



Transmitted via e-mail

August 20, 2015

Mr. Robert Nelson, Assistant Director of Administration  
Office of Traffic Safety  
2208 Kausen Drive, Suite 300  
Elk Grove, CA 95758

Dear Mr. Nelson:

**Final Report—Fresno County, Office of the District Attorney, Traffic Safety Grant Audit**

The Department of Finance, Office of State Audits and Evaluations, has completed its audit of the Fresno County, Office of the District Attorney's (County) grant AL1152 issued by the Office of Traffic Safety.

The enclosed report is for your information and use. The County's response to the report observations and our evaluation of the response are incorporated into this final report. This report will be placed on our website.

We appreciate the assistance and cooperation of the County. If you have any questions regarding this report, please contact Frances Parmelee, Manager, or Alexis Calleance, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

Richard R. Sierra, CPA  
Chief, Office of State Audits and Evaluations

Enclosure

cc: Mr. Randy Weissman, Chief Deputy Director of Operations, Office of Traffic Safety  
Mr. Mitch Zehnder, Regional Coordinator, Office of Traffic Safety  
Mr. Marco Coelho, Operations Coordinator, Office of Traffic Safety  
Ms. Trina Nguyen, Associate Accounting Analyst, Office of Traffic Safety  
Ms. Deborah A. Poochigian, Chairman, Fresno County Board of Supervisors  
Ms. Lisa A. Smittcamp, District Attorney, Office of the District Attorney, Fresno County  
Mr. Jeffrey D. Dupras, Assistant District Attorney, Office of the District Attorney, Fresno County  
Mr. Stephen A. Rusconi, Business Manager, Office of the District Attorney, Fresno County  
Ms. Ruth Falcon, Senior Accountant, Office of the District Attorney, Fresno County

# AUDIT REPORT

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## Fresno County, Office of the District Attorney Young Adult Felony and Repeat DUI Offender Program Grant Agreement AL1152



Source: Fresno County, Office of the District Attorney

Prepared By:  
Office of State Audits and Evaluations  
Department of Finance

## **MEMBERS OF THE TEAM**

Frances Parmelee, CPA  
Manager

Alexis Calleance  
Supervisor

Staff  
Lynn Damouny  
Richard Faust

Final reports are available on our website at <http://www.dof.ca.gov>

You can contact our office at:

Department of Finance  
Office of State Audits and Evaluations  
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(916) 322-2985

# BACKGROUND, SCOPE AND METHODOLOGY

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## BACKGROUND

The Office of Traffic Safety's (OTS) mission is to effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries, and economic loss. OTS implements its mission by awarding grants to local and state public agencies from several federal funding sources. The ten priority areas of concentration for grant funding include the following: Alcohol-Impaired Driving, Distracted Driving, Drug-Impaired Driving, Occupant Protection, Pedestrian and Bicycle Safety, Traffic Records, Emergency Medical Services, Roadway Safety, Police Traffic Services, and Motorcycle Safety.<sup>1</sup>

Fresno County, Office of the District Attorney (County) received a \$600,000 grant from the Office of Traffic Safety to vertically prosecute felony Driving Under the Influence (DUI) cases involving young adult offenders between the ages of 18 through 29 years old. Through the Young Adult Felony and Repeat DUI Offender Program, the team consisting of two prosecutors, an investigator, and an investigative assistant prosecuted felony DUI cases from the initial investigation phase through trial. The team also engaged in proactive endeavors with local law enforcement, school districts, the courts and community organizations to increase awareness of the frequency and severity of alcohol-related injuries and deaths.<sup>2</sup>

## SCOPE

In accordance with an interagency agreement, the Department of Finance, Office of State Audits and Evaluations, audited grant agreement AL1152 for the period October 1, 2010 through September 30, 2011.

The audit objectives were to determine whether the County's grant expenditures claimed were in compliance with applicable laws, regulations, and grant requirements; and to determine whether the grant objectives were completed as required. We did not assess the efficiency or effectiveness of program operations.

The County's management is responsible for ensuring accurate financial reporting and compliance with applicable laws, regulations, and grant requirements. OTS is responsible for the state-level administration of the grant program.

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<sup>1</sup> Excerpt from [www.OTS.ca.gov](http://www.OTS.ca.gov).

<sup>2</sup> Source: Grant Agreement AL1152.

## **METHODOLOGY**

To determine whether grant expenditures were in compliance with applicable laws, regulations, and the grant requirements; and if the grant objectives were completed, we performed the following procedures:

- Examined the grant files, the grant agreement, and applicable policies and procedures.
- Reviewed the County's accounting and payroll records, personnel documents, contracts, and case records.
- Selected a sample of claimed expenditures and determined whether they were allowable, grant-related, incurred within the grant period, supported by accounting records, and properly recorded.
- Evaluated whether other revenue sources were used to reimburse expenditures claimed for reimbursement under the grant agreement.
- Evaluated whether a sample of grant objectives were met by reviewing supporting documentation.

In conducting our audit, we obtained an understanding of the County's internal controls including any information systems controls that we considered significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal control that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

We conducted this audit in accordance with generally accepted government performance auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our observations and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.

The results of the audit are based on our review of documentation, other information made available to us, and interviews with staff directly responsible for administering grant funds.

As described below, the Fresno County, Office of the District Attorney (County), could not substantiate whether a significant portion of the grant expenditures claimed were in compliance with the grant requirements. Additionally, several grant objectives were not completed as specified in the grant agreement. The Schedule of Claimed and Questioned Amounts is presented below.

### Schedule of Claimed and Questioned Amounts

Category	Claimed <sup>1</sup>	Questioned
Personnel Costs	\$ 547,049	\$ 547,049
Travel Expenses	1,586	
Contractual Services	7,000	
Other Direct Costs	20,456	
<b>Total Expenditures</b>	<b>\$ 576,091</b>	<b>\$ 547,049</b>

#### Observation 1: Unsupported Personnel Costs

Costs totaling \$547,049 are questioned as follows:

- \$28,899 is ineligible because the expenditures were not grant-related. The County tracks grant-related activities by charging personnel time to specific project codes on employee timesheets. However, the County claimed \$28,899 in personnel costs that were either associated with the incorrect project code or no project code was documented. The Office of Traffic Safety (OTS) Grant Manual, section 4.1, states personnel costs must have documentation to support whether costs are grant-related.
- \$518,150 is questioned due to a lack of sufficient supporting documentation. Because a clear audit trail did not exist, the eligibility of costs claimed could not be determined. The County designates staff to spend 100 percent of their time on driving under the influence (DUI) cases, and charges the personnel time to grant specific project codes. However, the County's timekeeping practices do not include tracking personnel time by each individual case. Although the County provided documentation that the personnel costs were incurred, it did not substantiate whether claimed personnel costs pertained to prosecuting DUI offenders between the ages of 18 and 29 years old, as required by the grant agreement. Based on our testing of the 45 DUI cases prosecuted by the staff who claimed time during the grant term, we found 11, or 24 percent of the

<sup>1</sup> OTS awarded \$600,000 and the County claimed \$576,091.

offenders, did not meet the necessary age requirement. OTS Grant Manual, section 2.1, requires the grantee to administer grant funds consistent with the objectives of the grant agreement.

**Recommendations:**

- A. The County should remit \$28,899 to OTS.
- B. OTS should work with the County to determine an appropriate resolution regarding the \$518,150 in questioned costs.
- C. For future grants, the County should ensure a clear audit trail is maintained for all claimed expenditures. The audit trail should facilitate the tracing of expenditures claimed on payment requests to accounting records and supporting source documents. Bridging documents should be developed to reconcile accounting system and support document information with the payment request.

**Observation 2: Unsupported Grant Objectives**

The grant agreement outlines 12 objectives required for completion by the County. Additionally, the OTS Grant Manual, section 4.10, requires the County to retain all grant source documents and records and make them available for federal and state audits for a period of three years following the date of the final reimbursement of grant expenditures. The County could not provide sufficient supporting documentation demonstrating the completion of five objectives; specifically, Objectives 1, 2, 3, 8 and 12 as noted in the Schedule of Unsupported Grant Objectives below. Failure to meet the grant objectives may result in withholding or disallowance of grant reimbursements, the reduction or termination of grant funding, or denial of future grant funding.

**Schedule of Unsupported Grant Objectives**

Objective	Requirement	Audited Results
1	To create a vertical prosecution team within the District Attorney’s Office to facilitate the prosecution of all DUI cases that fall within the grant’s description.	The County created a vertical prosecution team within the District Attorney’s Office to facilitate the prosecution of DUI cases; however, as noted in Observation 1, the County could not substantiate the cases prosecuted for young adult offenders between the ages of 18 and 29 years old.

2	To work with the OTS Traffic Safety Resource Prosecutors (TSRP) to provide training for the vertical prosecution team and to assist the team in implementing DUI training for local law enforcement and other prosecutorial staff and to provide DUI court data to the TSRP team.	The County provided documentation showing training for the prosecution team was conducted and DUI court data was provided to the TSRP. However, the County could not provide documentation showing the vertical prosecution team implemented DUI training for local law enforcement and other prosecutorial staff.
3	To meet with all law enforcement agencies within the County to explain the vertical prosecution program and develop a referral process by March 2011.	The County provided documentation to support a referral process was developed; however, the County could not provide documentation to show they met with any of the enforcement agencies as reported on the Final Report to OTS.
8	To meet with judges to encourage them to impose consistent, strict punishment on DUI young adult offenders.	The County claimed regular discussions were held with judges to communicate the status of current cases. However, they were unable to provide documentation supporting their assertion.
12	To ensure all victims of felony DUI young adult offender cases are referred to a victim advocate and kept informed of the case status.	The County did not provide documentation showing victims were referred to an advocate and kept informed of the case status.

**Recommendations:**

- A. Effectively plan and monitor grant activities to ensure grant objectives are fully met.
- B. Ensure adequate supporting documentation is retained to demonstrate the required objectives were met. OTS will determine the actions, if any, to take regarding the unmet/unsupported objectives.





**County of Fresno**  
**Lisa A. Smittcamp**  
**District Attorney-Public Administrator**

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June 2, 2015

Department of Finance  
Office of State Audits  
Attn: Richard R. Sierra

Re: Audit Issues for OTS grant #AL1152

Mr. Sierra:

My office has received the Young Adult Felony and Repeat DUI Offender Program draft audit report dated May 19, 2015, authored by the Department of Finance. We have had an opportunity to research the issues that are addressed therein and have concluded that the Fresno County District Attorney-Public Administrator's Office has complied with and met the requirements OTS grant #AL1152. The responses below address each item and as you will see my office was in compliance and has documentation supporting this conclusion.

While I appreciate the time and resources expended to complete this audit by the Department of Finance, it is important to note that the Department of Finance began the fieldwork for this audit in October of 2013. However, this draft report was not submitted to my office until April of 2015. This is significant because during that two year period, the lead auditor, (Lynn Damouny) is no longer involved in overseeing this process because she is no longer employed by the Department of Finance. Similarly, my office has had a significant change in grant officials and staff for this program including the elected District Attorney, Grant director, and the main attorney contact for this audit. As a result, a significant number of staff involved from both of our departments that were involved in the field audit in 2013 are not available to respond to or interpret these audit findings. Based upon this, my office has researched and compiled the supporting information for our compliance with OTS grant #AL1152. All documents relating to our response will be made available upon request.

**Observation 1 Unsupported Personnel Costs:**

- \$28,899 is ineligible because expenditures were not grant-related.

**Recommendation:** A. The County should remit \$28,899 to OTS.

**Management's response:** The Fresno County District Attorney-Public Administrator's Office does not agree with this observation and recommendation. While we agree that two of the staff were not consistently using the project code DUI-YAFO, all of the assigned grant staff, Dennis Verzosa, Stephanie Baldovi, Mario Leal, and Yazmin Toquillas worked in a dedicated function devoting 100% of their time to OTS grant activities. This grant program has its own separate budget (28622500) and in addition to the project code (DUI-YAFO), grant staff must manually enter the grant cost center (2500). All of the time identified in observation 1 was coded to the correct grant cost center for grant #AL1152.

Additionally, The California Office of Traffic Safety conducted a Grantee Performance Review for grant# AL1152 on 6/22/11 (Attachment A). During that review, OTS also identified the same project code issues with employees Stephanie Baldovi and Mario Leal and requested that our office follow up with a document certifying that both employees worked 100% on OTS grant activities. A memo certifying that those two employees devoted 100% of their time to grant activities was sent to OTS on 7/21/11. OTS accepted this memo as certification that the salary costs were appropriately claimed to the grant.

Since the OTS Grantee Performance Review in June of 2011, our office has instructed grant staff to use both the project code and cost center so that the timesheet information is more consistent. In addition to timesheet instruction, our office completes form OTS-26 time certification reports on a semi-annual basis. These reports are signed by both the employee and supervisory official having first-hand knowledge of the work performed by the employee. These forms are kept in the grant file. The Office of Traffic Safety Grant Manual, section 4.4.1 states that the time certification requirement can be met through either the OTS-26 form or certain payroll codings. The payroll requirement was met in this case with both the budget and cost center payroll codings.

- \$518,150 is questioned due to lack of sufficient supporting documentation. Because a clear audit trail did not exist, the eligibility of costs claimed could not be determined. The County designates staff to spend 100 percent of their time on driving under the influence (DUI) cases, and charges the personnel time to grant specific codes. However, the County's timekeeping practices do not include tracking personnel time by each individual case.

**Recommendation:** B. OTS should work with the County to determine an appropriate Resolution regarding the \$518,150 in questioned costs.

C. For future grants, the County should ensure a clear audit trail is maintained for all claimed expenditures.

**Management's response:** The Fresno County District-Public Administrator's Office does not agree with this observation. Our office has met all of the grant personnel costs/timekeeping requirements as outlined in The Office of Traffic Safety Grant Manual, section 4.4.1. Nowhere does it state in the OTS grant manual that grant staff are required to track personnel time by each individual case nor was that ever communicated to any of the grant staff during our many meetings with OTS, pre-operational review, or grantee performance review. The grant staff was 100% dedicated to the program, appropriately coding to the correct cost center. Additionally, during a program review of this grant period by our OTS regional coordinator (attachment A), it was stated that The Fresno County District Attorney's Office was meeting the objectives of the grant and also mentioned several noteworthy accomplishments of the grant staff's activities.

Since it is clear that the Fresno County District Attorney's Office followed both fiscal and program OTS requirements, we feel it is unwarranted to call the entire grant award amount into question. It is our contention that this observation speaks more towards the development and writing of the grant proposal. Since the time of this grant, the grant attorney staff have worked closely with OTS regional coordinators in writing grant proposals that contained goals and objectives that are more realistic, measurable, and attainable within the grant period. The age limitation is more difficult to manage in a vertical prosecution program where it may take several years from the initial investigation phase through trial. Subsequent grant proposals address this issue and we continue to work with OTS in the development of successful DUI vertical prosecution grant programs.

**Observation 2 Unsupported Grant Objectives:**

- **Objective 1 requirement:** To create a vertical prosecution team with the District Attorney's Office to facilitate the prosecution of all DUI cases that fall within the grant's description.

- Recommendations:**
- A. Effectively plan and monitor grant activities to ensure grant objectives are fully met.
  - B. Ensure adequate supporting documentation is retained to demonstrate the required objectives were met. OTS will determine the actions, if any, to take regarding the unmet/unsupported objectives.

**Management's response:** The Fresno County District Attorney-Public Administrator's Office does not agree with this observation. Our office received from the Department of Finance a .pdf document listing cases handled by the DUI-YAFO team. After additional review of these cases by our office, we agree that eleven (11) of the cases fell outside of the 18-29 age group. However, it is our contention that all eleven (11) of these cases warranted prosecution by the DUI-YAFO team based on the DUI related nature and severity of the offense.

Taking the above into consideration, nine (9) of the cases which were outside of the 18-29 age group had already been actively prosecuted by the DUI-YAFO team. Of those, eight (8) cases were past the arraignment stage and one (1) case had a warrant issued for the offender's arrest as of 6/22/11. This is significant because the California Office of Traffic Safety (OTS) conducted a Grantee Performance Review for grant# AL1152 on 6/22/11 (attachment A). At the time of this Review, OTS knew of the above referenced nine (9) cases and determined that grant objectives were being met.

Since the Department of Finance on site assessment and our receipt of their Draft Audit Report, our office has instructed grant staff to ensure adequate supporting documentation is retained to demonstrate that required objectives are met. These measures include but are not limited to: preserving all correspondence written and/or electronic; notes, handouts, photographs, reports, and other related documents.

- **Objective 2 requirement:** To work with the OTS Traffic Safety Resource Prosecutors to provide training for the vertical prosecution team and to assist the team in implementing DUI training for local law enforcement and other prosecutorial staff and to provide DUI court data to the Traffic Safety Resource Prosecutor team.

- Recommendations:**
- A. Effectively plan and monitor grant activities to ensure grant objectives are fully met.
  - B. Ensure adequate supporting documentation is retained to demonstrate the required objectives were met. OTS will determine the actions, if any, to take regarding the unmet/unsupported objectives.

**Management's response:** The Fresno County District Attorney-Public Administrator's Office does not agree with this observation. Based on the compilation and review of relevant electronic mail generated during this period, the DUI-YAFO team corresponded with the OTS Traffic Safety Resource Prosecutor regarding DUI training for outlying law enforcement agencies in Fresno County. Further, a DUI training was held at the Fresno Police Department for the benefit of all law enforcement and prosecutors. DUI-YAFO team members also addressed specific DUI related questions from other deputy district attorneys and prosecutorial staff.

Further, the OTS conducted a Grantee Performance Review for grant# AL1152 on 6/22/11 (attachment A) wherein OTS determined that grant objectives were being met.

Since the Department of Finance on site assessment and our receipt of their Draft Audit Report, our office has instructed grant staff to ensure adequate supporting documentation is retained to demonstrate the required objectives are met. These measures include but are not limited to: preserving all correspondence written and/or electronic; notes, handouts, photographs, reports, and other related documents.

- Objective 3 requirement: To meet with all law enforcement agencies within the County to explain the vertical prosecution program and develop a referral process by March 2011.

- Recommendations:**
- A. Effectively plan and monitor grant activities to ensure grant objectives are fully met.
  - B. Ensure adequate supporting documentation is retained to demonstrate the required objectives were met. OTS will determine the actions, if any, to take regarding the unmet/unsupported objectives.

**Management's response:** The Fresno County District Attorney-Public Administrator's Office does not agree with this observation. Based on the compilation and review of relevant electronic mail generated during this period, the DUI-YAFO team confirmed with OTS that they met with the Fresno Police Department, the Fresno Police Department Crash Reconstruction Unit, the California Highway Patrol, California Highway Patrol MAIT, and the Clovis Police Department. These law enforcement agencies comprise the vast majority from which the District Attorney's Office receives case referrals for potential prosecution by the DUI-YAFO team.

Further, the OTS conducted a Grantee Performance Review for grant# AL1152 on 6/22/11 (attachment A) wherein OTS determined that grant objectives were being met.

Since the Department of Finance on site assessment and our receipt of their Draft Audit Report, our office has instructed grant staff to ensure adequate supporting documentation is retained to demonstrate the required objectives are met. These measures include but are not limited to: preserving all correspondence written and/or electronic; notes, handouts, photographs, reports, and other related documents.

- Objective 8 requirement: To meet with judges to encourage them to impose consistent, strict punishment on DUI young adult offenders.

- Recommendations:**
- A. Effectively plan and monitor grant activities to ensure grant objectives are fully met.
  - B. Ensure adequate supporting documentation is retained to demonstrate the required objectives were met. OTS will determine the actions, if any, to take regarding the unmet/unsupported objectives.

**Management's response:** The Fresno County District Attorney-Public Administrator's Office does not agree with this observation. Our office received from the Department of Finance a .pdf document listing cases handled by the DUI-YAFO team. After additional review of these cases by our office, the case files indicate that the DUI-YAFO team communicated and encouraged the judge to impose consistent and strict punishment. In many of these cases the judge agreed with the DUI-YAFO team's assessment of punishment and imposed that or a greater amount.

Further, the OTS conducted a Grantee Performance Review for grant# AL1152 on 6/22/11 (attachment A) wherein OTS determined that grant objectives were being met.

Since the Department of Finance on site assessment and our receipt of their Draft Audit Report, our office has instructed grant staff to ensure that any communication between the Court, defense and the DUI-YAFO team continue to be documented in the DA file. These measures include but are not limited to: documenting any DA offer, Court indicated sentence and defense counter offer. Also, any related documents demonstrating communication with the Court and the defense regarding sentencing will continue to be maintained in the DA file.

- Objective 12 requirement: To ensure all victims of felony DUI young adult offender cases are referred to a victim advocate and kept informed of the case status.

**Recommendations:** A. Effectively plan and monitor grant activities to ensure grant objectives are fully met.

B. Ensure adequate supporting documentation is retained to demonstrate the required objectives were met. OTS will determine the actions, if any, to take regarding the unmet/unsupported objectives.

**Management's response:** The Fresno County District Attorney-Public Administrator's Office does not agree with this observation. Our office received from the Department of Finance a .pdf document listing cases handled by the DUI-YAFO team. After additional review of these cases by our office, case files indicated that a Victim Advocate was assigned to all appropriate cases. With the assistance of Victim Witness Services, information was provided and subsequently documented indicating when a Victim Advocate was assigned to an appropriate case. In addition, based on the compilation and review of relevant electronic mail generated during this period, DUI-YAFO cases were referred to a Victim Advocate where appropriate and the victims and/or their families were kept informed of the status of their case.

Further, the OTS conducted a Grantee Performance Review for grant# AL1152 on 6/22/11 (attachment A) wherein OTS determined that grant objectives were being met.

Since the Department of Finance on site assessment and our receipt of their Draft Audit Report, our office has instructed grant staff to ensure adequate supporting documentation is retained to demonstrate the required objectives are met. These measures include but are not limited to: preserving all correspondence written and/or electronic; notes, handouts, photographs, reports, and other related documents.

The Fresno County District Attorney-Public Administrator's Office has complied with and met the requirements OTS grant #AL1152. I look forward to continuing a professional and productive relationship regarding current and future grants with OTS and the Department of Finance.

Sincerely,

***Original signed by:***

Jeffrey D. Dupras  
Assistant District Attorney

Enclosure

## EVALUATION OF RESPONSE

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The Fresno County, Office of the District Attorney's (County) response to the draft report has been reviewed and incorporated into the final report. In the interest of brevity, the attachment referenced in the County's response was omitted. We acknowledge receipt and review of the attachment. In evaluating the County's response, the County generally disagreed with our observations and we make the following comments:

- The County makes multiple references to the results of the Office of Traffic Safety's (OTS) Grantee Performance Review (review). Although we considered this review while conducting our audit, this review is a by-product of OTS' grant monitoring activities to ensure compliance with federal guidelines as defined in the Office of Management and Budget Circular (A-133). In order to increase oversight over federal funds, OTS requested the Department of Finance, Office of State Audits and Evaluations, to conduct an audit in accordance with generally accepted government auditing standards.

These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our observations and conclusions based on our audit objectives. During audit fieldwork and prior to the issuance of our draft report, we provided the County many opportunities to submit supporting documentation. The County did not make available to us the supporting documentation after multiple requests; therefore, our observation remains unchanged.

- The County cited the OTS Grant Manual, section 4.4.1, which was applicable to grants issued after November 2011. To clarify, our results were based on the OTS Grant Manual issued as of January 2006 because our audit period was from October 1, 2010 through September 30, 2011. Section 4.4.1, which was cited in the County's response, was not applicable. Observation 1 in the Results section has been updated accordingly.

We acknowledge the steps the County has taken to improve its processes over the management of federal funds. We reiterate that the County should work with OTS to determine an appropriate resolution regarding our observations. However, our observations remain unchanged.