

# Additional Requirements for Department of Justice (DOJ) Coordinated Tribal Assistance Applications

## (Part J, Coordinated Tribal Assistance Solicitation)

Successful applicants must agree to comply with additional requirements prior to receiving grant funding, including:

### Civil Rights Compliance

As a condition for receiving DOJ funding, recipients must comply with applicable federal civil rights laws, including Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and DOJ's regulation for the Equal Treatment of Faith-Based Organizations. Depending on the funding source, and subject to the applicable provisions of the Indian Self-Determination and Education Assistance Act, a recipient must also comply with the nondiscrimination provisions within the applicable program statutes, which may include the Omnibus Crime Control and Safe Streets Act of 1968 ("the Omnibus Crime Control and Safe Streets Act"), the Victims of Crime Act, or the Juvenile Justice and Delinquency Prevention Act. Collectively, these federal program statutes prohibit a DOJ funding recipient from discriminating either in *employment* (subject to the exemption for certain faith-based organizations discussed below (see "Funding to Faith-based Organizations") and to the applicable provisions of the Indian Self-Determination and Education Assistance Act) or in the *delivery of services or benefits* on the basis of race, color, national origin, sex, religion, or disability. In addition, recipients may not discriminate on the basis of age in the delivery of services or benefits. See more information on [Statutes and Regulations](#).

Compliance with Title VI of the Civil Rights Act of 1964, which prohibits recipients from discriminating on the basis of national origin in the delivery of services or benefits, entails taking reasonable steps to ensure that persons with limited English proficiency (LEP) have meaningful access to funded programs or activities. An LEP person is one whose first language is not English and who has a limited ability to read, write, speak, or understand English. To assist recipients in meeting their obligation to serve LEP persons, the DOJ has published a guidance document, which is available on the [LEP.gov web site](#). DOJ encourages applicants and recipients to include within their program budgets the costs for providing interpretation and translation services to eligible LEP service populations.

For technical assistance on complying with the civil rights laws linked to the receipt of federal financial assistance, please contact the:

Office of Justice Programs  
[Office for Civil Rights](#)  
810 7th Street NW  
Washington, DC 20531  
202-307-0690  
Fax: 202-616-9865  
TTY: 202-307-2027

### Funding to Faith-Based Organizations

In 2002, President George W. Bush issued Executive Order 13279 and in 2004, DOJ issued the regulation, Equal Treatment for Faith-Based Organizations, 28 CFR Part 38. In general, the Executive Order and regulation require funding organizations to treat faith-based organizations (FBOs) the same as any other applicant or recipient of DOJ funding, neither favoring nor discriminating against FBOs in making and administering grant awards, and require that FBOs be allowed to retain their independence, autonomy, expression, and religious character when competing for DOJ financial

assistance used to support social service programs and participating in the social service programs supported with DOJ financial assistance.

The Executive Order and regulation also prohibit recipient FBOs from using Justice Department funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Funded FBOs may, of course, engage in inherently religious activities; however, these activities must be separate in time or location from the federally-assisted program. Moreover, funded FBOs must not compel program beneficiaries to participate in inherently religious activities. Funded faith-based organizations must also not discriminate on the basis of religion in the delivery of services or benefits.

Some program statutes, including the Omnibus Crime Control and Safe Streets Act, the Victims of Crime Act, and the Juvenile Justice and Delinquency Prevention Act, contain express nondiscrimination provisions that prohibit all recipients of funding under these statutes from discriminating on the basis of religion in employment. Despite these nondiscrimination provisions, DOJ has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit FBOs applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering of religion in employment decisions by grantees.

If the statute that authorizes a DOJ funding program generally forbids consideration of religion in employment decisions by grantees, an FBO may receive DOJ funds and continue to consider religion when hiring staff if it meets the following criteria:

1. The FBO demonstrates that its program for which it seeks federal funding is an exercise of religion;
2. The FBO demonstrates that requiring it to either forgo its religious preference in hiring or forgo the federal funding would substantially burden its exercise of religion; and
3. The funding entity is unable to demonstrate that applying the nondiscrimination provision to this FBO would both further a compelling government interest and be the least restrictive means of furthering this interest.

DOJ awarding agencies will grant exemptions to the prohibition against hiring discrimination on the basis of religion in the program statutes on a case-by-case basis to FBOs that certify to the following, unless there is good reason to question its truthfulness:

1. The FBO will offer all federally-funded services to all qualified beneficiaries without regard for the religious or non-religious beliefs of those individuals; and
2. Any activities of the FBO that contain inherently religious content will be kept separate in time or location from any services supported by direct federal funding, and if provided under such conditions, will be offered only on a voluntary basis; and
3. The FBO is a religious organization that sincerely believes that providing the services in question is an expression of its religious beliefs; that employing individuals of particular religious belief is important to its religious exercise; and that having to abandon its religious hiring practice to receive federal funding would substantially burden its religious exercise.

FBOs that are seeking federal financial assistance under the Omnibus Crime Control and Safe Streets Act, the Victims of Crime Act, and the Juvenile Justice and Delinquency Prevention Act as well as an exemption to their prohibition against religious discrimination in hiring, must complete and retain an **original, signed document for their records** ([see sample Certificate of Exemption for Hiring Practices on the Basis of Religion](#)), certifying to the three provisions set forth above, **and then, must work with DOJ to attach it to the grant file, after receipt of an award.** For more information, please consult the [Office for Civil Rights](#).

## Confidentiality and Human Subjects Protection (if applicable)

DOJ regulations (28 CFR Part 22) require recipients of OJP funding to submit a Privacy Certificate as a condition of approval of any grant application or contract proposal that contains a research or statistical component under which "information identifiable to a private person" will be collected, analyzed, used, or disclosed. The funding recipient's Privacy Certificate includes a description of its policies and procedures to be followed to protect the confidentiality of identifiable data. 28 CFR Section 22.23. The Department's regulations provide, among other matters, that: "Research or statistical information identifiable to a private person may be used only for research or statistical purposes." 28 CFR Section 22.21. Moreover, any private person from whom information identifiable to a private person is collected or obtained (either orally or by means of written questionnaire or other document) must be advised that the information will only be used or disclosed for research or statistical purposes and that compliance with the request for information is voluntary and may be terminated at any time. 28 CFR Section 22.27.

In addition, DOJ has regulations with respect to the protection of human research subjects. See 28 CFR Part 46. In brief, 28 CFR Part 46 requires that research involving human subjects that is conducted or supported by a Federal department or agency be reviewed and approved by an Institutional Review Board (IRB), in accordance with the regulations, before Federal funds are expended for that research. As a rule, persons who participate in Federally-funded research must provide their "informed consent" and must be permitted to terminate their participation at any time. Funding recipients, before they will be allowed to spend OJP funds on any research activity involving human subjects, must submit appropriate documentation to OJP showing compliance with 28 CFR Part 46 requirements, as requested by OJP.

General information regarding Data Confidentiality and Protection of Human Research Subjects (and Model Privacy Certificates and other forms):

- [Standard Forms and Instructions](#)
- [National Institute of Justice Protecting Human Subjects](#)
- [Model Privacy Certificate](#)
- [Bureau of Justice Statistics Human Subjects/Confidentiality Requirements](#)

## Anti-Lobbying Act

The Anti-Lobbying Act (18 U.S.C. § 1913) recently was amended to expand significantly the restriction on use of appropriated funding for lobbying. This expansion also makes the anti-lobbying restrictions enforceable via large civil penalties, with civil fines between \$10,000 and \$100,000 per each individual occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by 31 U.S.C. § 1352.

The Office of Management and Budget (OMB) is currently in the process of amending the OMB cost circulars and the common rule (codified at 28 C.F.R. Part 69 for U.S. Department of Justice grantees) to reflect these modifications. However, in the interest of full disclosure, no federally-appropriated funding made available under this grant program may be used, either directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval of DOJ. Any violation of this prohibition is subject to a minimum \$10,000 fine for each occurrence. This prohibition applies to all activity, even if currently allowed within the parameters of the existing OMB circulars.

## Financial and Government Audit Requirements

With respect to financial and government audit requirements, Federal grants are governed by the provisions applicable to financial assistance contained in the OMB [Circulars](#).

Your awarding agency also provides information on requirements specific to the administration of awards made by that agency. These awarding agency guidance documents contain information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records. By awarding agency, the applicable guidance documents are listed as follows:

- **OJP and OVW award recipients:** OJP and OVW award recipients must comply with the [OJP Financial Guide](#). This document will govern how all OJP and OVW award recipients administer funds.
- **COPS award recipients:** COPS award recipients must comply with the COPS Tribal Resources Grant Program Owner's Manual. This document will govern how all COPS award recipients administer funds.

#### *Audit Requirements*

Audits of state and local units of government (including Indian tribal governments), institutions of higher education, and other nonprofit institutions must comply with the organizational audit requirements of OMB Circular A-133, which states that recipients who expend \$500,000 or more of federal funds during their fiscal year are required to submit a single organization-wide financial and compliance audit report to the **Federal Audit Clearinghouse** within 9 months after the close of each fiscal year during the term of the award.

#### *Reporting Requirements*

Grantees must comply with the following reporting requirements:

- **Financial status reports**
  - **OJP and OVW award recipients:** Grantees must submit financial reports using the SF-425 form quarterly by the 30th day following the end of each calendar quarter, and a final report is due 90 days following the grant award end date. Grantees may file SF-425 forms through the [Grants Management System \(GMS\)](#). Grant recipients who do not submit SF-425 reports by the due date will be unable to drawdown funds.
  - **COPS award recipients:** Grantees must submit financial reports using the SF-425 form by the 30<sup>th</sup> day following the end of each calendar quarter, and a final report is due 90 days following the grant award end date. Grantees who do not submit SF-425 reports by the due date will be unable to drawdown funds.
- **Program Progress Reports**
  - **OJP award recipients:** Grantees must complete and submit semiannual reports using the Categorical Assistance Progress Reports form (OJP Form 4587/1) within 30 days after the end of the reporting periods, which are June 30 and December 31 for the life of the award. Grantees should submit progress reports through [GMS](#) using the "Application" module. Grantees may address questions to the GMS Help Desk at 1-888-549-9901.
  - **COPS award recipients:** Grantees must submit periodic program progress reports and a final progress report. The COPS Office will notify the award recipient when the progress report is due and provide instructions for submission.
  - **OVW award recipients:** Grantees must submit semiannual program progress reports and a final progress report using specific forms provided by OVW for each of the OVW Purpose Areas (#s 6 and 7). Reports are due within 30 days after the end of the reporting periods, which are June 30 and December 31 for the life of the award. Grantees should submit progress reports through [GMS](#).

## National Environmental Policy Act (if applicable)

All awards are subject to the National Environmental Policy Act (NEPA) and other related Federal laws, if applicable. 42 USC Section 4321 et seq. DOJ has established procedures to implement NEPA. See 28 CFR Part 61. The regulations state that "all federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision-making and to prepare detailed environmental statements on . . . major federal actions significantly affecting the quality of the human environment." 28 CFR section 61.2. Under the regulations, DOJ, among other things, is required to "[c]onsider from the earliest possible point in the process all relevant environmental documents in evaluating proposals for Department action[.]" 28 CFR Section 61.6.

DOJ has responsibility to ensure compliance with NEPA and 28 CFR Part 61, including Appendix D. For many projects that are funded by DOJ, NEPA may have no applicability. However, if DOJ funds will be used, for example, to pay for renovation projects or new construction, programs involving the use of chemicals, or any other activity, including research and technology development, that may have an effect on the environment, at a minimum, the funding recipient must provide a full description of proposed project activities to DOJ, and an Environmental Assessment must be prepared. Prior to allowing a recipient to spend funds for such a project, the DOJ awarding agency must make a finding that the project does not significantly affect the human environment and that further environmental assessment is not necessary.

## Criminal Intelligence Systems (if applicable)

Recipients using federal funds under this grant program to operate an interjurisdictional criminal intelligence system must comply with the operating principles of 28 CFR. Part 23. An "interjurisdictional criminal intelligence system" is generally defined as a system [that](#) receives, stores, analyzes, and exchanges or [disseminates](#) data regarding ongoing criminal activities (such activities may include, but are not limited to, loan sharking, drug or stolen property trafficking, gambling, extortion, smuggling, bribery, and public corruption) and shares this data with other law enforcement jurisdictions. 28 CFR Part 23 contains operating principles for these interjurisdictional criminal information systems that protect individual privacy and constitutional rights.

If you are applying for funds to operate a single agency database (or other unrelated forms of technology) and will not share criminal intelligence data with other jurisdictions, or if you are not applying for technology funds from this grant program, 28 CFR Part 23 does not apply.

## DOJ Information Technology Standards (if applicable)

As appropriate, all equipment and software developed under awards that result from this solicitation must be compliant with DOJ information technology interface standards, including the [National Criminal Intelligence Sharing Plan](#), the [Global Justice XML Data Model](#), and the Law Enforcement Information Sharing Plan. A list of additional standards can be found at the [OJP Standards Clearinghouse](#).

## Non-Supplanting of State and Local Funds

Generally, recipients must use federal funds to supplement existing funds for program activities and may not replace (supplant) nonfederal funds that they have appropriated for the same purpose. Specific program requirements, however, may vary with regard to treatment of supplanting. For example, programs may have specific statutory prohibitions regarding supplanting or may permit the supplementation of existing nonfederal resources with federal funds under specified circumstances. For programs that prohibit supplanting, potential supplanting will be the subject of monitoring and audit. Violations can result in a range of penalties, including suspension of current and future funds under DOJ-funded programs, suspension or debarment from federal grants, recoupment of monies provided under DOJ-funded grants, and civil and/or criminal penalties. For additional guidance

regarding supplanting, including DOJ program-specific examples, refer to the information provided at [link to specific supplanting FAQ that will be available via the Tribal Justice and Safety website.]

## **Criminal Penalty for False Statements**

False statements or claims made in connection with DOJ grants may result in fines, imprisonment, and debarment from participating in federal grants or contracts, and/or other remedy available by law.

## **Suspension or Termination of Funding**

DOJ awarding agencies may suspend funding in whole or in part, terminate funding, or impose other sanctions on a recipient for the following reasons:

- Failing to comply substantially with the requirements or statutory objectives of the appropriate Act, program guidelines issued thereunder, or other provisions of federal law.
- Failing to make satisfactory progress toward the goals, objectives, or strategies set forth in the application.
- Failing to adhere to the requirements in the agreement, standard conditions, or special conditions.
- Implementing substantial plan changes without the express prior written approval of the awarding agency to the extent that, if originally submitted, the application would not have been selected for funding.
- Failing to submit reports in a timely manner.
- Filing a false certification in this application or other report or document.

Before imposing sanctions, the respective DOJ awarding agency will provide reasonable notice to the recipient of its intent to impose sanctions and will attempt to resolve the problem informally. Hearing and appeal procedures will follow those in DOJ regulations in 28 CFR Part 18.

## **Non-Profit Organizations**

In all funded programs for which non-profit organizations are eligible subrecipients, DOJ's policy is that an organization can demonstrate its non-profit status in any one of four methods:

1. Submission of proof of 501(c)(3) status from the Internal Revenue Service.
2. Submission of a statement from the state or tribal taxing authority or state Secretary of State, or other similar official certifying that the organization is a non-profit operating within the jurisdiction, and that no part of its net earnings may lawfully benefit any private shareholder or individual.
3. Submission of a certified copy of the applicant's certificate of incorporation or similar document.
4. Submission of any item above, if that item applies to a state or national parent organization, together with a statement by the state or parent organization that the applicant is a local non-profit affiliate.

## For-Profit Organizations

For-profit organizations that receive grant funds should be aware that additional special conditions are placed on awards to such organizations. Among other things, commercial organizations must agree not to make a profit as a result of an award and not to charge a management fee for the performance of an award. Also, commercial organizations must agree to comply with the contract cost principles of subpart 31.2 of the Federal Acquisition Regulations.

## Government Performance and Results Act (GPRA)

The funding recipient agrees to collect data (on a quarterly, semi-annually, or annual basis, as requested) appropriate for facilitating reporting requirements established by Public Law 103-62 for the Government Performance and Results Act. The funding recipient will ensure that valid and auditable source documentation is available to support all data collected for each performance measure specified in the program solicitation.

## Rights in Intellectual Property

DOJ reserves certain rights with respect to data, patentable inventions, works subject to copyright, and other intellectual property associated with an award of Federal funds. See 28 CFR §§ 66.34, 70.36, and 37 CFR Part 401.

## Federal Funding Accountability and Transparency Act (FFATA) of 2006

Applicants receiving an award OJP should be aware of the requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, which calls for the establishment of a single searchable website that is accessible by the public and includes the following information for each Federal award:

- The name of the entity receiving the award.
- The amount of the award.
- Information on the award including the transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action,
- The location of the entity receiving the award and primary location of performance under the award, including the city, state, congressional district, and country.
- A unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity.
- Any other relevant information specified by OMB.

Direct grant award information must be collected starting in FY 2007 and available for disclosure beginning in January 2008; sub-grantee award data must be available beginning in January 2009. DOJ awarding agencies will be responsible for collecting grantee information and providing it to the public website, using data provided by grantees through Grants.gov and the Grants Management System. Additional information regarding these requirements will be provided when available. For more information, visit the [USASpending.gov web site](http://USASpending.gov).