



A REPORT
TO THE
ARIZONA LEGISLATURE

Special Investigative Unit

Special Investigation

Arizona High Intensity Drug Trafficking Area (HIDTA) Federal Grant Program

Mishandling of Public Monies

APRIL • 2007



Debra K. Davenport
Auditor General

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April 3, 2007

Members of the Arizona Legislature

Arizona HIDTA Executive Board

Pima County Board of Supervisors

Santa Cruz County Board of Supervisors

The Office of the Auditor General has conducted a special investigation of the Arizona High Intensity Drug Trafficking Area (HIDTA) federal program administered through Pima County for the period December 2004 through October 2005. The investigation determined the amount of public monies misused, if any, and whether there were misfeasance and procurement violations during that period.

The investigation consisted primarily of inquiries and examination of selected financial records and other documentation. Therefore, the investigation was substantially less in scope than an audit conducted in accordance with generally accepted auditing standards. Accordingly, the Office does not express an opinion on the adequacy of the financial records or the internal controls of the High Intensity Drug Area federal program administered through Pima County. The Office also does not ensure that all matters involving the program's or the County's internal controls, which might be material weaknesses under standards established by the American Institute of Certified Public Accountants or other conditions that may require correction or improvement, have been disclosed.

The accompanying investigative report describes the Office's findings and recommendations as a result of this special investigation.

After this report is distributed to the members of the Arizona State Legislature, it becomes public record.

Sincerely,

Debbie Davenport
Auditor General

Enclosure

SUMMARY

In October 2005, Pima County administrators requested that the Office of the Auditor General investigate allegations of potential misfeasance and misuse of public monies by officials within the Arizona High Intensity Drug Trafficking Area (HIDTA) federal grant program. Although the program is administered by the HIDTA Executive Board, Pima County was the federally designated grantee to administer the HIDTA program in the Arizona Region. As a result of Pima County's request, we conducted an investigation of those allegations.

Our investigation revealed that from December 2004 through October 2005, the former Arizona HIDTA Director and former Arizona HIDTA Finance Manager falsified public records and mishandled grant monies to obtain salary increases totaling more than \$133,000 for themselves and other staff members. In addition, the Arizona HIDTA Executive Board did not properly oversee the administration of HIDTA operations and did not ensure that grant resources were used prudently. Finally, Santa Cruz County, a subrecipient of HIDTA grant monies, failed to follow any procurement procedures when contracting for HIDTA administrative services, thereby eliminating all competition and fostering an unfair economic advantage that benefited former HIDTA administrative staff.

Investigation Highlights:

- ◆ Arizona HIDTA Director and Arizona HIDTA Finance Manager falsified records and mishandled grant monies to obtain salary increase.
- ◆ Arizona HIDTA Executive Board did not properly oversee the administration of HIDTA operations.
- ◆ Santa Cruz County officials failed to follow any procurement procedures when contracting with HIDTA administrative staff.

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INTRODUCTION & BACKGROUND

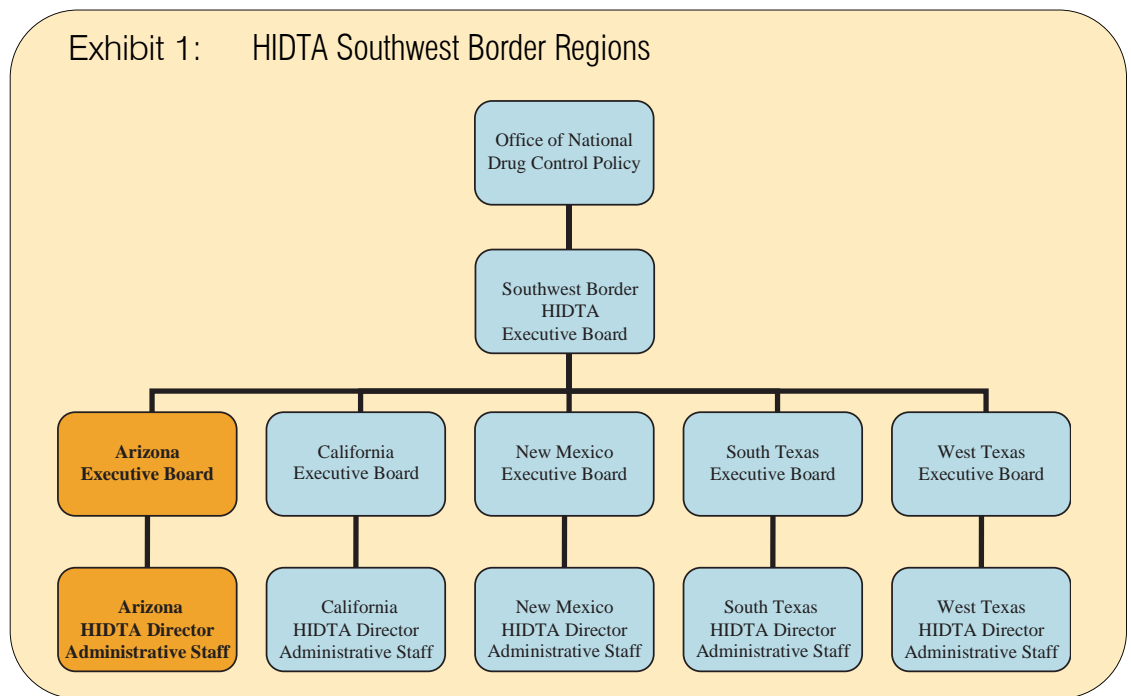
HIDTA Grant

The mission of the HIDTA grant program is to enhance and facilitate the coordination of America's drug control efforts among federal, state, and local law enforcement agencies in order to eliminate or reduce drug trafficking and its harmful consequences in critical regions of the United States. For federal fiscal year 2005, the federal Office of the National Drug Control Policy awarded Pima County a federal grant totaling \$10,104,040. These monies are provided to approximately 23 programs within various federal, state, and local law enforcement agencies throughout the State of Arizona.

Establishment of Program—In 1990, the Pima County Sheriff's Department became the designated federal grantee for grant funding in the Arizona HIDTA program. Accordingly, for grant monies awarded from 1990-2005, Pima County acted as the nonfederal agency responsible for the financial management and physical control of the federal HIDTA grant monies used in Arizona. However, in September 2005, Pima County elected to no longer act as the HIDTA grantee. Subsequently, the Arizona Criminal Justice Commission accepted that responsibility.

Structure of Program—As illustrated in Exhibit 1 (see page 2), the federal Office of the National Drug Control Policy (ONDCP) structured the HIDTA Southwest Border into five regions based on historical drug trafficking corridors. Those five regions include Arizona, California, New Mexico, South Texas, and West Texas. Each region has its own Executive Board and administrative staff led by a regional director. The Arizona Executive Board comprises at least 10 members, but not more than 20, from agency executives in Arizona equally represented by federal, state, and local law enforcement departments.

Exhibit 1: HIDTA Southwest Border Regions



Administrative Staff

In 1991, the Arizona Executive Board hired the Arizona HIDTA Director, who was designated a Pima County employee, to administer HIDTA programs. Subsequently, the remaining four administrative staff members were also designated as Pima County employees. Together, they were responsible for support services such as administrative and technical support, reprogramming services, initiative development, preparation of drug strategy, threat assessment, and specialized reports. Although the administrative staff were Pima County employees, their duties were specific to HIDTA program activities. As such, the Arizona HIDTA Executive Board was directly responsible for their oversight and supervision.

In December 2005, the Arizona Executive Board suspended the Arizona HIDTA Director from his position along with the other four administrative staff members discussed in this report. Further, in February 2006, the Arizona HIDTA Executive Board terminated all five administrative staff members.

FINDING 1

HIDTA program employees manipulated records

In 2005, the Arizona HIDTA Director and Arizona HIDTA Finance Manager manipulated financial records, acted outside their authority, and mishandled public money in order to obtain salary increases for themselves and other staff members.

Arizona Executive Board Proposed Salary Increases

Based on salary comparisons among administrative positions for the five Southwest Border Regions, the Arizona Executive Board proposed salary increases for the Arizona administrative staff to match those of the other regions. However, because the staff were all Pima County employees and currently paid appropriately within the county personnel structure, the County notified the Arizona Executive Board that the proposed salary increases would not be allowed.

Despite Pima County's notification in December 2004, the Arizona Executive Board approved the proposed salary increases in April 2005, effective for the 2006 budget. The Arizona Executive Board approved salary increases totaling \$133,226. As illustrated in Exhibit 2, the salary increases ranged from 14 to 70 percent. In fact, the Arizona HIDTA Finance Manager's salary went from \$63,697 to \$102,782, a 61 percent increase.

The proposed salary increases ranged from 14 to 70 percent.

Exhibit 2: Arizona Administrative Staff Salary Increases

<u>Position</u>	<u>2005 Annual Salary</u>	<u>2006 Annual Salary</u>	<u>Increase</u>	
Director	\$ 125,478	\$ 142,871	\$ 17,393	14%
Deputy Director	104,674	121,459	16,785	16%
Finance Manager	63,697	102,782	39,085	61%
Coordinator 1	60,617	102,782	42,165	70%
Coordinator 2	84,984	102,782	17,798	21%
Total Salary Increase			<u>\$ 133,226</u>	

Source: Auditor General staff analysis of HIDTA and Pima County records.

Improper actions by Arizona HIDTA Director

The Director reduced other law enforcement program budgets by more than \$182,000 without any approval from ONDCP or the Arizona Executive Board.

Although the Arizona Executive Board had approved the staff raises effective for the 2006 budget, the ONDCP had not yet provided final approval. Despite this, the Director proceeded to make the raises effective in the 2005 budget. However, the Director's 2005 budget did not have enough funding to pay for these raises. In order to obtain the monies necessary to make the staff raises effective within the 2005 budget, the Director took back monies from grants that had already been awarded to law enforcement agencies for 2005. Specifically, in April and May of 2005, the Director acted outside his authority by unilaterally taking more than \$182,000 of grant money budgeted for 13 other law enforcement programs to increase his own administrative budget. In fact, the Director initiated 10 individual transfers totaling \$62,240 in a single day and another 22 individual transfers totaling more than \$119,000 in a single day. The Director never received approval from ONDCP or the Arizona Executive Board to make these transfers, and notified only 1 of the 13 programs that its budget had been reduced. These transfers reduced the monies available for the intended law enforcement programs that had been properly approved.

Because Pima County refused to provide the proposed salary increases, the Director approached other agencies that would accommodate such increases. As such, in May 2005, the Director negotiated a contract for him and his staff as independent contractors with Santa Cruz County. As a result, by the end of May 2005, the Arizona HIDTA staff signed individual service contracts with Santa Cruz County. The Director began his contract employment on October 2005, although the remaining four members began 2 months earlier, in August 2005.

In negotiating employment with Santa Cruz County, the Director acted improperly by:

- Independently authorizing the employment contracts without Executive Board review or approval, or properly established cooperative agreements between Pima County and Santa Cruz County. In fact, the Director failed to even present the contracts to the Executive Board for review;
- Allowing this activity even though he was fully aware that Santa Cruz County failed to follow any procurement procedures; and
- Increasing the contracts' salary amounts by at least \$60,000, in total, above the increases approved by the Arizona Executive Board.

The employment contracts negotiated by the Director included salary amounts of \$60,000 above amounts approved by the Arizona Executive Board.

In addition, the Director inappropriately advanced his entire 2005 budget totaling \$535,147 to Santa Cruz County to fund the staff's expenditures such as the increased salaries as well as travel and car allowances. Under HIDTA regulations, local and state law enforcement agencies must finance their HIDTA programs, and then seek reimbursement from ONDCP. Advancements are provided only on a limited basis. However, Santa Cruz County refused to fund the administrative staff on a reimbursement basis. Therefore, in order to pay the staff's expenditures while under contract with Santa Cruz County, the Director improperly advanced the County HIDTA grant money.

In particular, he improperly authorized two “Request for Advances” forms totaling \$535,147 for the next year’s expected cash outlays for the staff’s salaries, falsely certifying that the expenditures were in accordance with the grant agreement. His actions violated federal HIDTA policies that restrict advancement of grant funding by limiting requests for expenditures that will occur within 60 days. Additionally, the cooperative agreement between Pima County and Santa Cruz County finalized after the Director inappropriately authorized employment contracts with Santa Cruz County further restricts advances to 30 days.

The Director improperly advanced his entire 2005 budget totaling \$535,147 to Santa Cruz County to fund the staff’s salary increases.



Source: Auditor General staff analysis of ONDCP, Arizona HIDTA Executive Board, Pima County, and Santa Cruz County records.

Through his attorney, the Director declined an interview with Auditor General staff.

Improper actions by Arizona HIDTA Finance Manager

In order to perpetuate her supervisor’s inappropriate actions and ensure that she received the salary increase, the Finance Manager falsified public records by preparing and submitting financial reports that concealed the Director’s improper advancement requests. Specifically, in October 2005, the Finance Manager submitted two reports to ONDCP that were required to substantiate the two “Request for Advances” forms totaling \$535,147 authorized by the Director. However, the reports documented only \$82,985 of appropriate administrative staff salaries and travel. The Finance Manager concealed the purpose of the remaining advancement request amount totaling \$452,162 by falsely listing expenditures from other HIDTA programs completely unrelated to administrative staff activities or by failing to include any supporting documentation.

The Finance Manager falsified public records to perpetuate her supervisor’s inappropriate actions and receive her salary increase of almost \$40,000.

In March 2006, Pima County notified ONDCP of these improprieties, and \$422,171 was reverted back to the ONDCP. However, by this time, the Director's and the Finance Manager's improper actions allowed \$112,976 to be spent on salaries for the Finance Manager and three other staff members. The Director had elected not to receive the extra emolument.

FINDING 2

Arizona HIDTA Executive Board failed to fulfill fiduciary duty

The Executive Board failed to properly oversee the management of HIDTA grant monies and inappropriately allowed the Director and his staff to violate HIDTA policies. HIDTA policy requires expenditures to be within the regulation and policies of the federal grantee, and no exemptions are permitted by the unilateral action of administrators, grantees, or participants.

The Executive Board imprudently approved the salary increases even though the staff's duties did not change and their current salaries were in accordance with HIDTA policy.

Despite Pima County's notification that the proposed staff salaries far exceeded limits within the County's pay structure, and that the County refused to provide such increases, the Executive Board proceeded to approve the salary increases. In fact, the Executive Board did nothing to minimize the requested raises or otherwise ensure the prudent management of grant resources. To the contrary, the Executive Board imprudently approved the proposed raises even though the staff's responsibilities had not changed. In fact, as Pima County employees, staff had received salaries during the past 8 years in accordance with HIDTA policies.

Furthermore, the Executive Board violated the HIDTA policy that establishes the Executive Board as having responsibility for ensuring the accountability of grant resources by improperly allowing administrative staff the option of seeking employment outside Pima County. Consequently, in May 2005, administrative staff members signed individual service contracts with Santa Cruz County, thereby evading the financial controls and limitations that were in place with Pima County.

Finally, because the Executive Board provided limited supervision of the Director and his staff, and did not exercise proper management of the administrative activities, it failed to request, review, and ultimately approve the administrative staff's final employment contracts. Although the Executive Board allowed the general process of seeking employment outside Pima County, it was unaware of the staff's finalization of employment with Santa Cruz County. As a result, the Executive Board

The Executive Board failed to request, review, and ultimately approve the administrative staff's final employment contracts.

did not discover that the signed contracts had even higher salary amounts than those it previously approved, and that the staff was inappropriately receiving the raises outside the approved 2006 budget. The approved salary increase amount was \$133,226; however, the contracts integrated salary increases totaling \$193,962, for an additional increase of more than \$60,000.

FINDING 3

Santa Cruz County officials violated procurement rules

Santa Cruz County, a subrecipient of HIDTA grant monies, failed to follow any procurement procedures when contracting for HIDTA administrative services with the independent contractors. This violation effectively eliminated all competition and created an unfair economic advantage that benefited former administrative HIDTA staff.

Federal grant recipients are required to adhere to appropriate procurement procedures designed to eliminate unfair competitive advantage and restraint of free trade. Specifically, federal grant regulations outline specific procurement procedures, including guidelines for soliciting goods and services. Additionally, as a public entity, Santa Cruz County officials have an obligation to its citizens and taxpayers to follow proper procurement procedures to help ensure the best value is obtained for the goods and services purchased. At a minimum, the County would be required to follow the competitive request for proposal process for professional services as required by state law.

However, in May 2005, Santa Cruz County officials ignored their obligation and failed to perform any procurement activities before hiring the HIDTA administrative staff under individual private service contracts totaling \$633,415. In particular, the Santa Cruz County Attorney inappropriately coordinated exclusively with the then-existing HIDTA administrative staff members in order to establish contracts with Santa Cruz County for performing the HIDTA administrative services. In addition, the County approved contract amounts for these individuals at rates totaling more than \$60,000 higher than what the Executive Board had approved. Consequently, Santa Cruz County officials eliminated competition and did not receive the best possible value in terms of cost.

Santa Cruz County approved contract amounts at rates totaling more than \$60,000 above the Arizona Executive Board's approval.

RECOMMENDATIONS

To help ensure the proper use of federal grant monies, the Executive Board should properly monitor program activities and ensure required policies are consistently followed. Specifically, the Executive Board should implement and ensure that these policies and procedures are followed:

1. The Executive Board Chair and Vice Chair should meet with the Director on a monthly basis to discuss critical program issues and monitor current administrative issues.
2. The Executive Board must establish ongoing internal program reviews to ensure all budget modifications (i.e., budget transfers) are in accordance with agency regulations and HIDTA policy. Further, these reviews should ensure that no administrative employee has the ability to independently perform improper budget modifications without the appropriate approval from the ONDCP and the Executive Board.
3. The Executive Board should take greater care to ensure the accountability of grant resources by administrative employees. Accordingly, the Board should establish periodic reviews of administrative activities such as budget transfers, request for advances, and monthly financial reports. Further, the results along with recommendations should be reported during a formal board meeting.
4. The Executive Board must ensure the prudent use of public money by approving only expenditures that comply with HIDTA policy and federal grant regulations.

CONCLUSION

This report was submitted to the Office of the Arizona Attorney General to review for possible criminal charges. After reviewing our report, that Office declined to initiate a criminal prosecution.