to the first two recommendations by sending out a memorandum to recipients that reiterated the purpose and appropriate use of the Fund, the CFO's responsibility, and the requesting process. In addition, they stated that they ". . . will continue to review all component billings as they are submitted. This includes reviewing all backup documentation for accuracy and appropriateness, prior to the processing of the billing." In response to the third recommendation noted above, JMD reviewed and closed the open 1995 and 1996 RAs, which resulted in the deobligation of Fund monies totaling over \$270,000.

## **Improvements**

During our current review, we noted two areas of improvement regarding the administration of the Fund.

Timely Closure of RAs — In the prior report, we recommended that JMD determine if open RAs could be closed and if so, deobligate the remaining unexpended funds. At the beginning of our follow-up audit, there were seven open agreements – three from FY 1998, two from FY 1999, and two from FY 2001. Our review of these open RAs revealed that JMD continued to monitor and follow-up with the components on outstanding obligations. During FY 2003, the FBI submitted documentation to close one of its RAs, and the city of Ogden, Utah, and the USMS noted that they would be submitting final bills in the near future that would close their open agreements. In our opinion, JMD has remained watchful of the open RAs.

Component Progress — Our review of direct Department component Fund expenditures revealed a combined error rate of almost 16 percent in our prior audit and 7 percent in our current audit. Specifically, EOUSA improved from the prior audit error rate of 15 percent to a 2 percent error rate during the current review period. Similarly, the FBI reduced its error rate from 12 percent to 4 percent. These improvements are significant and

can be attributed to the Department components' management of Fund expenditures, as well as JMD's oversight of the Fund.

### Continuing Weaknesses

Our review disclosed five areas in which JMD should strengthen its oversight of the Fund.

Payments for Denied Expenses — As noted earlier, JMD Budget analysts review components' requests to determine if the expenditures for which they are requesting reimbursement are appropriate uses of the Fund. Based upon these analyses, JMD recommends funding amounts that must be approved by the Attorney General, OMB, and Congress. However, we found that the USMS received \$653,602 for categories or items that were specifically included in its funding requests but were explicitly denied for reimbursement, as detailed in the following table.

#### USMS REIMBURSED EXPENDITURES FOR DENIED CATEGORIES

REIMBURSEMENT AGREEMENT	CATEGORY/ITEM DENIED	DENIED CATEGORY EXPENDITURES
Oklahoma City Bombing Trial	Deputy overtime	\$380,529
	Vehicle expenses	3,403
	Supplies	1,005
Freemen Trial	Deputy overtime	32,165
	Video teleconferencing equipment	236,500
	TOTAL	\$653,602

Source: JMD Budget Staff, USMS Management and Budget Division, and OIG analysis

- As discussed on page 19, the USMS requested \$275,000 for a video teleconferencing system for the Freemen trial and JMD Budget reduced this amount to \$50,000 based on prior requests for the same type of equipment. The USMS then submitted a billing that included a \$275,000 equipment purchase and the related installation bill for \$11,500. Despite only \$50,000 being approved, the total amount of \$286,500 was reimbursed to the USMS for this equipment.
- JMD denied the categories of deputy overtime, supplies, and vehicle expenses specifically requested by the USMS; the Attorney General, OMB, and Congress approved the

recommendation by JMD. However, the USMS billed these costs to the Fund and received the requested reimbursement.

If the JMD Budget Staff had properly reviewed the USMS's billings and backup documentation, these items would have been obvious. A comparison of the billed items to the approved categories would have revealed that these items were explicitly denied.

Reimbursement of Unapproved Costs — In some instances, the components charged for costs outside the scope of what had been requested and approved for the RA. The following table identifies these costs, including expenditures incurred prior to the effective date of the RA, late payment penalties, and costs unrelated to the initiative or cost categories stipulated in the RA.

**REIMBURSEMENTS FOR UNAPPROVED COSTS**

<b>COMPONENT</b>	<b>UNAPPROVED COSTS</b>	<b>AMOUNT REIMBURSED</b>
<b>EOUSA</b>	Travel and equipment expenditures unrelated to the RA & FY 97 travel expenditures	\$653
<b>FBI</b>	Late payment penalties	18,410
	FY 97 travel expenditures	17,226
	Costs not stipulated in the RA request and approval	230,692
	Travel unrelated to the RA	3,590
	Cash advances charged as expenses	23,990
	Reimbursement of equipment and operating expenses made to the Georgia Department of Corrections	17,367
<b>SEPS</b>	Equipment expenditures unrelated to the RA	2,165
<b>USMS</b>	Travel and equipment expenditures unrelated to the RA & FY 97 travel expenditures	53,167
<b>TOTAL</b>		\$367,260

Source: JMD Budget Staff and OIG analysis

Many of the unapproved expenditures noted in the preceding table were apparent on the itemized listings that we used to perform our testing. For example, as discussed on page 14, the FBI received reimbursement for late fees. In the detailed transaction listings we received, these charges were in a category entitled "Late Payment Penalties." If JMD had reviewed the itemized expenses, these unallowable expenditures should have been identified.

In another example, the FBI received reimbursement for medical expenses incurred in conjunction with its pursuit of Eric Rudolph by the Southeast Bombings Task Force. However, this type of expenditure was not included in the FBI's initial funding request and, therefore, was not approved by JMD, the Attorney General, OMB, and Congress. Since the billing documentation submitted by the FBI consisted of a summary with general categories, these expenditures were not as easily recognizable as the late fees mentioned above. However, if JMD had requested and reviewed the detailed listings, the unallowable costs could have been identified.

Lack of Supporting Documentation — When testing expenditures, original supporting documents provide auditors with the highest level of validity. In the prior audit, unsupported costs comprised 27 percent of our total dollar-related deficiencies. In our current review, a significant portion of our questioned costs was again unsupported. As a result of our transaction testing detailed in Findings 1 and 2, we identified \$1,110,606 in unsupported expenditures for Department components and \$328,735 for non-DOJ recipients. These questioned costs represented 47 percent of our total findings.

Although the JMD Budget Staff requires that Fund recipients maintain supporting documentation, it has not provided guidelines for the length of time the records should be retained, and it has not significantly improved its billing review process as a means of monitoring the components' compliance with the retention requirement. During our work at the various Department components, we found differing standards for record retention. According to JMD, the components are required to maintain records for six years and three months from the last billing for each RA, as required in the National Archives and Records Administration (NARA) General Records Schedule 6.1a. However, the USMS has a 2 or 3-year retention policy, following NARA Schedule 7.1 and 7.4a. The FBI was following NARA Schedule 6.1a for most Fund expenditures; however, the FBI followed other internal guidelines for payroll records, which include overtime payments.

We recommend that the JMD Budget Staff advise all Fund recipients of a standardized period for retention of supporting documentation for all expenditures, including those of pass-through recipients. In addition, JMD should improve its process for reviewing component billings to ensure Fund expenditures are adequately supported. For example, JMD should require the components to have the supporting documents readily available for review. Also, JMD should review the components' quarterly billings and test a sample of expenditures for the adequacy of supporting documentation.

USMS — As noted in our prior audit report, we identified \$436,510 in questioned costs, or 24 percent of the expenditures reviewed, at the USMS. In addition, we advised that the USMS needed to improve its fiscal controls prior to JMD providing the agency with more funding. However, our current audit revealed that the USMS had not improved its management of Fund expenditures. We identified \$1,284,453 in questioned costs, representing an 85 percent error rate. This indicates that significant weaknesses at the USMS continue to exist. Although the USMS adequately tracked the expenditures related to its most recent RA (*i.e.*, the FY 2001 RA for the World Trade Center and Pentagon bombings), we could not conclude that the USMS improved its management of Fund monies because the RA was limited to overtime expenses only. Before entering into another RA with the USMS, JMD needs to ensure that the agency has established and implemented a system to adequately track all types of Fund expenditures.

Pass-through Funding — Our prior audit disclosed that Fund monies passed through to non-DOJ users were at risk because they were not being adequately managed or monitored. As a result, we identified \$1,106,616 in dollar-related findings, or 20 percent of the expenditures reviewed. Our current audit disclosed \$430,132 in questioned costs, or a 19 percent error rate. As previously reported, pass-through agencies, such as the FBI, need to improve their management of these funds by consistently using written agreements that detail the scope of the reimbursement and the parties' responsibilities. In addition, the pass-through agencies need to review and maintain documentation to support the billed expenditures. In turn, JMD needs to provide a framework for the pass-through process and clearly delineate what is expected of both the end-users and the pass-through agencies.

## **Conclusion**

As the Fund administrator, the JMD Budget Staff must ensure that expenditures are reasonable, appropriate, adequately supported, and in compliance with Fund legislation. Despite maintaining strong controls during the initial review and RA approval processes, the JMD Budget Staff has not

significantly improved its controls over Fund expenditures since the prior audit. We identified over \$4 million in dollar-related deficiencies during our prior audit and over \$3 million during our follow-up audit. The questioned costs identified during our current review could have been alleviated had the JMD Budget Staff strengthened its controls over the use of Fund monies as recommended in the prior audit.

Although JMD has continued to monitor the open RAs and inquire if the remaining funds can be deobligated, JMD has not improved its review of component billings. In response to two of the prior audit's recommendations, JMD stated that it would review component billings, including supporting documentation, prior to processing the billings. However, the unallowable and unsupported expenditures that we identified indicate that JMD has not implemented an adequate review process. In addition, the prior report stated that funds passed through to non-DOJ users needed increased oversight; however, we found deficiencies in pass-through funding that amounted to virtually the same error rate as noted in the previous review.

JMD needs to strengthen its controls over the administration of the Fund, particularly during the review of billings and when funds are passed through Department components to non-DOJ users. Further, JMD needs to develop guidance that clearly instructs the components on how long they must retain the supporting documents associated with their billings. If controls are enhanced, additional resources should be available to react to terrorist incidents if they occur. We recognize that there are a variety of ways that improvements in JMD's controls can be achieved. JMD may need to involve the participating components in order to arrive at a solution that works most efficiently. However, JMD is ultimately responsible for the integrity of the Fund and must take action to improve controls over Fund expenditures.

## **Recommendations**

We recommend the Assistant Attorney General for Administration:

10. Develop and implement a plan to increase the JMD Budget Staff's oversight of the Department components' management of Fund monies, including more detailed reviews of component billings and periodic monitoring of actual expenditures.
11. Develop and issue guidance on the retention of records for Fund expenditures.

12. Review the USMS's system for tracking Fund expenditures prior to providing the agency with any additional funding. In addition, the JMD Budget Staff should closely monitor any future payments to the USMS.
13. Establish a process to use in the event that Fund monies are to be passed through to non-DOJ agencies. The process should provide guidance for the pass-through agencies, including mandating the use of written agreements, reviewing the actual expenditures of the end-users, and maintaining appropriate documentation.

## **STATEMENT ON MANAGEMENT CONTROLS**

In planning and performing our audit of the Fund, we considered JMD's and the Fund recipients' control structure for the purpose of determining our audit procedures. This evaluation was not made for the purpose of providing assurance on each of their management control structures as a whole. However, we noted certain matters involving management controls that we considered to be reportable conditions under government auditing standards.

Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operations of the management control structure that, in our judgment, could adversely affect JMD's ability to effectively administer the Fund and the components' abilities to manage the funds received. We identified weaknesses in the following areas:

- JMD's review of billings submitted by the Department components for reimbursement from the Fund;
- Department components' internal procedures related to Fund expenditures included in the bills submitted to JMD;
- pass-through agencies' monitoring of non-DOJ users' Fund expenditures, including the adherence to written agreements; and
- standardized retention periods for Fund accounting records and receipts.

Because we are not expressing an opinion on JMD's or the Fund recipients' management control structures as a whole, this statement is intended for the information and use of JMD in managing the Fund. This restriction is not intended to limit the distribution of this report.

## **AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY**

### **Objectives**

We have completed a follow-up audit of the Department Counterterrorism Fund, which is administered by JMD. The objectives of the audit were to determine: 1) if the Fund expenditures were authorized, supported, and made in accordance with the intent of the law, and 2) if JMD has taken appropriate efforts to close RAs in an expeditious manner.

### **Scope and Methodology**

We performed our audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States, and accordingly included such tests of the records and procedures that we considered necessary. The audit covered the period between October 1, 1997, and September 10, 2002, and included funds provided to Department components as well as to other federal, state, and local agencies.

Department Components — The audit included a detailed review of RAs between Department components and JMD for FYs 1998 through 2002, amounting to \$93,999,316.<sup>44</sup> Audit work was performed at the following agencies:

- Criminal Division
- Executive Office for United States Attorneys
- Federal Bureau of Investigation
- Security and Emergency Planning Staff
- United States Marshals Service

At each component, we performed tests of selected records and transactions and followed up with responsible personnel. Additionally, at JMD, we interviewed personnel regarding its oversight of the Fund and we reviewed the Fund legislation, the RAs, and billing documentation for our review period.

To determine if Fund expenditures were authorized, supported, and made in accordance with the intent of the law, we judgmentally selected and reviewed a sample of transactions. The transactions were selected from detailed listings of expenditures obtained from each of the agencies. As of the date of our fieldwork, the universe of expenditures amounted to

---

<sup>44</sup> As mentioned in the table and related footnotes on page 8, some RAs were excluded from our review.

\$85,114,623. Generally, for each RA we reviewed 10 percent of the number of transactions in the universe of disbursements with a maximum of 100 transactions; half of our sample was chosen by random selection, while the other half consisted of high dollar transactions.<sup>45</sup> In addition, we selected transactions that were greater than or equal to \$100. However, we had to modify our sampling methodology for the Criminal Division, EOUSA, and the FBI. Following are the modifications that were necessary for these components:

- **Criminal Division:** We selected a sample consisting of 10 percent of the number of transactions in the universe; however, we modified the way in which the items were selected. Since the Criminal Division provided a listing that separated the transactions into expense categories and we wanted to ensure that each category was represented in our sample, we selected at least one transaction from each category. The expense categories were comprised of salaries and benefits, consulting services, equipment, and overhead expenses. In order to keep our total sample at 10 percent of the entire universe of transactions, we had to reduce our selection of items from the overhead expenses category below 10 percent and select one equipment category item.
- **EOUSA:** The listings for two of the three RAs had several salary-related transactions, which are recurring and primarily static payments. As a result, we limited the number of payroll transactions selected. In addition, one of the RAs had monthly payments for two separate contracts, which comprised most of the high-dollar items for sample selection. Therefore, we picked only two transactions related to each contract, eliminating the remaining contract transactions from the sample selection process because testing more of these recurring payments was unnecessary.
- **FBI:** For each RA, we received individual listings that separated the transactions into different expense categories. The expense categories consisted of personnel compensation (overtime); travel and transportation; rent, utilities, and communications; other services; supplies; and equipment. We judgmentally selected a total of 52 high-dollar transactions from the combined listings. In order to ensure that each category was represented in our testing, we also selected a random sample from each category of each RA.

---

<sup>45</sup> Our sampling methodology generally was the same as the methodology employed in our prior audit.

We randomly selected 5 percent of transactions for each of the categories except travel and transportation, where we selected 2 percent of the transactions. We selected 5 percent (2 percent in the case of travel) instead of 10 percent because: 1) the selection of a higher percentage of transactions would have resulted in a significant amount of items to test, which would have been burdensome for the FBI, 2) we had good coverage of the dollar amount reimbursed from just the 52 high-dollar items selected, which amounted to 42 percent of the total universe, and 3) in the case of travel, we had a low error rate in this particular category during the prior audit.

For each transaction selected, we reviewed supporting documentation such as requisitions, invoices, travel vouchers, vendor receipts, reimbursable work authorizations, accounting and payment records, and purchase orders. Our sample amounted to \$36,007,218, or 42 percent of the universe.

**EXPENDITURE TESTING FOR DEPARTMENT COMPONENTS  
UNIVERSE AND SAMPLE SIZE<sup>46</sup>**

AGENCY	UNIVERSE	SAMPLE	PERCENT
CRIMINAL DIVISION	\$944,351	\$196,141	21
EOUSA	3,079,971	1,043,611	34
FBI	77,290,951	32,607,795	42
SEPS	1,158,134	656,251	57
USMS	2,641,216	1,503,420	57
TOTALS	\$85,114,623	\$36,007,218	42

Source: JUMD Budget Staff and OIG analysis

In addition to the expenditure testing detailed above, we analyzed \$7,987,480 in FBI overtime costs related to the World Trade Center and Pentagon attacks. These expenses are not included in the expenditure testing of the Department components discussed above due to differences in our methodology. While the expenditure testing included a detailed examination of source documents to determine if the expenses were authorized, supported, and used in accordance with the intent of the law, our review of these FBI overtime costs did not. The FBI did not have a tracking system from the onset that tagged overtime as being related to the

<sup>46</sup> The universe for each component does not necessarily correspond to either the RA or the amount billed as of September 10, 2002. Instead, it reflects expenditures reported as of the beginning of our fieldwork at each component.

September 11 attacks. As a result, the FBI was unable to determine the exact amount of overtime costs related to the bombings and instead calculated an estimate using historical data. We reviewed the FBI's computation of overtime costs and found that the amount charged to the Fund was reasonable.

Non-DOJ Components — Our audit also included a detailed review of funds provided to non-DOJ components related to RAs executed between FYs 1998 through 2002, amounting to \$3,966,550.<sup>47</sup>

For the funds provided to the city of Ogden, Utah, we: 1) interviewed responsible personnel about requests for reimbursement, Fund expenditures, tracking systems, and billing practices; and 2) performed tests of selected records and transactions. Further, we obtained necessary documents (e.g., the grant agreement, billing documents, memoranda) from the JMD Finance Staff.

For the other non-DOJ components that were responsible for reporting to the FBI, we attempted to perform tests of selected records and transactions. However, as reported in Finding 2, the FBI did not always obtain complete supporting documentation from the end-users and attempts to obtain the information from the end-users were ineffective.

To determine if the Fund expenditures of the non-DOJ agencies were authorized, supported, and used in accordance with the intent of the law, we judgmentally selected and reviewed a sample of transactions. The transactions were selected from the available detailed listings of expenditures. As of the date of our fieldwork, the universe of expenditures amounted to \$2,832,946. Generally, we utilized the same sampling methodology as we did for the Department components, which amounted to 10 percent of the number of transactions in the universe. However, we could not select any transactions from the Denver Police Department because that agency was unresponsive to the FBI's request for information. Further, we had to modify our sampling methodology for the city of Ogden and the USDA Forest Service, as follows:

- City of Ogden: The city of Ogden had the original supporting documentation for the transactions that were reimbursed from the Fund stored at another location. However, it had photocopies of the original documents on hand for our review. Since there were only fifty items and the data was readily

---

<sup>47</sup> The non-DOJ components that were included in our review were the city of Ogden, Utah; the Denver, Colorado Police Department; the Georgia Department of Corrections; and the USDA Forest Service.

available, we reviewed 100 percent of the transactions using the photocopies. In order to perform a comparison of the photocopied support to the original documents, we requested original documents for 20 percent of the fifty transactions. For the 20 percent selected, half were chosen by random selection, while the other half consisted of high dollar transactions. We also selected two additional items to ensure that at least one transaction was chosen from each expense category. We found no differences between the photocopied support and the original documentation. Thus, we relied on the photocopies for the remaining items reviewed.

- **USDA Forest Service:** Since the listing separated the transactions into expense categories, we selected 10 percent of the transactions from each category, choosing the high dollar items from each. We also made sure to select at least one transaction from each category.

Our sample of pass-through funding amounted to \$2,324,541, or 82 percent of the universe.

**EXPENDITURE TESTING FOR NON-DOJ COMPONENTS  
UNIVERSE AND SAMPLE SIZE<sup>48</sup>**

AGENCY	UNIVERSE	SAMPLE	PERCENT
City of Ogden, Utah	\$2,082,331	\$2,082,331	100
Denver Police Department	108,290	108,290	100
Georgia Bureau of Corrections	525,772	17,367	3
USDA Forest Service	116,553	116,553	100
<b>TOTALS</b>	<b>\$2,832,946</b>	<b>\$2,324,541</b>	<b>82</b>

Source: FBI Budget Execution Unit, JMD Budget Staff, and OIG analysis

For each transaction selected, we attempted to review supporting documentation such as requisitions, invoices, vendor receipts, reimbursable work authorizations, accounting and payment records, and purchase orders. For the instances in which neither the pass-through agency nor the end-user could provide the necessary transaction listings or detailed support we requested, our sample size reflected 100 percent of the universe because we questioned the entire amount reimbursed as unsupported.

<sup>48</sup> The universe for each end-user does not necessarily correspond to either the agreement amount or the amount billed as of September 10, 2002. Instead, it reflects expenditures reported as of the beginning of our fieldwork related to each agreement.

In the aggregate, we reviewed expenditures totaling \$46,319,239 and consisting of: 1) \$36,007,218 in Department component expenditures; 2) \$7,987,480 in FBI overtime costs related to the World Trade Center and Pentagon attacks; and 3) \$2,324,541 in funds provided to non-DOJ components.

## SCHEDULE OF DOLLAR-RELATED FINDINGS

	<b>AMOUNT</b>	<b>PAGE</b>
<b>QUESTIONED COSTS</b>		
Department Components:		
Unsupported expenditures	\$1,110,606	11
Unallowable expenditures	1,530,533	11
Non-DOJ Components:		
Unsupported expenditures	328,735	29
Unallowable expenditures	101,397	29
<b>Total Questioned Costs</b>	<b><u><u>\$3,071,271</u></u></b>	

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

**Funds to Better Use** are future funds that could be used more efficiently if management took actions to implement and complete audit recommendations.

## SAMPLE OF REIMBURSEMENT AGREEMENT

U.S. Department of Justice Reimbursement Agreement Between Agencies						Bar Code <div style="border: 1px solid black; height: 40px; width: 100%;"></div>										
Parties to the Agreement																
Provider Agency			Customer Agency													
Provider Cost Center	RCN	RCN Description	Customer Number	Customer Alias												
Provider Contact	John Smith		Phone	000-0												
Name	Organization		Name (If billing address is different, specify on reverse side.)													
Address			Counterterrorism Fund													
Address			Address													
City	State	Zip	City	State	Zip											
City	State	000000	D.C.	D.C.	20530											
Duration																
This agreement shall become effective on MM/DD/YY and shall continue until expended.																
Provide the Following Services or Goods:																
Brief explanation of work or services to be performed and basis for determining cost:																
<p><b>Counterterrorism Fund Mission:</b> To reimburse Departmental Components for extraordinary costs incurred in support of countering, investigating, or prosecuting domestic and/or international terrorism, to finance reward payments in connection with such activities, and to restore the operational capacities of offices destroyed or damaged in any domestic or international terrorist acts.</p> <p>It is the Attorney General's policy to approve the use of resources from the Counterterrorism fund for extraordinary costs only (costs such as base salaries are not considered "extraordinary" in nature).</p> <p><b>Purpose of this Agreement:</b> This reimbursement agreement covers expenses associated with the initiatives approved for funding from the Counterterrorism Fund by the Attorney General on MM/DD/YY and by the Congress on MM/DD/YY.</p> <p>According to the plan submitted to the Congress by the Department on MM/DD/YY the following initiative will be funded:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Initiative Description</th> <th style="text-align: left;">Cost Center</th> <th style="text-align: left;">Object Class</th> <th style="text-align: left;">DC#</th> <th style="text-align: left;">Amount</th> </tr> </thead> <tbody> <tr> <td>Initiative Title</td> <td>0A000000</td> <td>2500</td> <td>0</td> <td>\$0.00</td> </tr> </tbody> </table> <p><b>Provider's certification of amounts billed:</b> The Chief Financial Officer (CFO) for your organization must certify that all amounts billed under this agreement have been expended only for the specified purposes &amp; will retain all supporting documents associated with billings under this agreement.</p> <p><b>Billing Submissions:</b> Billings for actual expenditures will be provided to JMD, Budget Staff on a quarterly basis.</p>							Initiative Description	Cost Center	Object Class	DC#	Amount	Initiative Title	0A000000	2500	0	\$0.00
Initiative Description	Cost Center	Object Class	DC#	Amount												
Initiative Title	0A000000	2500	0	\$0.00												
(Attach additional sheet for continuation of explanation, if necessary.)						Estimated Amount										
						\$0.00										
Customer Financing																
<input type="checkbox"/> (Customer agency will indicate account to be charged. Federal agencies will be billed by OPAC, except for the OBDs, USMS & DOD.)																
Agency Location Code	Appropriation Symbol	Cost Center/SOC to be Charged	YRegDoc (for OBD and USMS only)													
15-01-0004	15-X-0130	See above	0 14 0													
Approvals																
<input type="checkbox"/> (See reverse side of form.)																
Approved for Provider Office:			Approved for Customer Office:													
Organization			Organization													
Organization			Justice Management Division													
Signature			Signature													
Title			Title													
Provider Title			Stephen R. Colgate, Assistant Attorney General for Administration													
FORM DOJ-216																
OCTOBER 1993																

## JUSTICE MANAGEMENT DIVISION'S RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice

Washington, D.C. 20530

September 17, 2003

MEMORANDUM

TO: Glenn A. Fine  
Inspector General

FROM: Paul R. Corts   
Assistant Attorney General  
for Administration

SUBJECT: Follow-up Audit of the Department of Justice Counterterrorism Fund

The following is the Justice Management Division's (JMD) response to the Counterterrorism Fund (CTF) Draft Audit Report, dated August 15, 2003. We appreciate the effort that was involved in your extensive audit of the CTF, which began in September 2002. It involved a comprehensive review that encompassed all aspects of the CTF, from administration by the Justice Management Division (JMD) to management by the Department of Justice (DOJ) components of funds distributed to them.

Presented below are the Office of the Inspector General's (OIG) findings and recommendations, and JMD's responses.

**Finding 1: Reimbursements to Department Components**

*Our review of over \$36 million in component expenditures disclosed \$2.6 million in questioned costs, which resulted from expenditures that were either improper or were not adequately supported. These deficiencies represent a combined component error rate of 7 percent. Although this reflects that improvement has been made since our last audit, during which we identified a 16 percent error rate for Department component expenditures, our findings show that Department components need to improve further, their management of Fund monies.*

**Recommendation 1:**

In consultation with EOUSA, remedy the \$17,491 in questioned costs.

Subject: Follow-up Audit of the Department of Justice Counterterrorism Fund

Page 2

**Response 1:**

Recommendation accepted. We will work with the EOUSA to make a final determination on how to remedy the issues identified in this recommendation. This may or may not involve the return of funds to the CT Fund.

**Recommendation 2:**

In consultation with the FBI, remedy the \$1,319,691 in questioned costs.

**Response 2:**

Recommendation accepted. The FBI has returned \$454,638.38 to the CTF and has provided additional documentation for the remaining items questioned. We will work with the FBI to make a final determination on how to remedy the remaining questionable items identified by this recommendation. This may or may not involve the return of funds to the CTF.

**Recommendation 3:**

In consultation with USMS, remedy the \$1,284,453 in questioned costs.

**Response 3:**

Recommendation accepted. The USMS has returned \$225,000 to the CTF. We will work with the USMS to make a final determination on how to remedy the remaining issues identified in this recommendation. This may or may not involve the return of funds to the CTF.

**Recommendation 4:**

Remedy the \$19,504 in questioned SEPS expenditures that have been reversed but have not been deobligated.

**Response 4:**

Recommendation accepted. The funds will be deobligated.

**Recommendation 5:**

Ensure that the FBI and USMS improve their controls over CTF monies to reduce the likelihood that reimbursements are requested for inappropriate items, particularly those that were not authorized by the JMD in the reimbursement agreement (RA) approval process.

**Response 5:**

Recommendation accepted. The information in the RA will be improved to incorporate the decision making process, illustrating what specific requests were either authorized or not authorized. We will also work with the FBI and USMS to ensure future requests for reimbursement are appropriate.

Subject: Follow-up Audit of the Department of Justice Counterterrorism Fund

Page 3

**Finding 2: Reimbursements to Non-DOJ Components**

*Between FYs 1998 and 2002, a total of \$2.7 million in CTF monies was passed through the FBI and JMD to other federal, state, and local agencies. Our audit revealed that these funds were not adequately monitored by these two components, putting the funds at a greater risk of misuse. We identified over \$430,000 in questionable costs, representing 19 percent of the \$2.3 million we tested. Our prior audit disclosed similar findings, and it appears that little improvement has been made in the management of these pass-through funds.*

**Recommendation 6:**

In consultation with the city of Ogden, Utah, remedy the \$187,922 in questioned costs.

**Response 6:**

Recommendation accepted. We will work to make a final determination on how to remedy the issues identified in this recommendation. This may or may not involve the return of funds to the CTF.

**Recommendation 7:**

In consultation with the FBI, remedy the \$108,290 in questioned costs attributable to the Denver Police Department.

**Response 7:**

Recommendation accepted. We will work with the FBI to make a final determination on how to remedy the issues identified in this recommendation. This may or may not involve the return of funds to the CTF.

**Recommendation 8:**

In consultation with the FBI, remedy the \$17,367 in questioned costs attributable to the Georgia Bureau of Corrections.

**Response 8:**

Recommendation accepted. We will work with the FBI to make a final determination on how to remedy the issues identified in this recommendation. This may or may not involve the return of funds to the CTF.

**Recommendation 9:**

In consultation with the FBI, remedy the \$116,553 in questioned costs attributable to the USDA Forest Service.

Subject: Follow-up Audit of the Department of Justice Counterterrorism Fund

Page 4

**Response 9:**

Recommendation accepted. We will work with the FBI to make a final determination on how to remedy the issues identified in this recommendation. This may or may not involve the return of funds to the CTF.

**Finding 3: JMD Oversight of the Fund**

*As the Funds administrator, JMD needs to carefully monitor CTF expenditures to ensure its availability during times of extreme need. Our prior audit disclosed that JMD needed to take a more proactive approach in monitoring CTF expenditures, as indicated by our identification of \$4.1 million in dollar-related findings, or 17 percent of the total funds reviewed. In comparison, our current audit has revealed a total of \$3.1 million in dollar-related findings, or 8 percent of the overall funds reviewed, resulting from expenditures that were either improper or were not adequately supported. The current results illustrate that JMD has made some improvement in its controls over the use of CTF monies, but it needs to further strengthen controls. Funds continue to be at risk of misuse and fewer resources could be available to the Department for responding rapidly and effectively to unanticipated terrorist acts.*

**Recommendation 10:**

Develop and implement a plan to increase the JMD Budget Staff's oversight of the Department components' management of CTF monies, including more detailed reviews of component billings and periodic monitoring of actual expenditures.

**Response 10:**

Recommendation accepted. As stated during the last audit, our plan to increase oversight is to continue to emphasize the concept of holding components accountable, which reflects the same expectations of the components for all other funds that they are entrusted to manage.

The RA that each component signs currently contains the following statement: "The Chief Financial Officer for your organization must certify that all amounts billed under this agreement have been expended only for the specified purposes, and will retain all supporting documents associated with billings under this agreement." This holds the component Chief Financial Officer responsible for management of the CT funds and ensuring that the billings are for only the purposes specified in the RAs. However, we will also consider performing more detailed reviews of component billings and periodic monitoring of actual expenditures to ensure compliance.

**Recommendation 11:**

Develop and issue guidance on the retention of records for CTF expenditures.

Subject: Follow-up Audit of the Department of Justice Counterterrorism Fund

Page 5

**Response 11:**

Recommendation accepted. Guidance will be issued that is consistent with Governmentwide regulations contained in the National Archives and Records Administration's General Records Schedule.

**Recommendation 12:**

Review the USMS's system for tracking CTF expenditures prior to providing the agency with any additional funding. In addition, the JMD Budget Staff should clearly monitor any future payments of the USMS.

**Response 12:**

Recommendation accepted. USMS now has a better financial system and process in place than it did in 1998. The sample selected from FY 2001 was error free, demonstrating that the new process is working. We will work with the USMS to ensure future payments meet all financial requirements.

**Recommendation 13:**

Establish a process to use in the event that CTF monies are to be passed through to non-DOJ agencies. The process should provide guidance for the pass-through agencies, including mandating the use of written agreements, reviewing the actual expenditures of the end-users, and maintaining appropriated documentation.

**Response 13:**

Recommendation accepted. We will establish a process for pass-through funds which will include written guidance on component responsibilities. We agree that monitoring the use of Fund monies with non-DOJ users is important. Our major emphasis, as far as this area of responsibility is concerned, is placed with the components who receive the funding and their management of those CT funds as agreed to when the RA is signed.

Thank you for the opportunity to comment on the draft report. We continue to believe that the crucial element to assuring that the CTF is used properly is to require greater accountability from the participating components. We will work with the components to resolve the issues you have highlighted.

If you have any questions concerning this response, please contact me on (202) 514-3101 or Scott Snell, of the Budget Staff, on (202) 616-3774.

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

**Recommendation Number:**

- 1. Resolved.** JMD accepted our recommendation and agreed to work with EOUSA to remedy the issues. This recommendation can be closed when we receive evidence that the \$17,491 in questioned costs attributable to EOUSA has been remedied appropriately.
- 2. Resolved.** According to JMD, the FBI returned \$454,638 to the Fund and provided additional documentation for the remaining items questioned. JMD plans to work with the FBI to resolve these items. To close this recommendation, please provide us with evidence that the \$454,638 was returned and the remaining \$865,053 has been remedied appropriately.
- 3. Resolved.** JMD responded that the USMS returned \$225,000 to the Fund. JMD and the USMS will work together to address the remaining questioned costs. This recommendation can be closed when we receive evidence that the \$225,000 was returned and the remaining \$1,059,453 has been remedied in an appropriate manner.
- 4. Resolved.** JMD agreed to deobligate the \$19,504 in Fund monies that SEPS returned. Please provide documentation to support the deobligation.
- 5. Resolved.** In its response, JMD stated that the reimbursement agreements will be revised to incorporate information from the decision making process, including those requests that were authorized and those that were not. JMD also stated that it will work with the FBI and the USMS to ensure that future requests are appropriate. To close this recommendation, please provide us with a sample RA that has been revised appropriately. Further, please provide us with the results of your work with the FBI and USMS regarding their requests for reimbursement from the Fund.
- 6. Resolved.** JMD accepted our recommendation and agreed to remedy the issues identified. In order to close this recommendation, please provide us with documentation to support that the \$187,922 in questioned costs attributable to the city of Ogden, Utah, have been remedied appropriately.

- 7. Resolved.** In its response, JMD stated that it will work with the FBI to remedy the \$108,290 in questioned costs attributable to the Denver Police Department. This recommendation can be closed when we receive evidence that these questioned costs have been remedied in an appropriate manner.
- 8. Resolved.** According to JMD, it will work with the FBI to remedy the \$17,376 in questioned costs attributable to the Georgia Bureau of Corrections. This recommendation can be closed when we receive evidence that these questioned costs have been remedied in an appropriate manner.
- 9. Resolved.** JMD accepted our recommendation and agreed to work with the FBI to remedy the \$116,553 in questioned costs attributable to the USDA Forest Service. To close this recommendation, please provide evidence that these questioned costs have been remedied appropriately.
- 10. Resolved.** In its response, JMD stated that it will increase oversight of the Fund by continuing to emphasize the accountability of the receiving components. Further, JMD noted that more detailed reviews of component billings and periodic monitoring of actual expenditures will be considered. As this follow-up audit revealed over \$3.1 million in questioned costs, we believe that JMD should establish a system of monitoring Fund expenditures that goes beyond the steps that have been taken previously. In order to close this recommendation, please provide us with additional information about how you plan to increase your oversight of the Fund.
- 11. Resolved.** JMD agreed to issue guidance regarding the retention of records related to Fund expenditures. This recommendation can be closed when we receive the standards and evidence that they have been disseminated to all Fund users.
- 12. Resolved.** In its response, JMD stated that the USMS has an improved financial system and, like the USMS, pointed to the USMS's FY 2001 activities as evidence of the improvement. However, as noted in the report, the FY 2001 agreement was not comprehensive. The only reimbursement the agency received was for overtime; other expenditure categories recorded in other systems were not included. JMD agreed to work with the USMS to ensure that future payments meet financial requirements. In order to close this recommendation, please provide us with evidence that you have reviewed the USMS's

system for tracking Fund expenditures and that the USMS has adequately tracked more recent Fund expenditures not related to payroll.

- 13. Resolved.** JMD agreed that monitoring non-DOJ users of Fund monies is important and stated that a process for pass-through funds, including the responsibilities of the pass-through components, will be established. This recommendation can be closed when we receive the written guidance that has been established and evidence that it has been provided to all pass-through components.