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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**STATE OF CALIFORNIA, ex rel. XAVIER
BECERRA, in his official capacity as
Attorney General of the State of California**

Plaintiff,

v.

**JEFFERSON B. SESSIONS, in his official
capacity as Attorney General of the United
States; ALAN R. HANSON, in his official
capacity as Acting Assistant Attorney
General; UNITED STATES
DEPARTMENT OF JUSTICE; and DOES
1-100,**

Defendants.

Case No. 17-cv-4701

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Plaintiff State of California, ex rel. Xavier Becerra, in his official capacity as Attorney General of the State (“Plaintiff”) brings this complaint to protect California from the Trump Administration’s attempt to usurp the State and its political subdivisions’ discretion to determine how to best protect public safety in their jurisdictions. The Administration has threatened to withhold congressionally appropriated federal funds unless the State and local jurisdictions acquiesce to the President’s immigration enforcement demands. This is unconstitutional and should be halted.

2. Congress has appropriated \$28.3 million in law enforcement funding to California and its political subdivisions pursuant to the Edward Byrne Memorial Justice Assistance Grant (“JAG”) program. The United States Department of Justice (“USDOJ”), led by Attorney General Jefferson B. Sessions III, and the Office of Justice Programs (“OJP”), led by Acting Assistant Attorney General Alan R. Hanson (collectively, with USDOJ and Attorney General Sessions, the “Defendants”), are responsible for administering these grants.

3. JAG awards are provided to each state, and certain local jurisdictions within each state, to, among other things, support law enforcement programs, reduce recidivism, conduct prevention and education programs for at-risk youth, and support programs for crime victims and witnesses. Every state is entitled by law to a share of these funds.

4. The JAG authorizing statute, 42 U.S.C. §§ 3750-3758, requires that jurisdictions comply with “applicable Federal laws.” The statute governing OJP, 42 U.S.C. § 3712(a)(6) (“Section 3712”), also allows for the imposition of “special conditions,” which historically have been understood to refer to conditions imposed to address performance issues with particular high-risk grantees, and not as conditions to be placed on *all* grantees.

5. In this year’s JAG FY 2017 State Solicitation (“JAG State Solicitation”), for the first time, Defendants imposed two additional so-called “special conditions” on all JAG recipients that require compliance with immigration enforcement activities. These conditions require jurisdictions to: (a) provide federal immigration enforcement agents with the Department of Homeland Security (“DHS”) access to detention facilities to interview inmates who are “aliens”

1 or believed to be “aliens” (the “access condition”); and (b) provide 48 hours’ advance notice to
2 DHS regarding the scheduled release date of an “alien” upon request by DHS (the “notification
3 condition”). In effect, they attempt to create, without congressional approval, a national
4 requirement that state and local law enforcement engage in specific behaviors to assist in the
5 Executive’s approach to federal immigration enforcement.

6 6. Based on one reading of these new conditions, California believes that its laws, in fact,
7 comply with them. Nevertheless, Defendants’ incorrect conclusions about California law have
8 placed at risk the \$28.3 million in JAG funds received by the State and its political subdivisions.
9 The Transparency and Responsibility Using State Tools Act (“TRUST Act”), Cal. Gov’t Code §
10 7282 *et seq.*, defines the circumstances in which a local law enforcement agency (“LEA”) may
11 detain an individual at the request of federal immigration authorities. The Transparent Review of
12 Unjust Transfers and Holds (“TRUTH Act”), Cal. Gov’t Code § 7283 *et seq.*, provides notice
13 protections to inmates in state and local custody whom Immigration and Customs Enforcement
14 (“ICE”) wishes to interview. Defendant Sessions has inaccurately characterized California’s laws
15 as denying ICE access to jails in California.

16 7. To compound upon the peril to the State caused by Defendant Sessions’ misinterpretation
17 of California law, the grant conditions regarding access and notification also suffer from
18 ambiguity. The access condition fails to specify whether jurisdictions are prohibited from
19 notifying inmates of their basic rights prior to an ICE interview, which would conflict with the
20 TRUTH Act. The notification condition is ambiguous as to whether it requires LEAs to hold
21 individuals past their ordinary release when, for example, an individual is booked for a low-level
22 infraction and promptly released, pays bail, or has his or her charges dropped. USDOJ has
23 signaled that it interprets the notification condition as requiring that, once immigration officials
24 have requested notice, state and local officials may not release an individual until federal agents
25 have had 48 hours to try to take him or her into custody—even if the federal notification request
26 came less than 48 hours before the person’s ordinary release. To comply with this requirement,
27 LEAs would in some instances not only have to violate the TRUST Act, but would also have to
28 violate the Fourth Amendment—because ICE notification and detainer requests are not typically

1 supported by the probable cause required for detentions under the Fourth Amendment.

2 8. The ambiguity regarding how the Defendants will interpret and enforce the access and
3 notification conditions harms California and its local jurisdictions. If California and local
4 jurisdictions do not accept the funds authorized by the JAG statute and appropriated by Congress,
5 important programs will need to be cut. And if this ambiguity pressures the State and/or its
6 localities to change their public-safety oriented laws and policies in order to ensure they comply
7 with these ambiguous conditions, they will have abandoned policies that the State and local
8 jurisdictions have found to be effective in their communities. As a result, the State and its
9 localities will lose control of their ability to focus their resources on fighting crime rather than
10 federal immigration enforcement. And the trust and cooperation that the State's laws and local
11 ordinances are intended to build between law enforcement and immigrant communities will be
12 eroded.

13 9. Moreover, while Section 3712 allows for the imposition of "special conditions," it does
14 not provide OJP with the authority to add these *particular* substantive immigration conditions.
15 These are not special conditions, as that term is generally understood, since they are applicable to
16 all recipients, not just high-risk grantees. In addition, they conflict with the JAG authorizing
17 statute's Congressional intent to: (a) guarantee the delivery of appropriated formula grant funding
18 to particular state and local jurisdictions so long as they satisfy the requirements found in federal
19 law; and (b) not condition funding on immigration enforcement related activities.

20 10. Defendants also have exceeded constitutional limits under the Spending Clause of the
21 United States Constitution. The access and notification conditions are not sufficiently related to
22 the federal purpose areas of the JAG funding scheme designed by Congress, and the access and
23 notification conditions are too ambiguous to provide clear notice to the State or its political
24 subdivisions as to what is needed to comply. And depending on how compliance is measured, the
25 notification condition would further offend the Spending Clause prohibition on conditioning
26 funding on unconstitutional activities, here, by attaching funding conditions that may lead to a
27 violation of the Fourth Amendment.

28 11. These conditions also violate the Administrative Procedure Act ("APA"), 5 U.S.C. § 551

1 *et seq.*, because of their constitutional infirmities, and because Defendants acted in excess of their
2 statutory authority and in an arbitrary and capricious manner.

3 12. The California Legislature, as well as local governments throughout the State, carefully
4 crafted a statutory scheme that allows law enforcement resources to be allocated in the most
5 effective manner to promote public safety for all people in California, regardless of immigration
6 status, national origin, ancestry, or any other characteristic protected by California law. The
7 Defendants' actions and statements threaten that design and intrudes on the sovereignty of
8 California and its local jurisdictions.

9 13. California must apply for its JAG award by August 25, 2017, and the State's local
10 jurisdictions that apply directly to USDOJ for JAG funding must apply by September 5, 2017,
11 subject to the same conditions as the State. (JAG Solicitation for local jurisdictions ("JAG Local
12 Solicitation") attached as Exhibit B. The JAG Local Solicitation, with the JAG State Solicitation,
13 are referred to as "JAG Solicitations.") USDOJ is expected to provide its award notifications to
14 state and local jurisdictions by September 30, 2017, but Defendants have announced that they will
15 not provide any awards to jurisdictions that do not meet the access and notification conditions.
16 California therefore immediately faces the prospect of losing \$28.3 million for these "criminal
17 justice" programs. Without this grant funding, California's award recipients and the programs
18 funded will be harmed, which will have a detrimental effect on state and local law enforcement
19 and budgets.

20 14. For these reasons, and those discussed below, the Court should strike down the access
21 and notification conditions in the JAG Solicitations as unconstitutional and as a violation of the
22 APA.

23 **JURISDICTION AND VENUE**

24 15. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331 because this case
25 involves a civil action arising under the Constitution and the laws of the United States. The Court
26 also has jurisdiction under 28 U.S.C. § 1346 because this is a civil action against the federal
27 government founded upon the Constitution and an Act of Congress. Jurisdiction is proper under
28

1 the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. §§ 701-06. The
 2 Court has authority to provide relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

3 16. Pursuant to 28 U.S.C. § 1391(e)(1) and (3), venue is proper in the Northern District of
 4 California because the Attorney General and the State of California have offices at 455 Golden
 5 Gate Avenue, San Francisco, California and at 1515 Clay Street, Oakland, California and
 6 Defendants have offices at 450 Golden Gate Avenue, San Francisco, California.

7 **INTRADISTRICT ASSIGNMENT**

8 17. Assignment to the San Francisco Division of this District is proper pursuant to Civil
 9 Local Rule 3-2(c)-(d) because Plaintiff, the State of California, and Defendants both maintain
 10 offices in the District in San Francisco.

11 **PARTIES**

12 18. Plaintiff State of California is a sovereign state in the United States of America. Xavier
 13 Becerra is the Attorney General of California, and as such, is the chief law officer in the State and
 14 has “direct supervision over every ... sheriff and over such other law enforcement officers as may
 15 be designated by laws, in all matters pertaining to their respective offices.” Cal. Const., art. V, §
 16 13; Cal. Gov’t Code § 12500, *et seq*; see *Pierce v. Super.*, 1 Cal.2d 759, 761-62 (1934) [Attorney
 17 General “has the power to file any civil action or proceeding directly involving the rights and
 18 interests of the state. . . and the protection of public rights and interests.”]. California is aggrieved
 19 by the actions of Defendants and has standing to bring this action because of the injury to its
 20 sovereignty as a state caused by the challenged federal actions. The inclusion of unconstitutional
 21 and unlawful conditions as part of the JAG award impairs the State’s exercise of its police power
 22 in a manner it deems necessary to protect the public safety. As a result of Defendants’
 23 unconstitutional actions, the State of California, including its political subdivisions, is in
 24 imminent danger of losing \$28.3 million this fiscal year, including \$17.7 million that is owed to
 25 the State itself.

26 19. Plaintiff Attorney General Xavier Becerra, on behalf of California, has standing to bring
 27 this action because funding for law enforcement throughout the State is at stake and as the
 28 Attorney General of the State of California, he is responsible for enforcing and protecting

1 California's laws, such as the TRUST and TRUTH Acts, which the access and notification
2 conditions threaten.

3 20. Defendant U.S. Department of Justice ("USDOJ") is an executive department of the
4 United States of America pursuant to 5 U.S.C. § 101 and a federal agency within the meaning of
5 28 U.S.C. § 2671. As such, it engages in agency action, within the meaning of 5 U.S.C. § 702
6 and is named as a defendant in this action pursuant to 5 U.S.C. § 702. USDOJ is responsible for
7 administering the JAG funds appropriated by Congress.

8 21. Defendant Sessions III, is Attorney General of the United States, and oversees the
9 USDOJ, including the Office of Justice Programs ("OJP"). Defendant Sessions has declared that
10 "[s]ome jurisdictions, including the State of California and many of its largest counties and cities,
11 have enacted statutes and ordinances designed to specifically prohibit or hinder ICE from
12 enforcing immigration law by prohibiting communication with ICE, and denying requests by ICE
13 officers and agents to enter prisons and jails to make arrests." Defendant Sessions also made a
14 statement announcing the access and notification conditions on the U.S. Department of Justice
15 website on July 25, 2017. He is sued in his official capacity pursuant to 5 U.S.C. § 702.

16 22. Defendant Alan R. Hanson is Acting Assistant Attorney General in charge of the OJP,
17 which administers JAG funding and which set forth the so-called "special conditions" at issue.
18 He is sued in his official capacity pursuant to 5 U.S.C. § 702.

19 23. Each of the Defendants named in this Complaint is an agency of the United States
20 government bearing responsibility, in whole or in part, for the acts enumerated in this Complaint.

21 24. The true names and capacities of Defendants identified as DOES 1-100 are unknown to
22 Plaintiff, and Plaintiff will amend this Complaint to insert the true names and capacities of those
23 fictitiously named Defendants when they are ascertained.

24 **FACTUAL ALLEGATIONS**

25 **I. CALIFORNIA'S LAWS SEEK TO PROTECT THE STATE RESIDENTS' SAFETY AND** 26 **WELFARE BY FOCUSING LAW ENFORCEMENT ON CRIMINAL ACTIVITY AND BY** **BUILDING TRUST BETWEEN LAW ENFORCEMENT AND COMMUNITIES**

27 25. California state and local LEAs, guided by the duly enacted laws of the State and
28 ordinances of local jurisdictions, are tasked with effectively policing, protecting, and serving all

1 residents, including more than 10 million foreign-born individuals, who live in the State.

2 California's laws implicated in this suit, the TRUST Act and the TRUTH Act, are a valid exercise
3 of the State's police power to regulate regarding the health, welfare, and public safety of its
4 residents.

5 26. California has also enacted other laws that strengthen community policing efforts by
6 encouraging undocumented victims to report crimes to local law enforcement. For example,
7 California's Immigrant Victims of Crime Equity Act, Cal. Penal Code § 679.10, which took
8 effect on January 1, 2016, ensures that all immigrant crime victims have equal access to the U
9 nonimmigrant visa. Laws such as this are specifically designed to encourage immigrants to report
10 crimes so that perpetrators are apprehended before harming others.

11 27. The purpose of these California laws is to ensure that law enforcement resources are
12 focused on a core public safety mission and to build trust and cooperation between law
13 enforcement and the State's immigrant communities. When local and state LEAs engage in
14 immigration enforcement, as Defendants contemplate, vulnerable victims and witnesses are less
15 likely to come forward to report crimes.

16 28. California's laws are not unique. Many jurisdictions across the country have policies
17 that define the circumstances under which local law enforcement personnel expend time and
18 resources in furtherance of federal immigration enforcement. Those jurisdictions variously
19 impose limits on compliance with ICE detainer requests, ICE notification requests about release
20 dates, and ICE's access to detainees, or provide additional procedural protections to them.

21 **A. The TRUST Act**

22 29. In 2013, California enacted the TRUST Act, Cal. Gov't Code, § 7282 *et seq.* The
23 TRUST Act defines the circumstances under which local LEAs may detain an individual at the
24 request of federal immigration authorities. The TRUST Act went into effect on January 1, 2014.

25 30. The TRUST Act was intended to address numerous public safety concerns regarding the
26 federal practice of issuing detainers to local law enforcement. Among the Legislature's concerns
27 were that federal courts have concluded that detainer requests do not provide sufficient probable
28 cause, and data showing that detainer requests "have erroneously been placed on United States

1 citizens, as well as immigrants who are not deportable.” Assem. Bill No. 4, 1st Reg. Sess. (Cal.
2 2013) § 1(c).

3 31. The Legislature also found that “immigration detainers harm community policing efforts
4 because immigrant residents who are victims of or witnesses to crime, including domestic
5 violence, are less likely to report crime or cooperate with law enforcement when any contact with
6 law enforcement could result in deportation.” *Id.* § 1(d). The Legislature also considered data
7 demonstrating that the vast majority of individuals detained had no criminal history or were only
8 convicted of minor offenses, and research establishing that “immigrants, including undocumented
9 immigrants, do not commit crimes at higher rates than American-born residents.” *Id.*

10 32. The TRUST Act sets forth two conditions that must be met for local law enforcement to
11 have discretion to detain a person pursuant to an “immigration hold” (also known as a “detainer
12 request” or “detainer hold”) that occurs when a federal immigration agent requests that the law
13 enforcement official “maintain custody of the individual for a period not to exceed 48 hours,
14 excluding Saturdays, Sundays, and holidays.” Cal. Gov’t Code § 7282(c). First, the detention
15 cannot “violate any federal, state, or local law, or any local policy,” which includes the Fourth
16 Amendment of the U.S. Constitution. *Id.* § 7282(a). Second, law enforcement officers may only
17 detain someone with certain, specified criminal backgrounds, an individual on the California Sex
18 and Arson Registry, or a person charged with a serious or violent felony who was the subject of a
19 probable cause determination from a magistrate judge. *Id.* § 7282.5(a)(1)-(6). Only when both of
20 these conditions are met may local law enforcement detain an individual “on the basis of an
21 immigration hold after the individual becomes eligible for release from custody.” *Id.* § 7282.5(b).

22 33. The TRUST Act limits an LEA’s discretion as to when it may detain individuals
23 pursuant to an immigration hold beyond their ordinary release. This limitation is consistent with
24 federal law, in that USDOJ, DHS and the courts have repeatedly characterized detainer requests
25 as voluntary.

26 34. The TRUST Act, however, does not limit, in any way, a jurisdiction from complying
27 with notification requests so long as the jurisdiction is not required to hold the individual beyond
28 when he or she is otherwise legally eligible for release. It also does not prohibit a jurisdiction

1 from allowing federal immigration enforcement agents to access its jails to interview inmates.

2 **B. The TRUTH Act**

3 35. In 2016, California enacted the TRUTH Act, Cal. Gov't Code § 7283 *et seq.*, which took
4 effect on January 1, 2017. The purpose of the TRUTH Act is to increase transparency about
5 immigration enforcement and “to promote public safety and preserve limited resources because
6 entanglement between local law enforcement and ICE undermines community policing strategies
7 and drains local resources.” Assem. Bill No. 2792, Reg. Sess. (Cal. 2016) § 2(a)-(c), (g)-(i).

8 36. Under the TRUTH Act, before an interview with ICE takes place, a local law enforcement
9 officer must provide the detained individual with a “written consent form that explains the purpose
10 of the interview, that the interview is voluntary, and that he or she may decline to be interviewed
11 or may choose to be interviewed only with his or her attorney present.” Cal. Gov't Code §
12 7283.1(a). In addition, when a local LEA receives a detainer hold, notification, or transfer request,
13 the local LEA must “provide a copy of the request to the [detained] individual and inform him or
14 her whether the law enforcement agency intends to comply with the request.” *Id.* § 7283.1(b). If
15 the LEA complies with ICE's request to notify ICE as to when the individual will be released, it
16 must also “promptly provide the same notification in writing to the individual and to his or her
17 attorney or to one additional person who the individual shall be permitted to designate.” *Id.*

18 37. The TRUTH Act does not limit, in any way, a jurisdiction from complying with
19 notification requests; rather, it only requires that the jurisdiction also provide notice to the
20 individual of its actions. It also does not prohibit a jurisdiction from allowing ICE to access its
21 jails to interview inmates.

22 **II. CONGRESS DID NOT INTEND JAG TO BE CONDITIONED ON STATE AND LOCAL LAW** 23 **ENFORCEMENT ASSISTING IN FEDERAL IMMIGRATION ENFORCEMENT**

24 38. JAG is administered by OJP within USDOJ. JAG funding is authorized by Congress
25 under 42 U.S.C. §§ 3750-58. The authorizing statute has been amended numerous times since its
26 inception in 1988, evolving into the JAG program as it exists today.

27 39. The Anti-Drug Abuse Act of 1988 amended the Omnibus Crime Control and Safe Streets
28 Act of 1968 to create the Edward Byrne Memorial State and Local Law Enforcement Assistance

1 Programs grants (“Byrne Grants”) “to assist States and units of local government in carrying out
 2 specific programs which offer a high probability of improving the functioning of the criminal
 3 justice system.” Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, tit. VI, § 6091(a), 102 Stat.
 4 4181 (1988) (repealed 2006). Congress placed a “special emphasis” on programs that support
 5 national drug control priorities across states and jurisdictions. *Id.* Congress identified 21
 6 “purpose areas” for which Byrne Grants could be used. Many of the purpose areas relate to the
 7 investigation, enforcement, and prosecution of drug offenses. *See id.*, tit. V, § 5104. Immigration
 8 enforcement was never specified in any of the grant purpose areas.

9 40. In amendments between 1994 and 2000, Congress identified eight more purpose areas
 10 for which Byrne funding could be used, bringing the total to 29. 42 U.S.C. § 3751(b) (as it
 11 existed on Dec. 21, 2000) (repealed 2006). For Fiscal Year 1996, Congress separately authorized
 12 Local Law Enforcement Block Grants (“LLEBG”) that directed payment to units of local
 13 government for the purpose of hiring more police officers or “reducing crime and improving
 14 public safety.” Local Government Law Enforcement Block Grants Act of 1995, H.R. 728, 104th
 15 Cong. (1995). Congress identified eight “purpose areas” for LLEBG, none of which were
 16 immigration enforcement.

17 41. The Byrne Grant and LLEBG programs were then merged to eliminate duplication,
 18 improve their administration, and to provide State and local governments “more flexibility to
 19 spend money for programs that work for them rather than to impose a ‘one size fits all’ solution”
 20 to local law enforcement. Pub. L. No. 108-447, 118 Stat. 2809 (2004); H.R. Rep. No. 109-233, at
 21 89 (2005); *see also* 42 U.S.C. § 3750(a), (b)(1).

22 42. Now the JAG authorizing statute enumerates eight purpose areas for: (A) law
 23 enforcement programs; (B) prosecution and court programs; (C) prevention and education
 24 programs; (D) corrections and community corrections programs; (E) drug treatments and
 25 enforcement programs; (F) planning, evaluation, and technology improvement programs; (G)
 26 crime victim and witness programs; and (H) mental health programs related to law enforcement
 27 and corrections. 42 U.S.C. §3751(a)(1).

28 43. The purpose areas for these grants are to support “criminal justice” programs;

immigration enforcement is generally civil in nature. *See Arizona v. U.S.*, 567 U.S. 387, 396 (2012). Immigration enforcement was also never specified in the purpose areas for any of these grants throughout this entire legislative history.

44. In 2006, Congress repealed the only immigration-related requirement that had ever existed for JAG funding, a requirement that the chief executive officer of the state receiving JAG funding provide certified records of criminal convictions of “aliens.” *See* Immigration Act of 1990, Pub. L. No. 101-649, tit. V, § 507(a), 104 Stat. 4978, 5050-51 (1990); Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. No. 102-232, tit. III, § 306(a)(6), 105 Stat. 1733, 1751 (1991) (repealed 2006). The repeal of this provision evidences Congress’ intent not to condition JAG funding on immigration enforcement-related activities. This is consistent with the statutory scheme that does not include a purpose area connected to immigration enforcement.

45. In addition, more recently, Congress has considered but declined to adopt legislation that would penalize cities for setting their own law enforcement priorities and attempting to impose conditions similar to the conditions here.¹

III. THE JAG AUTHORIZING STRUCTURE REQUIRES THAT STATE AND LOCAL JURISDICTIONS RECEIVE FORMULA GRANTS

A. The JAG Formula Structure and Conditions

46. When creating the merged JAG funding structure in 2006, Congress set a formula to apportion JAG funds to state and local jurisdictions. 42 U.S.C. § 3755. Population and violent crime rates are used to calculate each state’s allocation. 42 U.S.C. § 3755(a)(1). Congress guarantees to each state a minimum allocation of JAG funds. 42 U.S.C. § 3755(a)(2).

47. In addition to determining the amount of money received by grantees within each state, Congress set forth how that money is to be shared between state and local jurisdictions. Under the statutory formula, 60 percent of the total allocation to a state must be given directly to the state. 42 U.S.C. § 3755(b)(1).

¹ *See, e.g.*, Stop Dangerous Sanctuary Cities Act, S. 3100, 114th Cong. (2016) (cloture on the motion to proceed rejected).

48. The statutory formula also provides that 40 percent of the total allocation to a state must be given to local governments within the state. 42 U.S.C. § 3755(d)(1). Each unit of local government receives funds based on its crime rate. 42 U.S.C. § 3755(d)(2)(A).

49. According to Congress's JAG funding scheme, states and local governments that apply for JAG funds are required to make limited certifications and assurances. Beyond ministerial requirements identified in the authorizing statute, the chief executive officer of each applicant must certify that: (A) the law enforcement programs to be funded meet all requirements of the JAG authorizing statute; (B) all information in the application is correct; (C) there was coordination with affected agencies; and (D) the applicant will comply with all provisions of the JAG authorizing statute. 42 U.S.C. § 3752(a)(5).

50. Congress has enacted reductions or penalties in JAG funds when certain conditions occur, such as a state failing to substantially implement the Sex Offender Registration and Notification Act or a governor not certifying compliance with the national Prison Rape Elimination Act standards. *See* 42 U.S.C. §§ 16925, 15607(e)(2). Unlike the access and notification conditions, these conditions were explicitly added by Congress.

B. California's Allocation and Use of the JAG Award

51. Based on the formula prescribed by statute, California is expected to receive approximately \$28.3 million in JAG funding in FY 2017, with \$17.7 million going to the Board of State and Community Corrections ("BSCC"), the entity that receives the formula grant funds that are allocated to the State.

52. BSCC disburses JAG funding using subgrants predominately to local jurisdictions throughout California to fund programs that meet the purpose areas identified in the JAG authorizing statute. Between FY 2015-17, BSCC funded 32 local jurisdictions and the California Department of Justice.

53. In the past, BSCC prioritized subgrants to those jurisdictions that focus on education and crime prevention programs, law enforcement programs, and court programs, including indigent defense. Some examples of California jurisdictions' purpose-driven use of JAG funds include: (a) implementing educational programs to improve educational outcomes, increase graduation

1 rates, and curb truancy; (b) providing youth and adult gang members with multi-disciplinary
 2 education, employment, treatment, and other support services to prevent gang involvement,
 3 reduce substance abuse, and curtail delinquency and recidivism; (c) implementing school-wide
 4 prevention and intervention initiatives for some of the county's highest-risk students; (d)
 5 providing comprehensive post-dispositional advocacy and reentry services to improve outcomes
 6 and reduce recidivism for juvenile probationers; (e) providing a continuum of detention
 7 alternatives to juvenile offenders who do not require secure detention, which includes assessment,
 8 referral, case advocacy, home detention, reporting centers, non-secure, shelter, intensive case
 9 management and wraparound family support services; and (f) funding diversion and re-entry
 10 programs for both minors and young adult offenders.

11 **IV. OJP HAS EXCEEDED ITS STATUTORY AUTHORITY BY IMPOSING THE NEW** 12 **CONDITIONS**

13 **A. Description of the JAG Solicitation**

14 54. On July 25, 2017, OJP announced the FY 2017 State JAG Solicitation. OJP set the
 15 deadline for applications as August 25, 2017. On August 3, 2017, OJP announced the FY 2017
 16 JAG Local Solicitation with a deadline of September 5, 2017.

17 55. In the JAG Solicitations, for the first time in Fiscal Year 2017, OJP announced two
 18 additional substantive "special conditions" related to federal immigration enforcement. To
 19 receive a JAG award, jurisdictions must:

- 20 • permit personnel of the U.S. Department of Homeland Security ("DHS") to access any
 21 correctional or detention facility in order to meet with an "alien" (or an individual
 22 believed to be an "alien") and inquire as to his or her right to be or remain in the
 23 United States (the "access condition"); and
- 24 • provide at least 48 hours' advance notice to DHS regarding the scheduled release date
 25 and time of an "alien" in the jurisdiction's custody when DHS requests such notice in
 26 order to take custody of the individual pursuant to the Immigration and Nationality
 27 Act (the "notification condition").

28 Exh. A, at 32. Both of these conditions exist in the State and Local JAG Solicitations.

56. Grant recipients, including the BSCC, must execute “Certified Standard Assurances” that it “will comply with all award requirements,” including the access and notification conditions. *See id.* at Appx. IV.

57. Subgrantees must assure that they will comply with all award conditions, including the access and notification conditions. *See id.* at 20-21.

58. Based on information and belief, the state recipient must execute the Certified Standard Assurances by the application deadline on August 25, 2017. “OJP expects to issue award notifications by September 30, 2017.” *Id.* at 31.

59. At no point has USDOJ or OJP provided any explanation as to how the access and notification conditions relate to Congress’s intent in authorizing JAG.

B. OJP Lacks Statutory Authority to Impose “Special Conditions” of this Type

60. JAG’s authorizing statute provides no authority for OJP to impose the access and notification conditions (the so-called “special conditions”) on all grant recipients. Indeed, the same statute that authorizes JAG funding, the Omnibus Crime Control and Safe Streets Act of 1968, also authorizes funding pursuant to the Violence Against Women Act (“VAWA”) that permits the Attorney General to “impose reasonable conditions on grant awards.” 42 U.S.C. § 3796gg-1(e)(3). Congress’s clear direction to USDOJ to add “reasonable conditions” pursuant to VAWA, but not for JAG, strongly indicates that Congress did not intend to confer discretion on OJP to add unlimited substantive conditions at its whim.

61. Although nothing related to the access and notification conditions is found within the statutory text or legislative history related to JAG, OJP claims it has the authority to add these conditions under Section 3712, which allows OJP to add “special conditions on all grants.”

62. OJP’s basis for using its purported authority to add these conditions here, without limitation, is statutorily and constitutionally flawed.

63. In 2006, when Section 3712 was amended to permit OJP to “plac[e] special conditions on all grants,” the term “special conditions” had a precise meaning. According to a USDOJ regulation in place at the time, the agency could impose “special grant or subgrant conditions” on

1 “high-risk grantees” if the grant applicant: (a) had a history of poor performance; (b) was not
2 financially stable; (c) had a management system that did not meet certain federal standards; (d)
3 had not conformed to the terms and conditions of a previous grant award; or (e) was not otherwise
4 responsible. 28 C.F.R. § 66.12 (removed December 25, 2014). This language was based on the
5 grants management common rule adopted by the Office of Management and Budget (“OMB”),
6 and followed by “all Federal agencies” when administering grants to state and local governments.
7 OMB Circular A-102 (as amended Aug. 29, 1997). Other federal statutes and regulations have
8 also historically identified “special conditions” as those that federal agencies may place on
9 particular high-risk grantees who have struggled or failed to comply with grant conditions in the
10 past, not on all grantees irrespective of performance.

11 64. Interpreting OJP’s authority to permit it to impose any substantive conditions with
12 respect to formula grants, like JAG, beyond what is allowed under federal law further conflicts
13 with Congressional intent in establishing a prescribed formula grant structure. Congress designed
14 JAG so that “*each State*” receives an allocation according to a precise statutory formula. 42
15 U.S.C. § 3755(a) (emphasis added). Likewise, Congress’s formula provides allocation to “*each*
16 unit of local government.” 42 U.S.C. § 3755(d)(2) (emphasis added). As such, if USDOJ makes
17 grants from funds that Congress appropriated to JAG, OJP must disburse the funds according to
18 the statutory formula enacted by Congress so long as the jurisdiction complies with the conditions
19 that exist in federal law.

20 65. The conditions also conflict with the immigration enforcement scheme set forth by
21 Congress in the Immigration and Naturalization Act (“INA”) that makes cooperation with
22 immigration enforcement agencies voluntary. There is no provision in the INA, or any federal
23 law, that requires jurisdictions to assist with otherwise voluntary immigration enforcement related
24 activities in order to receive these federal funds.

25 66. While USDOJ has the ability to add conditions to JAG awards, it cannot add substantive
26 grant conditions such as these, that are not tethered to any federal statute. For instance, it could
27 add “special conditions” for high-risk grantees as described above. It could add conditions that
28 stem from the authorizing JAG statute. And it could add conditions that Congress directed be

1 applied to federally funded programs. *See, e.g.*, 42 U.S.C. § 2000d-1; 29 U.S.C. § 794(a)(1); 20
 2 U.S.C. § 1681(a)(1); 42 U.S.C. § 6102.

3 **C. The Access and Notification Conditions do not Provide Jurisdictions with**
 4 **Clear Notice of what the Conditions Require**

5 67. It is ambiguous what the access and notification conditions require grant recipients to do.
 6 For example, it is unclear whether the condition requiring jurisdictions to provide ICE jail access
 7 for interview purposes prohibits grant recipients from informing inmates of their right to have a
 8 lawyer present or decline an interview with ICE, which would implicate the notice requirements
 9 in the TRUTH Act.

10 68. It is also ambiguous as to whether the condition requiring compliance with immigration
 11 notification requests should be applied when an individual is scheduled to be released less than 48
 12 hours after the jurisdiction receives a notification request, or if the individual becomes eligible for
 13 release without advance warning (*i.e.*, released on bail).

14 **D. Interpreting the Notification Condition as a Requirement to Hold an**
 15 **Individual Past His or Her Ordinary Release would mean OJP is**
 16 **Conditioning Funding on Unconstitutional Activities**

17 69. If OJP interprets the ambiguous notification condition to require a jurisdiction to hold an
 18 individual beyond his or her scheduled release date and time in order to comply with the 48-hour
 19 notice requirement, OJP would be transforming the notification request into a secondary
 20 immigration hold request. This would force jurisdictions to risk engaging in activities barred by
 21 the Fourth Amendment of the U.S. Constitution in order to receive federal funding. That is
 22 because jurisdictions would be required to detain individuals beyond when they would otherwise
 be eligible for release even if the jurisdiction lacks probable cause to do so.

23 70. As a matter of practice, when issuing detainer notification requests, ICE checks a box
 24 identifying whether: (a) there is a final order of removal; (b) removal proceedings are pending as
 25 to the individual; (c) “[B]iometric confirmation of the alien’s identity and a records check of
 26 federal databases that affirmatively indicate, by themselves or in addition to other reliable
 27 information, that the alien either lacks immigration status or notwithstanding such status is
 28 removable under U.S. immigration law;” and/or (d) “[S]tatements made by the alien to an

1 immigration officer and/or reliable evidence that affirmatively indicate that the alien either lacks
 2 immigration status or notwithstanding such status is removable under U.S. immigration law.”²

3 71. The notification and detainer requests alone do not provide jurisdictions with any other
 4 individually particularized information about the basis for removability. And detainer and
 5 notification requests are typically only accompanied by an ICE administrative warrant, which has
 6 not been reviewed and approved by a neutral magistrate. As federal courts throughout the
 7 country have determined, jurisdictions that hold individuals beyond their ordinary release
 8 pursuant to ICE detainer requests violate the Fourth Amendment of the U.S. Constitution if the
 9 detainer requests are not supported by independent probable cause or a judicial warrant. *See, e.g.,*
 10 *Cty of Santa Clara.*, slip op. at 6 (N.D. Cal. Apr. 25, 2017).

11 72. OJP appears to interpret the notification condition as requiring jurisdictions to hold an
 12 individual beyond when he or she is otherwise eligible for release if necessary to provide 48-hour
 13 notice to ICE before release. On August 3, 2017, OJP sent a letter to four local jurisdictions,
 14 including the California cities of Stockton and San Bernardino, interested in the Public Safety
 15 Partnership (“PSP”) Program, a non-formula grant funding source administered through JAG.
 16 The letter asked jurisdictions to inform ICE whether the jurisdiction has a “statute, rule,
 17 regulation, policy, or practice that is designed to ensure that your correctional and detention
 18 facilities provide at least 48 hours’ advance notice, *where possible*, to DHS regarding the
 19 scheduled release date and time of an alien in the jurisdiction’s custody when DHS requests such
 20 notice in order to take custody of the alien.”³

21 73. A similar “where possible” limitation is not included in the JAG Solicitations. It thus
 22 appears that OJP may expect jurisdictions to detain individuals beyond their release date in order
 23 to comply with the condition—which would require the recipient jurisdictions to potentially
 24 violate the Fourth Amendment. But even adding a “where possible” limitation does not cure the
 25 existing ambiguity. To cure the ambiguity and the Fourth Amendment problems with the

26
 27 ² See Department of Homeland Security, Immigration Detainer – Notice of Action, I-
 247A, <https://www.ice.gov/sites/default/files/documents/Document/2017/I-247A.pdf>.

28 ³ See U.S. Department of Justice, *Alan Hanson Letters to Jurisdictions re PSP* (Aug 3, 2017), <https://www.justice.gov/opa/press-release/file/986411/download> (emphasis added).

notification condition, OJP would need to explicitly state that jurisdictions do not need to detain an individual beyond his or her ordinary release in order to comply with the condition.

V. USDOJ HAS MADE CLEAR THAT IT DOES NOT BELIEVE CALIFORNIA COMPLIES WITH THE ACCESS AND NOTIFICATION CONDITIONS

74. Although California's laws comply with the access and notification conditions under one interpretation of the conditions, Defendants have consistently stated or suggested their perception that California and its local jurisdictions fail to comply with these conditions.

A. California Has a Credible Fear that USDOJ Will Wrongly Withhold Funding Based on the Access Condition

75. On March 29, 2017, Defendant Sessions and then-DHS Secretary John Kelly sent a joint letter to the Chief Justice of California. The letter, which responded to the Chief Justice's expression of concern about ICE arrests occurring in state courthouses, stated that "[s]ome jurisdictions, including the State of California and many of its largest counties and cities, have enacted statutes and ordinances designed to specifically prohibit or hinder ICE from enforcing immigration law by prohibiting communication with ICE, and denying requests by ICE officers and agents to enter prisons and jails to make arrests."⁴

76. No California law prohibits ICE's access to jails. The TRUST Act only limits circumstances under which local law enforcement have discretion to comply with detainer requests. And the TRUTH Act only provides protections so that inmates are aware of their rights before they make the voluntary decision of whether to speak to ICE.

77. Defendant Sessions' inaccurate characterization of California law as denying ICE access to jails, and thereby failing to satisfy this new condition in the JAG Solicitations, places California and local jurisdictions at risk of not receiving the JAG funds.

⁴ Attorney General Jefferson B. Sessions and Secretary John F. Kelly Letter to the Honorable Tani G. Cantil (Mar. 29, 2017), <https://www.nytimes.com/interactive/2017/03/31/us/sessions-kelly-letter.html>.

B. California Has a Credible Fear that USDOJ Will Wrongly Withhold Funding Based on the Notification Condition

78. California has a credible fear that the notification condition requires local jurisdictions to hold an individual beyond his or her ordinary release and, therefore, USDOJ will find that California and its political subdivisions fail to comply with this condition because of the TRUST Act.

79. In addition to the ambiguous wording of the notification condition, Defendant Sessions has made numerous statements asserting his desire to take federal funding away from jurisdictions that do not comply with detainer requests. For instance, on March 27, 2017, Defendant Sessions exclusively discussed “policies” regarding refusals “to detain known felons under federal detainer requests.”⁵ Defendant Sessions threatened that “policies” that limit compliance with detainer requests placed jurisdictions “at risk of losing valuable federal dollars.”⁶

80. Defendant Sessions’ statements targeting jurisdictions that do not universally comply with detainer holds further corroborate that USDOJ intends to enforce this condition to require jurisdictions to hold individuals beyond their ordinary release.

VI. THE IMPOSITION OF THE ILLEGAL FUNDING CONDITIONS WILL CREATE IRREPARABLE HARM TO THE STATE AND ITS LOCAL JURISDICTIONS

81. The ambiguity in the access and notification conditions, in combination with Defendants’ interpretations of California law, create the prospect that the State and/or its local jurisdictions will not apply for JAG unless there is clarification about the scope of the new conditions. That means a loss of up to \$28.3 million in critical funds that would otherwise go toward programs throughout the State that reduce recidivism for at-risk youth, counter the distribution of illegal drugs, advance community policing, and improve educational outcomes.

82. Another prospect is that the State and/or its localities accept the funding and change their public-safety oriented laws and policies in order to ensure they are viewed as complying with these ambiguous access and notification conditions. Abandoning these policies, that law

⁵ U.S. Department of Justice, *Attorney General Jeff Sessions Delivers Remarks on Sanctuary Jurisdictions* (Mar. 27, 2017), <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-sanctuary-jurisdictions>.

⁶ *Id.*

1 enforcement has found to be effective in their communities, could divert resources away from
 2 fighting crime and erode trust between the state and local governments and their immigrant
 3 communities that the TRUST and TRUTH Acts, as well as local ordinances, are intended to
 4 build.

5 83. In order to compel jurisdictions to adopt its federal immigration program, the
 6 Administration has admitted that it intends to force state and local jurisdictions to abandon
 7 policies these jurisdictions have adopted based on their considered judgment on how best to
 8 enhance public safety. The ambiguity of these conditions is part and parcel of the
 9 Administration's plan to create a chilling effect that makes state and local jurisdictions think
 10 twice about maintaining their current policies. If Defendants clarify the access condition to
 11 explain that they expect jurisdictions to not provide any procedural protections to detainees before
 12 an ICE interview, or the notification condition to mean that jurisdictions must provide ICE with
 13 48-hour notice even if it means holding someone beyond his or her ordinary release, jurisdictions
 14 will still feel pressured to change their laws or policies to avoid losing any federal funding.

15 84. Compelling state and local governments to make a decision without providing clarity
 16 about the scope of the conditions, or construing these funding conditions to prohibit jurisdictions
 17 from providing notice protections for inmates or requiring jurisdictions to detain individuals
 18 beyond their ordinary release, undermines public safety, is unconstitutional, and should be halted.

19 **FIRST CLAIM FOR RELIEF**

20 **VIOLATION OF CONSTITUTIONAL SEPARATION OF POWERS**

21 85. Plaintiff incorporates the allegations of the preceding paragraphs by reference.

22 86. Article I, Section I of the United States Constitution enumerates that "[a]ll legislative
 23 Powers herein granted shall be vested in [the] Congress."

24 87. Article I, Section VIII of the United States Constitution vests exclusively in Congress the
 25 spending power to "provide for . . . the General Welfare of the United States."

26 88. Defendants have exceeded Congressional authority by adding conditions requiring
 27 jurisdictions to provide access to detention facilities to interview inmates and to comply with
 28 notification requests that are not conferred by the JAG authorizing statute or any other federal

1 law. *See* 42 U.S.C. §§ 3750-58. The new access and notification conditions therefore unlawfully
 2 exceed the Executive Branch's powers and intrude upon the powers of Congress.

3 89. For the reasons stated herein, the access and notification conditions in the JAG
 4 Solicitations are unlawful, unconstitutional, and should be set aside under 28 U.S.C. § 2201.

5 **SECOND CLAIM FOR RELIEF**

6 **VIOLATION OF CONGRESSIONAL SPENDING AUTHORITY**

7 90. Plaintiff incorporates the allegations of the preceding paragraphs by reference.

8 91. Congress' spending power is not unlimited. When "Congress desires to condition the
 9 States' receipt of federal funds, it 'must do so (a) unambiguously ..., enable[ing] the States to
 10 exercise their choice knowingly, cognizant of the consequences of their participation;'" (b) by
 11 placing conditions that are related "to the federal interest in particular national projects or
 12 programs;" and (c) to not "induce the States to engage in activities that would themselves be
 13 unconstitutional." *South Dakota v. Dole*, 483 U.S. 203, 207 (1987).

14 92. To the extent that Congress delegated its authority to impose conditions (special
 15 conditions or otherwise) on JAG funding (which Plaintiff does not concede), the access and
 16 notification conditions violate the Spending Clause of the U.S. Constitution.

17 93. The access and notification conditions are unrelated to the "federal interest in particular
 18 national projects or programs" for which Congress intended JAG funding to be used.

19 94. The access and notification conditions violate the Spending Clause because they are
 20 ambiguous and do not provide the State with notice to make a "choice knowingly" of whether to
 21 comply.

22 95. Additionally, if the notification condition requires jurisdictions to hold individuals beyond
 23 their ordinary release to comply with the notification condition, that condition would also violate
 24 the independent constitutional bar prong of the Spending Clause by requiring local law
 25 enforcement to comply even when doing so would violate the Fourth Amendment of the U.S.
 26 Constitution.

27 96. For the reasons stated herein, the access and notification conditions in the JAG
 28 Solicitations are unlawful, and should be set aside under 28 U.S.C. § 2201.

THIRD CLAIM FOR RELIEF

VIOLATION OF ADMINISTRATIVE PROCEDURE ACT

(Constitutional Violations and Excess of Statutory Authority)

97. Plaintiff incorporates the allegations of the preceding paragraphs by reference.

98. Defendant USDOJ is an “agency” under the APA, 5 U.S.C. § 551(1), and the JAG solicitation is an “agency action” under the APA, *id.* § 551(13).

99. The JAG Solicitations constitute “[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court.” *Id.* § 704.

100. The APA requires that a court “hold unlawful and set aside agency action, findings, and conclusions found to be ... contrary to constitutional right, power, privilege, or immunity,” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” *Id.* § 706(2)(B)-(C).

101. Defendants’ imposition of the access and notification conditions in the JAG Solicitations is unconstitutional because Defendants overstepped their powers by exercising lawmaking authority that is solely reserved to Congress under Article I, Section I of the U.S. Constitution. Also, Defendants’ imposition of the access and notification conditions in the JAG Solicitations was in excess of their statutory authority. Furthermore, both conditions violate the Spending Clause because they are unrelated to the federal purpose of the grant, ambiguous, and/or tied to unconstitutional activities.

102. Because Defendants acted unconstitutionally and in excess of their statutory authority through the JAG Solicitations, these actions are unlawful and should be set aside under 5 U.S.C. § 706.

FOURTH CLAIM FOR RELIEF

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

(Arbitrary and Capricious)

103. Plaintiff incorporates the allegations of the preceding paragraphs by reference.

104. Defendant USDOJ is an “agency” under the APA, 5 U.S.C. § 551(1), and the JAG solicitation is an “agency action” under the APA, *id.* § 551(13).

105. The JAG Solicitations constitute “[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court.” *Id.* § 704.

106. The APA requires that a court “hold unlawful and set aside agency action, findings, and conclusions found to be ... arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Id.* § 706(2)(A).

107. The imposition of the access and notification conditions is arbitrary and capricious and an abuse of discretion because Defendants have relied on factors that Congress did not intend by adding these conditions to JAG funding.

108. For the reasons discussed herein, the access and notification conditions in the JAG solicitation are unlawful and shall be set aside under 5 U.S.C. § 706 for being arbitrary and capricious and an abuse of discretion.

FIFTH CLAIM FOR RELIEF

DECLARATORY RELIEF

109. Plaintiff incorporates the allegations of the preceding paragraphs by reference.

110. An actual controversy between California and Defendants exists as to whether the State of California and its localities comply with the access and notification conditions on the basis of the TRUST and TRUTH Acts. Although California law actually complies with an interpretation of the conditions, Defendants’ statements indicate that they will determine that California does not comply with the conditions.

111. Plaintiff is entitled to a declaration that the TRUST and TRUTH Acts do not violate the access and notification conditions, and thus, should not be a basis for withholding, terminating, disbaring, or making ineligible federal funding from the State and its political subdivisions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, including the State of California, respectfully that this Court enter judgment in its favor, and grant the following relief:

1 1. Issue a declaration that the access and notification conditions in the JAG Solicitations
2 are unconstitutional and/or unlawful because (a) they exceed the Congressional authority
3 conferred to the Executive Branch; (b) to the extent there is Congressional authorization, exceeds
4 the Congress's spending powers under Article I of the Constitution; and (c) they violate the
5 Administrative Procedures Act;

6 2. Permanently enjoin Defendants from using the access and notification conditions as
7 restrictions for JAG funding;

8 3. Permanently enjoin Defendants from withholding, terminating, disbaring or making
9 any state entity or local jurisdiction ineligible for JAG funding on account of the TRUTH Act or
10 any law or policy that provides procedural protections to inmates about their rights;

11 4. Permanently enjoin Defendants from withholding, terminating, disbaring, or making
12 any state entity or local jurisdiction ineligible for JAG funding on account of the TRUST Act or
13 any law or policy that limits compliance with detainer requests;

14 5. In the alternative, declare that the State's TRUST and TRUTH Acts comply with the
15 access and notification conditions in the JAG Solicitations; and

16 6. Award the State costs and grant such other relief as the Court may deem just and
17 proper.

18
19 Dated: August 14, 2017

Respectfully submitted,

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Attorney General of California
ANGELA SIERRA
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Exhibit A

OMB No. 1121-0329
Approval Expires 12/31/2018

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance



The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#) (OJP), [Bureau of Justice Assistance](#) (BJA) is seeking applications for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting State, local, and tribal efforts to prevent or reduce crime and violence.

Edward Byrne Memorial Justice Assistance Grant Program FY 2017 State Solicitation Applications Due: August 25, 2017

Eligibility

Only States may apply under this solicitation. By law, for purposes of the JAG program, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa. (Throughout this solicitation, each reference to a State or States includes all of these 56 jurisdictions.)

A JAG application is not complete, and a State may not receive award funds, unless the chief executive of the applicant State (e.g., the governor) properly executes, and the State submits, the "Certifications and Assurances by Chief Executive of Applicant Government" attached to this solicitation as [Appendix I](#).

In addition, as discussed further [below](#), in order validly to accept an FY 2017 JAG award, the chief legal officer of the applicant State must properly execute, and the State must submit, the specific certification regarding compliance with 8 U.S.C. § 1373 attached to this solicitation as [Appendix II](#). (The text of 8 U.S.C. § 1373 appears in [Appendix III](#).)

The expected allocations by State for the FY 2017 JAG program can be found at:
<https://www.bja.gov/Funding/17JAGStateAllocations.pdf>.

Deadline

Applicants must register in the [OJP Grants Management System \(GMS\)](#) prior to submitting an application under this solicitation. All applicants must register, even those that previously registered in GMS. Select the "Apply Online" button associated with the solicitation title. All registrations and applications are due by 5 p.m. eastern time on August 25, 2017.

This deadline does **not** apply to the certification regarding compliance with 8 U.S.C. § 1373. As explained [below](#), a State may not validly accept an award, however, unless that certification is submitted to OJP on or before the day the State submits the signed award acceptance documents.

For additional information, see [How to Apply](#) in [Section D. Application and Submission Information](#).

Contact Information

For technical assistance with submitting an application, contact the Grants Management System Support Hotline at 888-549-9901, option 3, or via email at GMS.HelpDesk@usdoj.gov. The [GMS](#) Support Hotline operates 24 hours a day, 7 days a week, including on federal holidays.

An applicant that experiences unforeseen GMS technical issues beyond its control that prevent it from submitting its application by the deadline must email the National Criminal Justice Reference Service (NCJRS) Response Center at grants@ncjrs.gov **within 24 hours after the application deadline** in order to request approval to submit its application. Additional information on reporting technical issues appears under “Experiencing Unforeseen GMS Technical Issues” in the [How to Apply](#) in [Section D. Application and Submission Information](#).

For assistance with any other requirement of this solicitation, applicants may contact the NCJRS Response Center by telephone at 1-800-851-3420; via TTY at 301-240-6310 (hearing impaired only); by email at grants@ncjrs.gov; by fax to 301-240-5830, or by web chat at <https://webcontact.ncjrs.gov/ncjchat/chat.jsp>. The NCJRS Response Center hours of operation are 10:00 a.m. to 6:00 p.m. eastern time, Monday through Friday, and 10:00 a.m. to 8:00 p.m. eastern time on the solicitation close date. Applicants also may contact the appropriate BJA [State Policy Advisor](#).

Grants.gov number assigned to this solicitation: BJA-2017-11360

Release date: July 25, 2017

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Edward Byrne Memorial Justice Assistance Grant Program

FY 2017 State Solicitation CFDA #16.738

A. Program Description

Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to States and units of local government. BJA will award JAG program funds to eligible States under this FY 2017 JAG Program State Solicitation. (A separate solicitation will be issued for applications to BJA directly from units of local government.)

Statutory Authority: The JAG program statute is Subpart I of Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968. Title I of the “Omnibus Act” generally is codified at Chapter 26 of Title 42 of the United States Code; the JAG program statute is codified at 42 U.S.C. §§ 3750-3758. See also 28 U.S.C. § 530C(a).

Program-Specific Information

Permissible uses of JAG Funds – In general

In general, JAG funds awarded to a State under this FY 2017 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following—

- Law enforcement programs.
- Prosecution and court programs.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment and enforcement programs.
- Planning, evaluation, and technology improvement programs.
- Crime victim and witness programs (other than compensation).
- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.

Under the JAG program, States may use award funds for broadband deployment and adoption activities as they relate to criminal justice activities.

Limitations on the use of JAG funds

Prohibited and controlled uses of funds. JAG funds may not be used (whether directly or indirectly) for any purpose prohibited by federal statute or regulation, including those purposes specifically prohibited by the JAG program statute as set out at 42 U.S.C. § 3751(d):

- (1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.
- (2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—
 - (A) vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters);
 - (B) luxury items;
 - (C) real estate;
 - (D) construction projects (other than penal or correctional institutions); or
 - (E) any similar matters.

For additional information on expenditures prohibited under JAG, as well as expenditures that are permitted but “controlled,” along with the process for requesting approval regarding controlled items, refer to the [JAG Prohibited and Controlled Expenditures Guidance](#). Information also appears in the [JAG FAQs](#).

Cap on use of JAG award funds for administrative costs – A State may use up to 10 percent of a JAG award, including up to 10 percent of any earned interest, for costs associated with administering the award.

Prohibition of supplanting; no use of JAG funds as “match” – JAG funds may not be used to supplant State or local funds, but must be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities. See the [JAG FAQs](#) on BJA’s JAG web page for examples of supplanting.

Although supplanting is prohibited, as discussed under [“What An Application Should Include,”](#) the leveraging of federal funding is encouraged.

Absent specific federal statutory authority to do so, JAG award funds may not be used as “match” for the purposes of other federal awards.

Other restrictions on use of funds. If a State chooses to use its FY 2017 JAG funds for particular, defined types of expenditures, it must satisfy certain preconditions.

- Body-Worn Cameras (BWC)

A State that proposes to use FY 2017 JAG award funds to purchase BWC equipment, or to implement or enhance BWC programs, must provide to OJP a certification(s) that the State (or, if applicable, that any unit of local government that will receive funds from the State for BWC purposes) has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, training, etc. The certification can be found at <https://www.bja.gov/Funding/BodyWornCameraCert.pdf>.

A State that proposes to use JAG funds for BWC-related expenses (including through a unit of local government receiving funds from the State) will have funds withheld until the required certification is submitted and approved by OJP.

The BJA [BWC Toolkit](#) provides model BWC policies and best practices to assist departments in implementing BWC programs.

Apart from the JAG program, BJA provides funds under the Body-Worn Camera Policy and Implementation Program (BWC Program). The BWC Program allows jurisdictions to develop and implement policies and practices required for effective program adoption, and address program factors including the purchase, deployment, and maintenance of camera systems and equipment; data storage and access; and privacy considerations. Interested States may wish to refer to the [BWC web page](#) for more information. States should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BWC Program.

- Body Armor

Ballistic-resistant and stab-resistant body armor can be funded through the JAG Program, as well as through BJA's Bulletproof Vest Partnership (BVP) Program. The BVP Program is designed to provide a critical resource to State and local law enforcement through the purchase of ballistic-resistant and stab-resistant body armor. For more information on the BVP Program, including eligibility and application, refer to the [BVP web page](#). States should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BVP Program.

Body armor purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the body armor has been tested and found to comply with the latest applicable National Institute of Justice (NIJ) ballistic or stab standards. In addition, body armor purchased must be made in the United States.

As is the case in the BVP Program, States that propose to purchase body armor with JAG funds must certify that law enforcement agencies receiving body armor have a written "mandatory wear" policy in effect. FAQs related to the mandatory wear policy and certifications can be found at <https://www.bja.gov/Funding/JAGFAQ.pdf>. This policy must be in place for at least all uniformed officers before any FY 2017 funding can be used by the State for body armor. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. The certification must be signed by the Authorized Representative and must be attached to the application, if proposed as part of the application. If the State proposes to change project activities to utilize JAG funds to purchase body armor after the award is accepted, the State must submit the signed certification to BJA at that time. A mandatory wear concept and issues paper and a model policy are available by contacting the BVP Customer Support Center at vests@usdoj.gov or toll free at 1-877-758-3787. The certification form related to mandatory wear can be found at: www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf.

- DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database

If JAG program funds will be used for DNA testing of evidentiary materials, any resulting **eligible** DNA profiles must be uploaded to the Combined DNA Index System (CODIS,

the national DNA database operated by the FBI) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA.

In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not accepted for entry into CODIS.

- Interoperable Communication

States (including subrecipients) that use FY 2017 JAG funds to support emergency communications activities (including the purchase of interoperable communications equipment and technologies such as voice-over-internet protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission [FCC] Waiver Order) should review [FY 2017 SAFECOM Guidance](#). The SAFECOM Guidance is updated annually to provide current information on emergency communications policies, eligible costs, best practices, and technical standards for State, local, tribal, and territorial grantees investing federal funds in emergency communications projects. Additionally, emergency communications projects should support the Statewide Communication Interoperability Plan (SCIP) and be coordinated with the full-time Statewide Interoperability Coordinator (SWIC) in the State of the project. As the central coordination point for their State's interoperability effort, the SWIC plays a critical role, and can serve as a valuable resource. SWICs are responsible for the implementation of the SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office of Emergency Communications maintains a list of SWICs for each of the States and territories. Contact OEC@hq.dhs.gov. All communications equipment purchased with FY 2017 JAG program funding should be identified during quarterly performance metrics reporting.

In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the recipient to comply with DOJ's Global Justice Information Sharing Initiative guidelines and recommendations for this particular grant. Recipients must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://www.it.ojp.gov/gsp_grantcondition. Recipients must document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

State obligations regarding use of JAG funds and units of local government

A State that applies for and receives an FY 2017 JAG award must—

- Pass-through a predetermined percentage of funds to “units of local government.” (For purposes of the JAG program, a “unit of local government” includes a city, county, township, town, and certain federally-recognized Indian tribes.) This predetermined percentage (often referred to as the “variable pass-through” or VPT) is calculated by OJP's Bureau of Justice Statistics (BJS), based on the total criminal justice expenditures by the State and its units of local government. The variable pass-through percentages that will apply to an FY 2017 award to a recipient State can be found at: <https://www.bja.gov/jag/pdfs/VPT-for-SAsAAs-updated-June-2017.pdf>. (If a State believes

the VPT percentage has been calculated incorrectly, the State may provide pertinent, verifiable data to BJA and ask OJP to reconsider.)

In certain circumstances, some or all of a project administered by a recipient State may count as part of the variable pass-through. In general, a State may do so to the extent that— (1) the State-administered project will directly benefit a unit of local government, and (2) one unit (or more) of local government voluntarily agrees and acknowledges in an appropriate written certification that the specified amount of State-administered funds would directly benefit the unit of local government in question and agrees that funding the project at the State level is in the best interests of the unit of local government. See the [JAG FAQs](#) for an example.

- Appropriately use or distribute the amount of funds that are *added* to the State's FY 2017 award because certain units of local government within the State are ineligible for a direct FY 2017 award of JAG funds because of their small size. (These small-size units of local government sometimes are referred to as "less-than-\$10,000 jurisdictions.") The State must provide these additional funds included in its FY 2017 award to State police departments that provide criminal justice services to the "less-than-\$10,000 jurisdictions" within the State and/or subaward the funds to such jurisdictions.
- Ensure that any court disposition or other records generated by JAG-funded programs are made available to State repositories if they are relevant to the National Instant Background Check System (NICS) determinations.

Required compliance with applicable federal laws

By law, the chief executive (e.g., the governor) of each State that applies for an FY 2017 JAG award must certify that the State will "comply with all provisions of [the JAG program statute] and all other applicable Federal laws." To satisfy this requirement, each State applicant must submit two properly-executed certifications, using the forms shown at Appendix I and II.

All applicants should understand that OJP awards, including certifications provided in connection with such awards, are subject to review by DOJ, including by OJP and by the DOJ Office of the Inspector General. Applicants also should understand that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in a certification submitted to OJP in support of an application may be the subject of criminal prosecution, and also may result in civil penalties and administrative remedies for false claims or otherwise. Administrative remedies that may be available to OJP with respect to an FY 2017 award include suspension or termination of the award, placement on the DOJ high-risk grantee list, disallowance of costs, and suspension or debarment of the recipient.

Potential funding reductions for noncompliance with PREA and SORNA

Prison Rape Elimination Act of 2003 (PREA). In 2012, DOJ published National PREA Standards, which were promulgated to prevent, detect, and respond to sexual victimization and abuse in confinement settings. The PREA Standards are set out at 28 C.F.R. Part 115, and apply to confinement facilities including adult prisons and jails, juvenile facilities, police lockups, and community corrections facilities.

Under PREA, if a State's chief executive (e.g., governor) does not certify full compliance with the National PREA Standards, the State is subject to the loss of 5 percent of certain DOJ grant

funds, including JAG award funds, unless: (1) the chief executive submits an assurance to DOJ that no less than 5 percent of such funds will be used solely for the purpose of enabling the State to achieve and certify full compliance with the Standards in future years; or (2) the chief executive requests that the affected funds be held in abeyance by DOJ. See 42 U.S.C. § 15607(e)(2).

A reduction of a JAG award to a State under the provisions of PREA will **not** affect the portion of the JAG award that is reserved for local jurisdictions.

For additional information concerning PREA implementation, send inquiries to the PREA Management Office at PREACompliance@usdoj.gov and/or review the [PREA FAQs](#).

Sex Offender Registration and Notification Act (SORNA). SORNA, which is Title I of the Adam Walsh Child Protection and Safety Act of 2006, mandates a 10-percent reduction in JAG award to a “State” that has failed to substantially implement SORNA. For such States, the 10-percent reduction has been applied to JAG awards since FY 2012 and will continue to be applied in each subsequent year until the JAG recipient has substantially implemented SORNA. Further, States that have substantially implemented SORNA have an ongoing obligation to maintain that status each year. A JAG reduction will be applied each year a jurisdiction has failed to have substantially implemented SORNA.

A reduction of a JAG award to a State under the provisions of SORNA will **not** affect the portion of the JAG award that is reserved for local jurisdictions.

For additional information regarding SORNA implementation, including requirements and a list of States that will be affected in FY 2017 by the 10-percent reduction to JAG awards, contact Samantha Opong with the OJP Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) at Samantha.Opong@usdoj.gov or 202-514-9320. Additional SORNA guidance can be found within the [SORNA FAQs](#).

BJA Areas of Emphasis

BJA recognizes that there are significant pressures on State and local criminal justice systems. In these challenging times, shared priorities and leveraged resources can make a significant impact. BJA intends to focus much of its work as a component of OJP on the areas of emphasis described below, and encourages each State recipient of an FY 2017 JAG award to join us in addressing these challenges.

Reducing Gun Violence – Gun violence has touched nearly every State and local government in America. While our nation has made great strides in reducing violent crime, some municipalities and regions continue to experience unacceptable levels of violent crime at rates far in excess of the national average. BJA encourages States to invest JAG funds in programs to combat gun violence, enforce existing firearms laws, and improve the process for ensuring that persons prohibited from purchasing guns are prevented from doing so, by enhancing reporting to the FBI’s NICS.

National Incident-Based Reporting System (NIBRS) – The FBI has formally announced its intentions to establish NIBRS as the law enforcement (LE) crime data reporting standard for the nation. The transition to NIBRS will provide a more complete and accurate picture of crime at the national, State, and local level. Once this transition is complete, the FBI will no longer collect summary data and will accept data only in the NIBRS format. Also, once the transition is

complete, JAG award amounts will be calculated on the basis of submitted NIBRS data. Transitioning all law enforcement agencies to NIBRS is the first step in gathering more comprehensive crime data. BJA encourages State recipients of FY 2017 JAG awards to use JAG funds to expedite the transition to NIBRS.

Officer Safety and Wellness – The issue of law enforcement safety and wellness is an important priority for the Department of Justice. Preliminary data compiled by the National Law Enforcement Officers Memorial Fund indicates that there were 135 line-of-duty law enforcement deaths in 2016 – the highest level in the past five years, and a 10 percent increase from 2015 (123 deaths).

Firearms-related deaths continued to be the leading cause of death (64), increasing 56 percent from 2015 (41). Of particular concern is that, of the 64 firearms-related deaths, 21 were as a result of ambush-style attacks representing the highest total in more than two decades. Traffic-related deaths continued to rise in 2016 with 53 officers killed, a 10 percent increase from 2015 (48 deaths). Additionally, there were 11 job-related illness deaths in 2016, mostly heart attacks.

BJA sees a vital need to focus not only on tactical officer safety concerns, but also on health and wellness as they affect officer performance and safety. It is important for law enforcement to have the tactical skills necessary, and also be physically and mentally well, to perform, survive, and be resilient in the face of the demanding duties of the profession. BJA encourages States to use JAG funds to address these needs by providing training, such as paying for tuition and travel expenses related to attending trainings such as the [VALOR training](#), as well as funding for health and wellness programs for law enforcement officers.

Border Security – The security of the United States borders is critically important to the reduction and prevention of transnational drug-trafficking networks and combating all forms of human trafficking networks within the United States (sex and labor trafficking of foreign nationals and U.S. citizens of all sexes and ages). These smuggling operations on both sides of the border contribute to a significant increase in violent crime and United States deaths from dangerous drugs. Additionally, illegal immigration continues to place a significant strain on federal, State, and local resources—particularly those agencies charged with border security and immigration enforcement—as well as the local communities into which many of the illegal immigrants are placed. BJA encourages States to use JAG funds to support law enforcement hiring, training, and technology enhancement in the area of border security.

Collaborative Prosecution – BJA supports strong partnerships between prosecutors and police as a mean to improve case outcomes and take violent offenders off the street. BJA strongly encourages State and local law enforcement to foster strong partnerships with prosecutors to adopt new collaborative strategies aimed at combating increases in crime, particularly violent crime. (BJA's "Smart Prosecution" Initiative is a related effort by OJP to promote partnerships between prosecutors and researchers to develop and deliver effective, data-driven, evidence-based strategies to solve chronic problems and fight crime.)

Goals, Objectives, and Deliverables

In general, the FY 2017 JAG State program is designed to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. Although the JAG State program provides assistance directly to States, through pass-through (and similar) requirements, the JAG State program also is designed to assist units of local government with respect to criminal justice.

As discussed in more detail [below](#), a State that receives an FY 2017 JAG award will be required to make various types of reports and to submit data related to performance measures and accountability. The Goals, Objectives and Deliverables are directly related to the JAG Program accountability measures at <https://bjapmt.ojp.gov/help/jagdocs.html>.

Evidence-Based Programs or Practices

OJP strongly emphasizes the use of data and evidence in policy making and program development in criminal justice, juvenile justice, and crime victim services. OJP is committed to:

- Improving the quantity and quality of evidence OJP generates.
- Integrating evidence into program, practice, and policy decisions within OJP and the field.
- Improving the translation of evidence into practice.

OJP considers programs and practices to be evidence-based when their effectiveness has been demonstrated by causal evidence, generally obtained through one or more outcome evaluations. Causal evidence documents a relationship between an activity or intervention (including technology) and its intended outcome, including measuring the direction and size of a change, and the extent to which a change may be attributed to the activity or intervention. Causal evidence depends on the use of scientific methods to rule out, to the extent possible, alternative explanations for the documented change. The strength of causal evidence, based on the factors described above, will influence the degree to which OJP considers a program or practice to be evidence-based. The OJP [CrimeSolutions.gov](https://www.crimesolutions.gov) website is one resource that applicants may use to find information about evidence-based programs in criminal justice, juvenile justice, and crime victim services.

A useful matrix of evidence-based policing programs and strategies is available through the [Center for Evidence-Based Crime Policy](https://www.bja.gov/Programs/CRPPE/smartsuite.html) at George Mason University. BJA offers a number of program models designed to effectively implement promising and evidence-based strategies through the BJA “Smart Suite” of programs including Smart Policing, Smart Supervision, Smart Pretrial, Smart Defense, Smart Prosecution, Smart Reentry, and others (see <https://www.bja.gov/Programs/CRPPE/smartsuite.html>). BJA encourages States to use JAG funds to support these “smart on crime” strategies, including effective partnerships with universities and research partners and with non-traditional criminal justice partners.

BJA Success Stories

The [BJA Success Stories](#) web page features projects that have demonstrated success or shown promise in reducing crime and positively impacting communities. This web page will be a valuable resource for States, localities, territories, tribes, and criminal justice professionals who seek to identify and learn about JAG and other successful BJA-funded projects linked to innovation, crime reduction, and evidence-based practices. **BJA strongly encourages the recipient to submit success stories annually (or more frequently).**

If a State has a Success Story it would like to submit, it may be submitted through [My BJA account](#), using “add a Success Story” and the Success Story Submission form. Register for a My BJA account using this [registration](#) link.

B. Federal Award Information

BJA expects to make up to 56 awards of up to \$17.7 million, with an estimated total amount awarded of up to \$174.4 million.

BJA plans to make awards for a four-year period of performance, to begin on October 1, 2016. An extension should not exceed 12 months. An extension beyond this period may be made on a case-by-case basis at the discretion of BJA and must be requested via GMS no less than 30 days prior to the end of the period for performance.

The expected allocations by State for the FY 2017 JAG program can be found at: <https://www.bja.gov/Funding/17JAGStateAllocations.pdf>.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by statute.

Type of Award

BJA expects that any award under this solicitation will be in the form of a grant. See [Statutory and Regulatory Requirements: Award Conditions](#), under [Section F. Federal Award Administration Information](#), for a brief discussion of important statutes, regulations, and award conditions that apply to many (or in some cases, all) OJP grants.

JAG awards are based on a statutory formula as described below:

Once each fiscal year's overall JAG Program funding level is determined, BJA works with BJS to begin a four-step grant award calculation process, which, in general, consists of:

1. Computing an initial JAG allocation for each State, based on its share of violent crime and population (weighted equally).
2. Reviewing the initial JAG allocation amount to determine if the State allocation is less than the minimum award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the State is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining States receive the minimum award plus an additional amount based on its share of violent crime and population.
3. Dividing each State's final award amount (except for the territories and District of Columbia) between the State and its units of local governments at a rate of 60 and 40 percent, respectively.
4. Determining unit of local government award allocations, which are based on their proportion of the State's 3-year violent crime average. If the "eligible award amount" for a particular unit of local government as determined on this basis is \$10,000 or more, then the unit of local government is eligible to apply directly to OJP (under the JAG Local solicitation) for a JAG award. If the "eligible award amount" to a particular unit of local government as determined on this basis would be less than \$10,000, however, the funds are not made available for a direct award to that particular unit of local government, but instead are added to the amount that otherwise would have been awarded to the State. (The State's obligations with respect to this additional amount for the "less-than-\$10,000 jurisdictions" are summarized [above](#).)

Financial Management and System of Internal Controls

Award recipients and subrecipients (including recipients or subrecipients that are pass-through entities¹) must, as described in the Part 200 Uniform Requirements² as set out at 2 C.F.R. 200.303:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that [the recipient (and any subrecipient)] is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor [the recipient’s (and any subrecipient’s)] compliance with statutes, regulations, and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or [the recipient (or any subrecipient)] considers sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and obligations of confidentiality.

To help ensure that applicants understand administrative requirements and cost principles, OJP encourages prospective applicants to enroll, at no charge, in the DOJ Grants Financial Management Online Training, available [here](#).

Budget and Financial Information

Trust Fund – SAAs may draw down JAG funds either in advance or on a reimbursement basis. To draw down in advance, a trust fund must be established in which to deposit the funds. The trust fund may or may not be an interest-bearing account. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit funds.

Tracking and reporting regarding JAG funds used for State administrative costs – As indicated earlier, a State may use up to 10 percent of a JAG award, including up to 10 percent of any earned interest, for costs associated with administering the award. Administrative costs (when utilized) must be tracked separately; a recipient must report in separate financial status reports

¹ For purposes of this solicitation, the phrase “pass-through entity” includes any recipient or subrecipient that provides a subaward (“subgrant”) to carry out part of the funded award or program.

² The “Part 200 Uniform Requirements” refers to the DOJ regulation at 2 C.F.R. Part 2800, which adopts (with certain modifications) the provisions of 2 C.F.R. Part 200.

(SF-425) those expenditures that specifically relate to each particular JAG Award during any particular reporting period.

No commingling. Both the State recipient and all subrecipients of JAG funds are prohibited from commingling funds on a program-by-program or project-by-project basis. *For this purpose, use of the administrative JAG funds to perform work across all active awards in any one year is not considered comingling.*

Cost Sharing or Match Requirement

The JAG program does not require a match.

For additional cost sharing and match information, see the [DOJ Grants Financial Guide](#).

Pre-Agreement Costs (also known as Pre-award Costs)

Pre-agreement costs are costs incurred by the applicant prior to the start date of the period of performance of the grant award.

OJP does **not** typically approve pre-agreement costs. An applicant must request and obtain the prior written approval of OJP for any such costs. All such costs incurred prior to award and prior to approval of the costs are incurred *at the sole risk* of the applicant. (Generally, no applicant should incur project costs *before* submitting an application requesting federal funding for those costs.)

Should there be extenuating circumstances that make it appropriate for OJP to consider approving pre-agreement costs, the applicant may contact the point of contact listed on the title page of this solicitation for the requirements concerning written requests for approval. If approved in advance by OJP, award funds may be used for pre-agreement costs, consistent with the recipient's approved budget and applicable cost principles. See the section on "Costs Requiring Prior Approval" in the [DOJ Grants Financial Guide](#) for more information.

Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs

OJP strongly encourages every applicant that proposes to use award funds for any conference-, meeting-, or training-related activity (or similar event) to review carefully—before submitting an application—the OJP and DOJ policy and guidance on approval, planning, and reporting of such events, available at

<https://www.ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm>.

OJP policy and guidance (1) encourage minimization of conference, meeting, and training costs; (2) require prior written approval (which may affect project timelines) of most conference, meeting, and training costs for cooperative agreement recipients, as well as some conference, meeting, and training costs for grant recipients; and (3) set cost limits, which include a general prohibition of all food and beverage costs.

Costs Associated with Language Assistance (if applicable)

If an applicant proposes a program or activity that would deliver services or benefits to individuals, the costs of taking reasonable steps to provide meaningful access to those services or benefits for individuals with limited English proficiency may be allowable. Reasonable steps to provide meaningful access to services or benefits may include interpretation or translation services, where appropriate.

For additional information, see the “Civil Rights Compliance” section under [“Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017 Awards”](#) in the [OJP Funding Resource Center](#).

C. Eligibility Information

For information on eligibility, see the title page of this solicitation.

Note that, as discussed in more detail [below](#), the certification regarding compliance with 8 U.S.C. § 1373 must be executed and submitted before a State can make a valid award acceptance. Also, a State may not receive award funds (and its award will include a condition that withholds funds) until it submits a properly-executed “Certifications and Assurances by Chief Executive of Applicant Government.”

D. Application and Submission Information

What an Application Should Include

This section describes in detail what an application should include. An applicant should anticipate that if it fails to submit an application that contains all of the specified elements, it may negatively affect the review of its application; and, should a decision be made to make an award, it may result in the inclusion of award conditions that preclude the recipient from accessing or using award funds until the recipient satisfies the conditions and OJP makes the funds available.

An applicant may combine the Budget Narrative and the Budget Detail Worksheet in one document. If an applicant submits only one budget document, however, it must contain **both** narrative and detail information. Please review the “Note on File Names and File Types” under [How to Apply](#) to be sure applications are submitted in permitted formats.

OJP strongly recommends that applicants use appropriately descriptive file names (e.g., “Program Narrative,” “Budget Detail Worksheet and Budget Narrative,” “Timelines,” “Memoranda of Understanding,” “Résumés”) for all attachments. Also, OJP recommends that applicants include résumés in a single file.

In general, if a State fails to submit required information or documents, OJP either will return the State’s application in the Grants Management System (GMS) for submission of the missing information or documents, or will attach a condition to the award that will withhold award funds until the necessary information and documents are submitted. (As discussed elsewhere in this solicitation, the certification regarding compliance with 8 U.S.C. § 1373 – which is set out at [Appendix II](#) – will be handled differently. Unless and until that certification is submitted, the State will be unable to make a valid acceptance of the award.)

1. Information to Complete the Application for Federal Assistance (SF-424)

The SF-424 is a required standard form used as a cover sheet for submission of pre-applications, applications, and related information. GMS takes information from the applicant's profile to populate the fields on this form.

To avoid processing delays, an applicant must include an accurate legal name on its SF-424. Current OJP award recipients, when completing the field for "Legal Name," should use the same legal name that appears on the prior year award document, which is also the legal name stored in OJP's financial system. On the SF-424, enter the Legal Name in box 5 and Employer Identification Number (EIN) in box 6 exactly as it appears on the prior year award document. An applicant with a current, active award(s) must ensure that its GMS profile is current. If the profile is not current, the applicant should submit a Grant Adjustment Notice updating the information on its GMS profile prior to applying under this solicitation.

A new applicant entity should enter the Official Legal Name and address of the applicant entity in box 5 and the EIN in box 6 of the SF-424.

Intergovernmental Review: This solicitation ("funding opportunity") is within the scope of [Executive Order 12372](#), concerning State opportunities to coordinate applications for federal financial assistance. See 28 C.F.R. Part 30. An applicant may find the names and addresses of State Single Points of Contact (SPOCs) at the following website: https://www.whitehouse.gov/omb/grants_spoc/. If the State appears on the SPOC list, the applicant must contact the State SPOC to find out about, and comply with, the State's process under E.O. 12372. In completing the SF-424, an applicant whose State appears on the SPOC list is to make the appropriate selection in response to question 19 once the applicant has complied with its State E.O. 12372 process. (An applicant whose State does not appear on the SPOC list should answer question 19 by selecting the response that the "Program is subject to E.O. 12372 but has not been selected by the State for review.")

2. Project Abstract

Applications should include a high-quality project abstract that summarizes the proposed project in 400 words or less. Project abstracts should be:

- Written for a general public audience.
- Submitted as a separate attachment with "Project Abstract" as part of its file name.
- Single-spaced, using a standard 12-point font (Times New Roman) with 1-inch margins.
- Include applicant name, title of the project, a brief description of the problem to be addressed and the targeted area/population, project goals and objectives, a description of the project strategy, any significant partnerships, and anticipated outcomes.
- Identify up to 10 project identifiers that would be associated with proposed project activities. The list of identifiers can be found at www.bja.gov/funding/JAGIdentifiers.pdf.

3. Program Narrative

The following sections **should** be included as part of the program narrative³:

- a. Statement of the Problem – Identify the State's strategy/funding priorities for the FY 2017 JAG funds, the subgrant award process and timeline, and a description of the programs to be funded over the 4-year grant period. States are strongly encouraged to prioritize the funding on evidence-based projects.
- b. Project Design and Implementation – Describe the State's strategic planning process that guides its priorities and funding strategy. This should include a description of how local communities are engaged in the planning process and the data and analysis utilized to support the plan; it should identify the stakeholders currently participating in the strategic planning process, the gaps in the State's needed resources for criminal justice purposes, and how JAG funds will be coordinated with State and related justice funds.
- c. Capabilities and Competencies – Describe any additional strategic planning/coordination efforts in which the State participates with other criminal justice criminal/juvenile justice agencies in the State.
- d. Plan for Collecting the Data Required for this Solicitation's Performance Measures – OJP will require each successful applicant to submit specific performance measures data as part of its reporting under the award (see "[General Information about Post-Federal Award Reporting Requirements](#)" in [Section F. Federal Award Administration Information](#)). The performance measures correlate to the goals, objectives, and deliverables identified under "[Goals, Objectives, and Deliverables](#)" in [Section A. Program Description](#). Post award, recipients will be required to submit quarterly performance metrics through BJA's PMT, located at <https://bjapmt.ojp.gov>. The application should describe the applicant's plan for collection of all of the performance measures data listed in the JAG Program accountability measures at: <https://bjapmt.ojp.gov/help/jagdocs.html>.

BJA does not require applicants to submit performance measures data with their application. Performance measures are included as an alert that BJA will require successful applicants to submit specific data as part of their reporting requirements. For the application, applicants should indicate an understanding of these requirements and discuss how they will gather the required data, should they receive funding.

Note on Project Evaluations

An applicant that proposes to use award funds through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations designed to develop or contribute to generalizable knowledge) may constitute "research" for purposes of applicable DOJ human subjects protection regulations. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet OJP's performance measure data reporting requirements, likely do

³ For information on subawards (including the details on proposed subawards that should be included in the application), see "Budget and Associated Documentation" under [Section D. Application and Submission Information](#).

not constitute “research.” Each applicant should provide sufficient information for OJP to determine whether the particular project it proposes would either intentionally or unintentionally collect and/or use information in such a way that it meets the DOJ regulatory definition of research that appears at 28 C.F.R. Part 46 (“Protection of Human Subjects”).

Research, for the purposes of human subjects protection for OJP-funded programs, is defined as “a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.” 28 C.F.R. 46.102(d).

For additional information on determining whether a proposed activity would constitute research for purposes of human subjects protection, applicants should consult the decision tree in the “Research and the Protection of Human Subjects” section of the “Requirements related to Research” web page of the [“Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017”](#) available through the OJP Funding Resource Center. Every prospective applicant whose application may propose a research or statistical component also should review the “Data Privacy and Confidentiality Requirements” section on that web page.

4. Budget and Associated Documentation

a. Budget Detail Worksheet

A sample Budget Detail Worksheet can be found at www.ojp.gov/funding/Apply/Resources/BudgetDetailWorksheet.pdf. An applicant that submits its budget in a different format should use the budget categories listed in the sample budget worksheet. The Budget Detail Worksheet should break out costs by year.

For questions pertaining to budget and examples of allowable and unallowable costs, see the [DOJ Grants Financial Guide](#).

b. Budget Narrative

The budget narrative should thoroughly and clearly describe every category of expense listed in the proposed budget detail worksheet. OJP expects proposed budgets to be complete, cost effective, and allowable (e.g., reasonable, allocable, and necessary for project activities). This narrative should include a full description of all costs, including administrative costs (if applicable).

An applicant should demonstrate in its Budget Narrative how it will maximize cost effectiveness of award expenditures. Budget narratives should generally describe cost effectiveness in relation to potential alternatives and the goals of the project. For example, a budget narrative should detail why planned in-person meetings are necessary, or how technology and collaboration with outside organizations could be used to reduce costs, without compromising quality.

The Budget Narrative should be mathematically sound and correspond clearly with the information and figures provided in the Budget Detail Worksheet. The narrative should explain how the applicant estimated and calculated all costs, and how those costs are necessary to the completion of the proposed project. The narrative may include tables for clarification purposes, but need not be in a spreadsheet format. As with the Budget Detail Worksheet, the budget narrative should describe costs by year.

c. Information on Proposed Subawards (if any), as well as on Proposed Procurement Contracts (if any)

Applicants for OJP awards typically may propose to make “subawards.” Applicants also may propose to enter into procurement “contracts” under the award.

Whether—for purposes of federal grants administrative requirements—a particular agreement between a recipient and a third party will be considered a “subaward” or instead considered a procurement “contract” under the award is determined by federal rules and applicable OJP guidance. It is an important distinction, in part because the federal administrative rules and requirements that apply to “subawards” and procurement “contracts” under awards differ markedly.

In general, the central question is the relationship between what the third-party will do under its agreement with the recipient and what the recipient has committed (to OJP) to do under its award to further a public purpose (e.g., services the recipient will provide, products it will develop or modify, research or evaluation it will conduct). If a third party will provide some of the services the recipient has committed (to OJP) to provide, will develop or modify all or part of a product the recipient has committed (to OJP) to develop or modify, or conduct part of the research or evaluation the recipient has committed (to OJP) to conduct, OJP will consider the agreement with the third party a subaward for purposes of federal grants administrative requirements.

This will be true **even if** the recipient, for internal or other non-federal purposes, labels or treats its agreement as a procurement, a contract, or a procurement contract. Neither the title nor the structure of an agreement determines whether the agreement—for purposes of federal grants administrative requirements—is a “subaward” or is instead a procurement “contract” under an award.

Additional guidance on the circumstances under which (for purposes of federal grants administrative requirements) an agreement constitutes a subaward as opposed to a procurement contract under an award is available (along with other resources) on the [OJP Part 200 Uniform Requirements](#) web page.

(1) Information on proposed subawards and required certification regarding 8 U.S.C. § 1373 from certain subrecipients

General requirement for federal authorization of any subaward; statutory authorizations of subawards under the Byrne JAG program statute. Generally, a recipient of an OJP award may not make subawards (“subgrants”) unless the recipient has specific federal authorization to do so. Unless an applicable statute or DOJ regulation specifically authorizes (or requires) particular subawards, a recipient must have authorization from OJP before it may make a subaward.

JAG subawards that are required or specifically authorized by statute (see 42 U.S.C. § 3751(a) and 42 U.S.C. § 3755) do not require prior approval to authorize subawards. This includes subawards made by States under the JAG program.

A particular subaward may be authorized by OJP because the recipient included a sufficiently detailed description and justification of the proposed subaward in the application as approved by OJP. If, however, a particular subaward is not authorized by federal statute or regulation, and is not sufficiently described and justified in the application as approved by OJP, the recipient will be required, post-award, to request and obtain written authorization from OJP before it may make the subaward.

If an applicant proposes to make one or more subawards to carry out the federal award and program, and those subawards are not specifically authorized (or required) by statute or regulation, the applicant should: (1) identify (if known) the proposed subrecipient(s), (2) describe in detail what each subrecipient will do to carry out the federal award and federal program, and (3) provide a justification for the subaward(s), with details on pertinent matters such as special qualifications and areas of expertise. Pertinent information on subawards should appear not only in the Program Narrative, but also in the Budget Detail Worksheet and budget narrative.

NEW Required certification regarding 8 U.S.C. § 1373 from any proposed subrecipient that is a unit of local government or “public” institution of higher education. Before a State may subaward FY 2017 award funds to a unit of local government or to a public institution of higher education, it will be required (by award condition) to obtain a properly-executed certification regarding compliance with 8 U.S.C. § 1373 from the proposed subrecipient. (This requirement regarding 8 U.S.C. § 1373 will not apply to subawards to Indian tribes). The specific certification the State must require from a unit of local government will vary somewhat from the specific certification it must require from a public institution of higher education. The forms will be posted and available for download at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>.

(2) Information on proposed procurement contracts (with specific justification for proposed noncompetitive contracts over \$150,000)

Unlike a recipient contemplating a subaward, a recipient of an OJP award generally does not need specific prior federal authorization to enter into an agreement that—for purposes of federal grants administrative requirements—is considered a procurement contract, **provided that** (1) the recipient uses its own documented procurement procedures and (2) those procedures conform to applicable federal law, including the Procurement Standards of the (DOJ) Part 200 Uniform Requirements (as set out at 2 C.F.R. 200.317 - 200.326). The Budget Detail Worksheet and budget narrative should identify proposed procurement contracts. (As discussed above, subawards must be identified and described separately from procurement contracts.)

The Procurement Standards in the (DOJ) Part 200 Uniform Requirements, however, reflect a general expectation that agreements that (for purposes of federal grants administrative requirements) constitute procurement “contracts” under awards will be entered into on the basis of full and open competition. If a proposed procurement contract would exceed the simplified acquisition threshold—currently, \$150,000—a recipient of an OJP award may not proceed without competition, unless and until the recipient receives specific advance authorization from OJP to use a non-competitive approach for the procurement.

An applicant that (at the time of its application) intends—without competition—to enter into a procurement contract that would exceed \$150,000 should include a detailed justification that explains to OJP why, in the particular circumstances, it is appropriate to proceed without competition. Various considerations that may be pertinent to the justification are outlined in the [DOJ Grants Financial Guide](#).

d. Pre-Agreement Costs

For information on pre-agreement costs, see [Section B. Federal Award Information](#).

5. Indirect Cost Rate Agreement (if applicable)

Indirect costs may be charged to an award only if:

- a) The recipient has a current (that is, unexpired), federally-approved indirect cost rate; or
- b) The recipient is eligible to use, and elects to use, the “de minimis” indirect cost rate described in the (DOJ) Part 200 Uniform Requirements, as set out at 2 C.F.R. 200.414(f).

Note: This rule does not eliminate or alter the JAG-specific restriction in federal law that charges for administrative costs may not exceed 10 percent of the award amount, regardless of the approved indirect cost rate.

An applicant with a current (that is, unexpired) federally-approved indirect cost rate is to attach a copy of the indirect cost rate agreement to the application. An applicant that does not have a current federally-approved rate may request one through its cognizant federal agency, which will review all documentation and approve a rate for the applicant entity, or, if the applicant’s accounting system permits, applicants may propose to allocate costs in the direct cost categories.

For assistance with identifying the appropriate cognizant federal agency for indirect costs, please contact the OCFO Customer Service Center at 1-800-458-0786 or at ask.ocfo@usdoj.gov. If DOJ is the cognizant federal agency, applicants may obtain information needed to submit an indirect cost rate proposal at www.ojp.gov/funding/Apply/Resources/IndirectCosts.pdf.

Certain OJP recipients have the option of electing to use the “de minimis” indirect cost rate. An applicant that is eligible to use the “de minimis” rate that wishes to use the “de minimis” rate should attach written documentation to the application that advises OJP of both: (1) the applicant’s eligibility to use the “de minimis” rate, and (2) its election to do so. If an eligible applicant elects the “de minimis” rate, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. The “de minimis” rate may no longer be used once an approved federally-negotiated indirect cost rate is in place. (No entity that ever has had a federally-approved negotiated indirect cost rate is eligible to use the “de minimis” rate.)

6. Financial Management and System of Internal Controls Questionnaire (including applicant disclosure of high-risk status)

Every State is to download, complete, and submit the [OJP Financial Management and System of Internal Controls Questionnaire](#) as part of its application.

Among other things, the form requires each applicant to disclose whether it currently is designated “high-risk” by a federal grant-making agency outside of DOJ. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the applicant’s past performance, or other programmatic or financial concerns with the applicant. If an applicant is designated high risk by another federal awarding agency, the applicant must provide the following information:

- The federal awarding agency that currently designates the applicant high risk.
- The date the applicant was designated high risk.
- The high-risk point of contact at that federal awarding agency (name, phone number, and email address).
- The reasons for the high-risk status, as set out by the federal awarding agency.

OJP seeks this information to help ensure appropriate federal oversight of OJP awards. An applicant that is considered “high-risk” by another federal awarding agency is not automatically disqualified from receiving an OJP award. OJP may, however, consider the information in award decisions, and may impose additional OJP oversight of any award under this solicitation (including through the conditions that accompany the award document).

7. Disclosure of Lobbying Activities

An applicant that expends any funds for lobbying activities is to provide all of the information requested on the form [Disclosure of Lobbying Activities \(SF-LLL\)](#).

8. Certifications and Assurances by the Chief Executive of the Applicant Government

A JAG application is not complete, and a State may not receive award funds, unless the chief executive of the applicant State (e.g., the governor) properly executes, and the State submits, the “Certifications and Assurances by the Chief Executive of the Applicant Government” attached to this solicitation as [Appendix I](#).

OJP will not deny an application for an FY 2017 award for failure to submit these “Certifications and Assurances by the Chief Executive of the Applicant Government” by the application deadline, but a State will not receive award funds (and its award will include a condition that withholds funds) until it submits these certifications and assurances, properly-executed by the chief executive of the State (e.g., the governor).

9. Certification of Compliance with 8 U.S.C. § 1373 by the Chief Legal Officer of the Applicant Government

The chief legal officer of an applicant State (e.g., the Attorney General of the State) is to carefully review the “State or Local Government: FY 2017 Certification of Compliance with 8

U.S.C. § 1373” that is attached as [Appendix II](#) to this solicitation. If the chief legal officer determines that he or she may execute the certification, the State is to submit the certification as part of its application.

As discussed further [below](#), a State applicant will be *unable to make a valid award acceptance* of an FY 2017 JAG award unless and until a properly-executed certification by its chief legal officer is received by OJP on or before the day the State submits an executed award document.

10. State Strategic Plan (if applicable)

States are strongly encouraged to use JAG funding in support of an existing statewide strategic plan. An applicant State should attach a current version of the State strategic plan to its application, if one exists. If a State does not have such a plan, the program narrative should describe the State’s timeline and process for developing such a strategic plan.

ALERT A recent amendment to the JAG program statute requires, starting with the FY 2019 JAG program, that States have in place and submit a strategic plan that identifies stakeholders, describes evidence-based approaches that will be used, and illustrates how the State will allocate funding. By law, strategic plans are to be updated every five years.

Training and technical assistance (TTA) is available from [BJA’s TTA providers](#) to assist States with the development of their strategic planning process and plan.

To help ensure that States consider the impact of JAG funding decisions across the entire criminal justice system, BJA strongly encourages each State to bring all criminal justice system stakeholders together in the strategic planning process. The strategic planning process should include local governments, and representatives of all segments of the criminal justice system, including judges, prosecutors, law enforcement personnel, and corrections personnel, as well as providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services. For more information, see the [National Center for Justice Planning website](#).

11. Additional Attachments

a. Applicant Disclosure of Pending Applications

Each applicant is to disclose whether it has (or is proposed as a subrecipient under) any pending applications for federally-funded grants or cooperative agreements that (1) include requests for funding to support the same project being proposed in the application under this solicitation, and (2) would cover identical cost items outlined in the budget submitted to OJP as part of the application under this solicitation. The applicant is to disclose applications made directly to federal awarding agencies, and also applications for subawards of federal funds (e.g., applications to State agencies that will subaward (“subgrant”) federal funds).

OJP seeks this information to help avoid any inappropriate duplication of funding. Leveraging multiple funding sources in a complementary manner to implement comprehensive programs or projects is encouraged and is not seen as inappropriate duplication.

Each applicant that has one or more pending applications as described above is to provide the following information about pending applications submitted within the last 12 months:

- The federal or State funding agency.
- The solicitation name/project name.
- The point of contact information at the applicable federal or State funding agency.

Federal or State Funding Agency	Solicitation Name/Project Name	Name/Phone/Email for Point of Contact at Federal or State Funding Agency
DOJ/Office of Community Oriented Policing Services (COPS)	COPS Hiring Program	Jane Doe, 202/000-0000; jane.doe@usdoj.gov
Health & Human Services/ Substance Abuse & Mental Health Services Administration	Drug-Free Communities Mentoring Program/ North County Youth Mentoring Program	John Doe, 202/000-0000; john.doe@hhs.gov

Each applicant should include the table as a separate attachment to its application. The file should be named "Disclosure of Pending Applications." The applicant Legal Name on the application must match the entity named on the disclosure of pending applications statement.

Any applicant that does not have any pending applications as described above is to submit, as a separate attachment, a statement to this effect: "[Applicant Name on SF-424] does not have (and is not proposed as a subrecipient under) any pending applications submitted within the last 12 months for federally-funded grants or cooperative agreements (or for subawards under federal grants or cooperative agreements) that request funding to support the same project being proposed in this application to OJP and that would cover identical cost items outlined in the budget submitted as part of this application."

b. Research and Evaluation Independence and Integrity (if applicable)

If an application involves research (including research and development) and/or evaluation, the applicant must demonstrate research/evaluation independence and integrity, including appropriate safeguards, before it may receive award funds. The

applicant must demonstrate independence and integrity regarding both this proposed research and/or evaluation, and any current or prior related projects.

Each application should include an attachment that addresses **both** i. and ii. below.

- i. For purposes of this solicitation, each applicant is to document research and evaluation independence and integrity by including one of the following two items:

- a. A specific assurance that the applicant has reviewed its application to identify any actual or potential apparent conflicts of interest (including through review of pertinent information on the principal investigator, any co-principal investigators, and any subrecipients), and that the applicant has identified no such conflicts of interest – whether personal or financial or organizational (including on the part of the applicant entity or on the part of staff, investigators, or subrecipients) – that could affect the independence or integrity of the research, including the design, conduct, and reporting of the research.

OR

- b. A specific description of actual or potential apparent conflicts of interest that the applicant has identified – including through review of pertinent information on the principal investigator, any co-principal investigators, and any subrecipients – that could affect the independence or integrity of the research, including the design, conduct, or reporting of the research. These conflicts may be personal (e.g., on the part of investigators or other staff), financial, or organizational (related to the applicant or any subrecipient entity). Some examples of potential investigator (or other personal) conflict situations are those in which an investigator would be in a position to evaluate a spouse's work product (actual conflict), or an investigator would be in a position to evaluate the work of a former or current colleague (potential apparent conflict). With regard to potential organizational conflicts of interest, as one example, generally an organization would not be given an award to evaluate a project, if that organization had itself provided substantial prior technical assistance to that specific project or a location implementing the project (whether funded by OJP or other sources), because the organization in such an instance might appear to be evaluating the effectiveness of its own prior work. The key is whether a reasonable person understanding all of the facts would be able to have confidence that the results of any research or evaluation project are objective and reliable. Any outside personal or financial interest that casts doubt on that objectivity and reliability of an evaluation or research product is a problem and must be disclosed.

- ii. In addition, for purposes of this solicitation, each applicant is to address possible mitigation of research integrity concerns by including, at a minimum, one of the following two items:

- a. If an applicant reasonably believes that no actual or potential apparent conflicts of interest (personal, financial, or organizational) exist, then the applicant should provide a brief narrative explanation of how and why it reached that conclusion. The applicant also is to include an explanation of the specific processes and procedures that the applicant has in place, or will put in place, to identify and prevent (or, at the very least, mitigate) any such conflicts of interest pertinent to the funded project during the period of performance. Documentation that may be helpful in this regard may include organizational codes of ethics/conduct and policies regarding organizational, personal, and financial conflicts of interest. There is no guarantee that the plan, if any, will be accepted as proposed.

OR

- b. If the applicant has identified actual or potential apparent conflicts of interest (personal, financial, or organizational) that could affect the independence and integrity of the research, including the design, conduct, or reporting of the research, the applicant is to provide a specific and robust mitigation plan to address each of those conflicts. At a minimum, the applicant is expected to explain the specific processes and procedures that the applicant has in place, or will put in place, to identify and eliminate (or, at the very least, mitigate) any such conflicts of interest pertinent to the funded project during the period of performance. Documentation that may be helpful in this regard may include organizational codes of ethics/conduct and policies regarding organizational, personal, and financial conflicts of interest. There is no guarantee that the plan, if any, will be accepted as proposed.

OJP will assess research and evaluation independence and integrity based on considerations such as the adequacy of the applicant's efforts to identify factors that could affect the objectivity or integrity of the proposed staff and/or the applicant entity (and any subrecipients) in carrying out the research, development, or evaluation activity; and the adequacy of the applicant's existing or proposed remedies to control any such factors.

c. State Governing Body Review

Applicants must submit information via the Certification and Assurances by the Chief Executive (See [Appendix I](#)) which documents that the JAG application was made available for review by the governing body of the state, or to an organization designated by that governing body, for a period that was not less than 30 days before the application was submitted to BJA. The same Chief Executive Certification will also specify that an opportunity to comment on this application was provided to citizens prior to the application submission to the extent applicable law or established procedures make such opportunity available. In the past, this has been accomplished via submission of specific review dates; now OJP will only accept a Governor's certification to attest to these facts. States may continue to submit actual dates of review should they wish to do so, in addition to the submission of the Chief Executive Certification.

How to Apply

An applicant must submit its application through the [Grants Management System \(GMS\)](#), which provides support for the application, award, and management of awards at OJP. Each applicant entity **must register in GMS for each specific funding opportunity**. Although the registration and submission deadlines are the same, OJP urges each applicant entity to **register promptly**, especially if this is the first time the applicant is using the system. Find complete instructions on how to register and submit an application in GMS at www.ojp.gov/gmscbt/. An applicant that experiences technical difficulties during this process should email GMS.HelpDesk@usdoj.gov or call 888-549-9901 (option 3), 24 hours every day, including during federal holidays. OJP recommends that each applicant **register promptly** to prevent delays in submitting an application package by the deadline.

Note on File Types: GMS does not accept executable file types as application attachments. These disallowed file types include, but are not limited to, the following extensions: “.com,” “.bat,” “.exe,” “.vbs,” “.cfg,” “.dat,” “.db,” “.dbf,” “.dll,” “.ini,” “.log,” “.ora,” “.sys,” and “.zip.”

Every applicant entity must comply with all applicable System for Award Management (SAM) and unique entity identifier (currently, a Data Universal Numbering System [DUNS] number) requirements. If an applicant entity has not fully complied with applicable SAM and unique identifier requirements by the time OJP makes award decisions, OJP may determine that the applicant is not qualified to receive an award and may use that determination as a basis for making the award to a different applicant.

All applicants should complete the following steps:

1. **Acquire a unique entity identifier (DUNS number).** In general, the Office of Management and Budget requires every applicant for a federal award (other than an individual) to include a “unique entity identifier” in each application, including an application for a supplemental award. Currently, a DUNS number is the required unique entity identifier.

A DUNS number is a unique nine-digit identification number provided by the commercial company Dun and Bradstreet. This unique entity identifier is used for tracking purposes, and to validate address and point of contact information for applicants, recipients, and subrecipients. It will be used throughout the life cycle of an OJP award. Obtaining a DUNS number is a free, one-time activity. Call Dun and Bradstreet at 866-705-5711 to obtain a DUNS number or apply online at www.dnb.com. A DUNS number is usually received within 1-2 business days.

2. **Acquire registration with the SAM.** SAM is the repository for certain standard information about federal financial assistance applicants, recipients, and subrecipients. All applicants for OJP awards (other than individuals) must maintain current registrations in the SAM database. Each applicant must **update or renew its SAM registration at least annually** to maintain an active status. SAM registration and renewal can take as long as 10 business days to complete.

Information about SAM registration procedures can be accessed at <https://www.sam.gov/>.

3. **Acquire a GMS username and password.** New users must create a GMS profile by selecting the “First Time User” link under the sign-in box of the [GMS](#) home page. For more

information on how to register in GMS, go to www.ojp.gov/gmscbt. Previously registered applicants should ensure, prior to applying, that the user profile information is up-to-date in GMS (including, but not limited to, address, legal name of agency and authorized representative) as this information is populated in any new application.

4. **Verify the SAM (formerly CCR) registration in GMS.** OJP requires each applicant to verify its SAM registration in GMS. Once logged into GMS, click the “CCR Claim” link on the left side of the default screen. Click the submit button to verify the SAM (formerly CCR) registration.
5. **Search for the funding opportunity on GMS.** After logging into GMS or completing the GMS profile for username and password, go to the “Funding Opportunities” link on the left side of the page. Select BJA and **FY 17 Edward Byrne Memorial State Justice Assistance Grant (JAG) Program**.
6. **Register by selecting the “Apply Online” button associated with the funding opportunity title.** The search results from step 5 will display the “funding opportunity” (solicitation) title along with the registration and application deadlines for this solicitation. Select the “Apply Online” button in the “Action” column to register for this solicitation and create an application in the system.
7. **Follow the directions in GMS to submit an application consistent with this solicitation.** Once the application is submitted, GMS will display a confirmation screen stating the submission was successful. **Important:** In some instances, applicants must wait for GMS approval before submitting an application. OJP urges each applicant to submit its application **at least 72 hours prior** to the application due date.

Note: Application Versions

If an applicant submits multiple versions of the same application, OJP will review **only** the most recent system-validated version submitted.

Experiencing Unforeseen GMS Technical Issues

An applicant that experiences unforeseen GMS technical issues beyond its control that prevent it from submitting its application by the deadline may contact the [GMS Help Desk](#) or the [SAM Help Desk](#) (Federal Service Desk) to report the technical issue and receive a tracking number. The applicant is expected to email the NCJRS Response Center identified in the Contact Information section on the title page **within 24 hours after the application deadline** to request approval to submit its application after the deadline. The applicant’s email must describe the technical difficulties, and must include a timeline of the applicant’s submission efforts, the complete grant application, the applicant’s DUNS number, and any GMS Help Desk or SAM tracking number(s).

Note: OJP does not automatically approve requests to submit a late application. After OJP reviews the applicant’s request, and contacts the GMS Help Desk to verify the reported technical issues, OJP will inform the applicant whether the request to submit a late application has been approved or denied. If OJP determines that the untimely application submission was due to the applicant’s failure to follow all required procedures, OJP will deny the applicant’s request to submit its application.

The following conditions generally are insufficient to justify late submissions to OJP solicitations:

- Failure to register in SAM or GMS in sufficient time (SAM registration and renewal can take as long as 10 business days to complete).
- Failure to follow GMS instructions on how to register and apply as posted on the GMS website.
- Failure to follow each instruction in the OJP solicitation.
- Technical issues with the applicant's computer or information technology environment, such as issues with firewalls.

E. Application Review Information

Review Process

OJP is committed to ensuring a fair and open process for making awards. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. BJA will also review applications to help ensure that JAG program-statute requirements have been met.

Pursuant to the (DOJ) Part 200 Uniform Requirements, before awards are made, OJP also reviews information related to the degree of risk posed by applicants. Among other things, to help assess whether an applicant that has one or more prior federal awards has a satisfactory record with respect to performance, integrity, and business ethics, OJP checks whether the applicant is listed in SAM as excluded from receiving a federal award. In addition, if OJP anticipates that an award will exceed \$150,000 in federal funds, OJP also must review and consider any information about the applicant that appears in the non-public segment of the integrity and performance system accessible through SAM (currently, the Federal Awardee Performance and Integrity Information System; "FAPIS").

Important note on FAPIS: An applicant, at its option, may review and comment on any information about itself that currently appears in FAPIS and was entered by a federal awarding agency. OJP will consider any such comments by the applicant, in addition to the other information in FAPIS, in its assessment of the risk posed by the applicant.

The evaluation of risks goes beyond information in SAM, however. OJP itself has in place a framework for evaluating risks posed by applicants. OJP takes into account information pertinent to matters such as—

1. Applicant financial stability and fiscal integrity.
2. Quality of the management systems of the applicant, and the applicant's ability to meet prescribed management standards, including those outlined in the DOJ Grants Financial Guide.
3. Applicant's history of performance under OJP and other DOJ awards (including compliance with reporting requirements and award conditions), as well as awards from other federal agencies.
4. Reports and findings from audits of the applicant, including audits under the (DOJ) Part 200 Uniform Requirements.
5. Applicant's ability to comply with statutory and regulatory requirements, and to effectively implement other award requirements.

Absent explicit statutory authorization or written delegation of authority to the contrary, the Assistant Attorney General will make all final award decisions.

F. Federal Award Administration Information

Federal Award Notices

OJP expects to issue award notifications by September 30, 2017. OJP sends award notification by email through GMS to the individuals listed in the application as the point of contact and the authorizing official. The email notification includes detailed instructions on how to access and view the award documents, and steps to take in GMS to start the award acceptance process. GMS automatically issues the notifications at 9:00 p.m. eastern time on the award date.

NOTE: In order validly to accept an award under the FY 2017 JAG program, a State must submit to GMS the certification by its chief legal officer regarding compliance with 8 U.S.C. § 1373, executed using the form that appears in [Appendix II](#). (The form also may be downloaded at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>.) Unless the executed certification either— (1) is submitted to OJP together with the signed award document, or (2) is uploaded in GMS no later than the day the signed award document is submitted, **OJP will reject as invalid** any submission by a State that purports to accept an award under this solicitation.

Rejection of an initial submission as an invalid award acceptance is not a denial of the award. Consistent with award requirements, once the State **does** submit the necessary certification regarding 8 U.S.C. § 1373, the State **will** be permitted to submit an award document executed by the State on or after the date of that certification.

Also, in order for a State applicant validly to accept an award under the FY 2017 JAG program, an individual with the necessary authority to bind the applicant will be required to log in; execute a set of legal certifications and a set of legal assurances; designate a financial point of contact; thoroughly review the award, including **all** award conditions; and sign and accept the award. The award acceptance process requires physical signature of the award document by the authorized representative and the scanning of the fully-executed award document (along with the required certification regarding 8 U.S.C. § 1373, if not already uploaded in GMS) to OJP.

Statutory and Regulatory Requirements; Award Conditions

If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with all award requirements (including all award conditions), as well as all applicable requirements of federal statutes and regulations (including those referred to in assurances and certifications executed as part of the application or in connection with award acceptance, and administrative and policy requirements set by statute or regulation).

OJP strongly encourages prospective applicants to review information on post-award legal requirements generally applicable to FY 2017 OJP awards and common OJP award conditions **prior** to submitting an application.

Applicants should consult the “[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017 Awards](#),” available in the [OJP Funding Resource Center](#). In addition, applicants should examine the following two legal documents, as each successful applicant must execute both documents in GMS before it may receive any award funds.

- [Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements](#)
- [OJP Certified Standard Assurances](#) (*attached to this solicitation as [Appendix IV](#)*)

The web pages accessible through the “[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017 Awards](#)” are intended to give applicants for OJP awards a general overview of important statutes, regulations, and award conditions that apply to many (or in some cases, all) OJP grants and cooperative agreements awarded in FY 2017. Individual OJP awards typically also will include additional award conditions. Those additional conditions may relate to the particular statute, program, or solicitation under which the award is made; to the substance of the funded application; to the recipient's performance under other federal awards; to the recipient's legal status (e.g., as a for-profit entity); or to other pertinent considerations.

Individual FY 2017 Byrne JAG awards will include two new express conditions that, with respect to the “program or activity” that would be funded by the FY 2017 award, are designed to ensure that States and units of local government that receive funds from the FY 2017 Byrne JAG award: (1) permit personnel of the U.S. Department of Homeland Security (“DHS”) to access any correctional or detention facility in order to meet with an alien (or an individual believed to be an alien) and inquire as to his or her right to be or remain in the United States; and (2) provide at least 48 hours’ advance notice to DHS regarding the scheduled release date and time of an alien in the jurisdiction’s custody when DHS requests such notice in order to take custody of the alien pursuant to the Immigration and Nationality Act.

Compliance with the requirements of the two foregoing new award conditions will be an authorized and priority purpose of the award. The reasonable costs (to the extent not reimbursed under any other federal program) of developing and putting into place statutes, rules, regulations, policies, or practices as required by these conditions, and to honor any duly-authorized request from DHS that is encompassed by these conditions, will be allowable costs under the award.

General Information about Post-Federal Award Reporting Requirements

A State recipient of an award under this solicitation will be required to submit the following reports and data.

Required reports. Recipients typically must submit quarterly financial status reports, semi-annual progress reports, final financial and progress reports, and, if applicable, an annual audit report in accordance with the (DOJ) Part 200 Uniform Requirements or specific award conditions. Future awards and fund drawdowns may be withheld if reports are delinquent. (In appropriate cases, OJP may require additional reports.)

Awards that exceed \$500,000 will include an additional condition that, under specific circumstances, will require the recipient to report (to FAPIIS) information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either the OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Additional information on this reporting requirement appears in the text of the award condition posted on the OJP website at <https://ojp.gov/funding/FAPIIS.htm>

Data on performance measures. In addition to required reports, each recipient of an award under this solicitation also must provide data that measure the results of the work done under the award. To demonstrate program progress and success, as well as to assist DOJ with fulfilling its responsibilities under GPRA and the GPRA Modernization Act of 2010, OJP will require State recipients to provide accountability metrics data. Accountability metrics data must be submitted through BJA's Performance Measurement Tool (PMT), available at <https://bjapmt.ojp.gov>. The accountability measures are available at: <https://bjapmt.ojp.gov/help/jagdocs.html>. (Note that if a law enforcement agency receives JAG funds from a State, the State must submit quarterly accountability metrics data related to training that officers have received on use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.)

OJP may restrict access to award funds if a recipient of an OJP award fails to report required performance measure data in a timely manner.

G. Federal Awarding Agency Contact(s)

For OJP contact(s), see the title page of this solicitation.

For contact information for GMS, see the title page.

H. Other Information

Freedom of Information Act and Privacy Act (5 U.S.C. § 552 and 5 U.S.C. § 552a)

All applications submitted to OJP (including all attachments to applications) are subject to the federal Freedom of Information Act (FOIA) and to the Privacy Act. By law, DOJ may withhold information that is responsive to a request pursuant to FOIA if DOJ determines that the responsive information either is protected under the Privacy Act or falls within the scope of one of nine statutory exemptions under FOIA. DOJ cannot agree in advance of a request pursuant to FOIA not to release some or all portions of an application.

In its review of records that are responsive to a FOIA request, OJP will withhold information in those records that plainly falls within the scope of the Privacy Act or one of the statutory exemptions under FOIA. (Some examples include certain types of information in budgets, and names and contact information for project staff other than certain key personnel.) In appropriate circumstances, OJP will request the views of the applicant/recipient that submitted a responsive document.

For example, if OJP receives a request pursuant to FOIA for an application submitted by a nonprofit or for-profit organization or an institution of higher education, or for an application that involves research, OJP typically will contact the applicant/recipient that submitted the

application and ask it to identify—quite precisely—any particular information in the application that applicant/recipient believes falls under a FOIA exemption, the specific exemption it believes applies, and why. After considering the submission by the applicant/recipient, OJP makes an independent assessment regarding withholding information. OJP generally follows a similar process for requests pursuant to FOIA for applications that may contain law-enforcement sensitive information.

Provide Feedback to OJP

To assist OJP in improving its application and award processes, OJP encourages applicants to provide feedback on this solicitation, the application submission process, and/or the application review process. Provide feedback to OJPSolicitationFeedback@usdoj.gov.

IMPORTANT: This email is for feedback and suggestions only. OJP does **not** reply to messages it receives in this mailbox. A prospective applicant that has specific questions on any program or technical aspect of the solicitation **must** use the appropriate telephone number or email listed on the front of this solicitation document to obtain information. These contacts are provided to help ensure that prospective applicants can directly reach an individual who can address specific questions in a timely manner.

If you are interested in being a reviewer for other OJP grant applications, please email your résumé to ojppeerreview@lmsolas.com. (Do not send your résumé to the OJP Solicitation Feedback email account.) **Note:** Neither you nor anyone else from your organization or entity can be a peer reviewer in a competition in which you or your organization/entity has submitted an application.

Application Checklist

Edward Byrne Memorial Justice Assistance Grant (JAG) Program: FY 2017 State Solicitation

This application checklist has been created as an aid in developing an application.

What an Applicant Should Do:

Prior to Registering in GMS:

- _____ Acquire a DUNS Number (see page 28)
- _____ Acquire or renew registration with SAM (see page 28)

To Register with GMS:

- _____ For new users, acquire a GMS username and password* (see page 28)
- _____ For existing users, check GMS username and password*
to ensure account access (see page 29)
- _____ Verify SAM registration in GMS (see page 29)
- _____ Search for correct funding opportunity in GMS (see page 29)
- _____ Select correct funding opportunity in GMS (see page 29)
- _____ Register by selecting the “Apply Online” button associated with the funding opportunity
title (see page 29)
- _____ Read OJP policy and guidance on conference approval, planning, and reporting
available at ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm
(see page 15)
- _____ If experiencing technical difficulties in GMS, contact the NCJRS Response Center (see
page 29)

*Password Reset Notice – GMS users are reminded that while password reset capabilities exist, this function is only associated with points of contact designated within GMS at the time the account was established. Neither OJP nor the GMS Help Desk will initiate a password reset unless requested by the authorized official or a designated point of contact associated with an award or application.

Overview of Post-Award Legal Requirements:

- _____ Review the “[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017 Awards](#)” in the OJP Funding Resource Center.

Scope Requirement:

- _____ The federal amount requested is within the allowable limit(s) of the FY 2017 JAG Allocations List as listed on BJA’s [JAG web page](#).

What an Application Should Include:

- _____ Application for Federal Assistance (SF-424) (see page 17)

_____	Intergovernmental Review	(see page 17)
_____	Project Abstract	(see page 17)
_____	Program Narrative	(see page 18)
_____	Budget Detail Worksheet	(see page 19)
_____	Budget Narrative	(see page 19)
_____	Indirect Cost Rate Agreement (if applicable)	(see page 22)
_____	Financial Management and System of Internal Controls Questionnaire	(see 22)
_____	Disclosure of Lobbying Activities (SF-LLL) (if applicable)	(see page 23)
_____	Certifications and Assurances by Chief Executive	(see page 23)
_____	Certification of Compliance with 8 U.S.C. § 1373 by Chief Legal Officer	(see page 23)
_____	State Strategic Plan (if applicable)	(see page 24)
_____	Additional Attachments	
_____	Applicant Disclosure of Pending Applications	(see page 24)
_____	Research and Evaluation Independence and Integrity (if applicable)	(see page 25)

Appendix I

Certifications and Assurances by the Chief Executive of the Applicant Government

Template for use by *chief executive* of the “State” (e.g., the governor)

Note: By law, for purposes of the JAG program, the term “States” includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa.

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

**Edward Byrne Justice Assistance Grant Program
FY 2017 State Solicitation**

**Certifications and Assurances
by the Chief Executive of the Applicant Government**

On behalf of the applicant "State" named below, in support of that State's application for an award under the FY 2017 Edward Byrne Justice Assistance Grant ("JAG") Program, and further to 42 U.S.C. § 3752(a), I certify under penalty of perjury to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief executive of the applicant State named below, and I have the authority to make the following representations on my own behalf and on behalf of the applicant State. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant State.
2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.
3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the State (e.g., the State legislature), or to an organization designated by that governing body, not less than 30 days before the date of this certification.
4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.
5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant State will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require.
6. I certify that— (a) the programs to be funded by the award (if any) that OJP makes based on the application described above meet all the requirements of the JAG Program statute (42 U.S.C. §§ 3750-3758); (b) all the information contained in that application is correct; (c) in connection with that application, there has been appropriate coordination with affected agencies; and (d) in connection with that award (if any), the applicant State will comply with all provisions of the JAG Program statute and all other applicable federal laws.
7. I have examined certification entitled "State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. § 1373" executed by the chief legal officer of the applicant government with respect to the FY 2017 JAG program and submitted in support of the application described above, and I hereby adopt that certification as my own on behalf of that government.

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it "supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the applicant State to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by USDOJ, including by OJP and by the USDOJ Office of the Inspector General.

Signature of Chief Executive of the Applicant "State"

Date of Certification

Printed Name of Chief Executive

Title of Chief Executive

Name of Applicant State

Appendix II

State or Local Government:

Certification of Compliance with 8 U.S.C. § 1373

Template for use by *chief legal officer* of the “State” (e.g., the State Attorney General)

Available for download at:

<https://ojp.gov/funding/Explore/SampleCertifications-8USC1373>

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. § 1373

On behalf of the applicant government entity named below, and in support of its application, I certify under penalty of perjury to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

- (1) I am the chief legal officer of the State or local government of which the applicant entity named below is a part ("the jurisdiction"), and I have the authority to make this certification on behalf of the jurisdiction and the applicant entity (that is, the entity applying directly to OJP). I understand that OJP will rely upon this certification as a material representation in any decision to make an award to the applicant entity.
- (2) I have carefully reviewed 8 U.S.C. § 1373(a) and (b), including the prohibitions on certain actions by State and local government entities, -agencies, and -officials regarding information on citizenship and immigration status. I also have reviewed the provisions set out at (or referenced in) 8 U.S.C. § 1551 note ("Abolition ... and Transfer of Functions"), pursuant to which references to the "Immigration and Naturalization Service" in 8 U.S.C. § 1373 are to be read, as a legal matter, as references to particular components of the U.S. Department of Homeland Security.
- (3) I (and also the applicant entity) understand that the U.S. Department of Justice will require States and local governments (and agencies or other entities thereof) to comply with 8 U.S.C. § 1373, with respect to any "program or activity" funded in whole or in part with the federal financial assistance provided through the FY 2017 OJP program under which this certification is being submitted ("the FY 2017 OJP Program" identified below), specifically including any such "program or activity" of a governmental entity or -agency that is a subrecipient (at any tier) of funds under the FY 2017 OJP Program.
- (4) I (and also the applicant entity) understand that, for purposes of this certification, "program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d-4a), and that terms used in this certification that are defined in 8 U.S.C. § 1101 mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (*cf.* 42 U.S.C. § 901(a)(2)). Also, I understand that, for purposes of this certification, neither a "public" institution of higher education (*i.e.*, one that is owned, controlled, or directly funded by a State or local government) nor an Indian tribe is considered a State or local government entity or -agency.
- (5) I have conducted (or caused to be conducted for me) a diligent inquiry and review concerning both—
 - (a) the "program or activity" to be funded (in whole or in part) with the federal financial assistance sought by the applicant entity under this FY 2017 OJP Program; and
 - (b) any prohibitions or restrictions potentially applicable to the "program or activity" sought to be funded under the FY 2017 OJP Program that deal with sending to, requesting or receiving from, maintaining, or exchanging information of the types described in 8 U.S.C. § 1373(a) or (b), whether imposed by a State or local government entity, -agency, or -official.
- (6) As of the date of this certification, neither the jurisdiction nor any entity, agency, or official of the jurisdiction has in effect, purports to have in effect, or is subject to or bound by, any prohibition or any restriction that would apply to the "program or activity" to be funded in whole or in part under the FY 2017 OJP Program (which, for the specific purpose of this paragraph 6, shall not be understood to include any such "program or activity" of any subrecipient at any tier), and that deals with either— (1) a government entity or -official sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. § 1373(a); or (2) a government entity or -agency sending to, requesting or receiving from, maintaining, or exchanging information of the types (and with respect to the entities) described in 8 U.S.C. § 1373(b).

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the applicant entity to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by USDOJ, including by OJP and by the USDOJ Office of the Inspector General.

Signature of Chief Legal Officer of the Jurisdiction

Printed Name of Chief Legal Officer

Date of Certification

Title of Chief Legal Officer of the Jurisdiction

Name of Applicant Government Entity (*i.e.*, the applicant to the FY 2017 OJP Program identified below)

FY 2017 OJP Program: Byrne Justice Assistance Grant ("JAG") Program

Appendix III

8 U.S.C. § 1373

8 U.S.C. § 1373 (as in effect on June 21, 2017)

Communication between government agencies and the Immigration and Naturalization Service

(a) In general

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) Additional authority of government entities

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2) Maintaining such information.
- (3) Exchanging such information with any other Federal, State, or local government entity.

(c) Obligation to respond to inquiries

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

See *also* provisions set out at (or referenced in) 8 U.S.C. § 1551 note (“Abolition ... and Transfer of Functions”)

Appendix IV

OJP Certified Standard Assurances

OMB No. 1121-0140
Expires 5/31/2019U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

CERTIFIED STANDARD ASSURANCES

On behalf of the Applicant, and in support of this application for a grant or cooperative agreement, I certify under penalty of perjury to the Office of Justice Programs (OJP), U.S. Department of Justice ("Department"), that all of the following are true and correct:

- (1) I have the authority to make the following representations on behalf of myself and the Applicant. I understand that these representations will be relied upon as material in any OJP decision to make an award to the Applicant based on its application.
- (2) I certify that the Applicant has the legal authority to apply for the federal assistance sought by the application, and that it has the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project costs) to plan, manage, and complete the project described in the application properly.
- (3) I assure that, throughout the period of performance for the award (if any) made by OJP based on the application—
 - (a) the Applicant will comply with all award requirements and all federal statutes and regulations applicable to the award;
 - (b) the Applicant will require all subrecipients to comply with all applicable award requirements and all applicable federal statutes and regulations; and
 - (c) the Applicant will maintain safeguards to address and prevent any organizational conflict of interest, and also to prohibit employees from using their positions in any manner that poses, or appears to pose, a personal or financial conflict of interest.
- (4) The Applicant understands that the federal statutes and regulations applicable to the award (if any) made by OJP based on the application specifically include statutes and regulations pertaining to civil rights and nondiscrimination, and, in addition—
 - (a) the Applicant understands that the applicable statutes pertaining to civil rights will include section 601 of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); section 901 of the Education Amendments of 1972 (20 U.S.C. § 1881); and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. § 6102);
 - (b) the Applicant understands that the applicable statutes pertaining to nondiscrimination may include section 815(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d(c)); section 1407(e) of the Victims of Crime Act of 1984 (42 U.S.C. § 10604(e)); section 299A(b) of the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); and that the grant condition set out at section 40002(b)(13) of the Violence Against Women Act (42 U.S.C. § 13925(b)(13)) also may apply;
 - (c) the Applicant understands that it must require any subrecipient to comply with all such applicable statutes (and associated regulations); and
 - (d) on behalf of the Applicant, I make the specific assurances set out in 28 C.F.R. §§ 42.105 and 42.204.
- (5) The Applicant also understands that (in addition to any applicable program-specific regulations and to applicable federal regulations that pertain to civil rights and nondiscrimination) the federal regulations applicable to the award (if any) made by OJP based on the application may include, but are not limited to, 2 C.F.R. Part 2800 (the DOJ "Part 200 Uniform Requirements") and 28 C.F.R. Parts 22 (confidentiality - research and statistical information), 23 (criminal intelligence systems), and 46 (human subjects protection).
- (6) I assure that the Applicant will assist OJP as necessary (and will require subrecipients and contractors to assist as necessary) with the Department's compliance with section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108), the Archeological and Historical Preservation Act of 1974 (54 U.S.C. §§ 312501-312508), and the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4335), and 28 C.F.R. Parts 61 (NEPA) and 63 (floodplains and wetlands).
- (7) I assure that the Applicant will give the Department and the Government Accountability Office, through any authorized representative, access to, and opportunity to examine, all paper or electronic records related to the award (if any) made by OJP based on the application.
- (8) I assure that, if the Applicant is a governmental entity, with respect to the award (if any) made by OJP based on the application—
 - (a) it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
 - (b) it will comply with requirements of 5 U.S.C. §§ 1501-1508 and 7324-7328, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the Applicant to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by the Department, including by OJP and by the Department's Office of the Inspector General.

Exhibit B

OMB No. 1121-0329
Approval Expires 12/31/2018

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance



The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#) (OJP), [Bureau of Justice Assistance](#) (BJA) is seeking applications for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting State, local, and tribal efforts to prevent or reduce crime and violence.

Edward Byrne Memorial Justice Assistance Grant Program FY 2017 Local Solicitation Applications Due: September 5, 2017

Eligibility

Only units of local government may apply under this solicitation. By law, for purposes of the JAG Program, the term "units of local government" includes a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government may be any law enforcement district or judicial enforcement district established under applicable State law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

A JAG application is not complete, and a unit of local government may not receive award funds, unless the chief executive of the applicant unit of local government (e.g., a mayor) properly executes, and the unit of local government submits, the "Certifications and Assurances by Chief Executive of Applicant Government" attached to this solicitation as [Appendix I](#).

In addition, as discussed further [below](#), in order validly to accept a Fiscal Year (FY) 2017 JAG award, the chief legal officer of the applicant unit of local government must properly execute, and the unit of local government must submit, the specific certification regarding compliance with 8 U.S.C. § 1373 attached to this solicitation as [Appendix II](#). (Note: this requirement does not apply to Indian tribal governments.) (The text of 8 U.S.C. § 1373 appears in [Appendix II](#).)

Eligible allocations under JAG are posted annually on the [JAG web page](#) under "Funding."

Deadline

Applicants must register in the [OJP Grants Management System \(GMS\)](#) prior to submitting an application under this solicitation. All applicants must register, even those that previously registered in GMS. Select the “Apply Online” button associated with the solicitation title. All registrations and applications are due by 5 p.m. eastern time on September 5, 2017.

This deadline does **not** apply to the certification regarding compliance with 8 U.S.C. § 1373. As explained [below](#), a unit of local government (other than an Indian tribal government) may not validly accept an award unless that certification is submitted to the Office of Justice Programs (OJP) on or before the day the unit of local government submits the signed award acceptance documents.

For additional information, see [How to Apply](#) in [Section D. Application and Submission Information](#).

Contact Information

For technical assistance with submitting an application, contact the Grants Management System (GMS) Support Hotline at 888-549-9901, option 3, or via email at GMS.HelpDesk@usdoj.gov. The [GMS](#) Support Hotline operates 24 hours a day, 7 days a week, including on federal holidays.

An applicant that experiences unforeseen GMS technical issues beyond its control that prevent it from submitting its application by the deadline must email the National Criminal Justice Reference Service (NCJRS) Response Center at grants@ncjrs.gov **within 24 hours after the application deadline** in order to request approval to submit its application. Additional information on reporting technical issues appears under “Experiencing Unforeseen GMS Technical Issues” in [How to Apply](#) in [Section D. Application and Submission Information](#).

For assistance with any other requirement of this solicitation, applicants may contact the NCJRS Response Center by telephone at 1-800-851-3420; via TTY at 301-240-6310 (hearing impaired only); by email at grants@ncjrs.gov; by fax to 301-240-5830, or by web chat at <https://webcontact.ncjrs.gov/ncjchat/chat.jsp>. The NCJRS Response Center hours of operation are 10:00 a.m. to 6:00 p.m. eastern time, Monday through Friday, and 10:00 a.m. to 8:00 p.m. eastern time on the solicitation close date. Applicants also may contact the appropriate BJA [State Policy Advisor](#).

Funding opportunity number assigned to this solicitation: BJA-2017-11301

Release date: August 3, 2017

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Edward Byrne Memorial Justice Assistance Grant Program FY 2017 Local Solicitation CFDA #16.738

A. Program Description

Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to States and units of local government. BJA will award JAG Program funds to eligible units of local government under this FY 2017 JAG Program Local Solicitation. (A separate solicitation will be issued for applications to BJA directly from States.)

Statutory Authority: The JAG Program statute is Subpart I of Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968. Title I of the “Omnibus Act” generally is codified at Chapter 26 of Title 42 of the United States Code; the JAG Program statute is codified at 42 U.S.C. §§ 3750-3758. See also 28 U.S.C. § 530C(a).

Program-Specific Information

Permissible uses of JAG Funds – In general

In general, JAG funds awarded to a unit of local government under this FY 2017 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams

Under the JAG Program, units of local government may use award funds for broadband deployment and adoption activities as they relate to criminal justice activities.

Limitations on the use of JAG funds

Prohibited and controlled uses of funds – JAG funds may not be used (whether directly or indirectly) for any purpose prohibited by federal statute or regulation, including those purposes specifically prohibited by the JAG Program statute as set out at 42 U.S.C. § 3751(d):

- (1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.
- (2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—
 - (a) Vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters)
 - (b) Luxury items
 - (c) Real estate
 - (d) Construction projects (other than penal or correctional institutions)
 - (e) Any similar matters

For additional information on expenditures prohibited under JAG, as well as expenditures that are permitted but “controlled,” along with the process for requesting approval regarding controlled items, refer to the [JAG Prohibited and Controlled Expenditures Guidance](#). Information also appears in the [JAG FAQs](#).

Cap on use of JAG award funds for administrative costs – A unit of local government may use up to 10 percent of a JAG award, including up to 10 percent of any earned interest, for costs associated with administering the award.

Prohibition of supplanting; no use of JAG funds as “match” – JAG funds may not be used to supplant State or local funds but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities. See the [JAG FAQs](#) on BJA’s JAG web page for examples of supplanting.

Although supplanting is prohibited, as discussed under “[What An Application Should Include](#),” the leveraging of federal funding is encouraged.

Absent specific federal statutory authority to do so, JAG award funds may not be used as “match” for the purposes of other federal awards.

Other restrictions on use of funds – If a unit of local government chooses to use its FY 2017 JAG funds for particular, defined types of expenditures, it must satisfy certain preconditions:

 Body-Worn Cameras (BWC)

A unit of local government that proposes to use FY 2017 JAG award funds to purchase BWC equipment or to implement or enhance BWC programs, must provide to OJP a certification(s) that the unit of local government has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, training, etc. The certification can be found at:

<https://www.bja.gov/Funding/BodyWornCameraCert.pdf>.

A unit of local government that proposes to use JAG funds for BWC-related expenses will have funds withheld until the required certification is submitted and approved by OJP.

The BJA [BWC Toolkit](#) provides model BWC policies and best practices to assist departments in implementing BWC programs.

Apart from the JAG Program, BJA provides funds under the Body-Worn Camera Policy and Implementation Program (BWC Program). The BWC Program allows jurisdictions to develop and implement policies and practices required for effective program adoption and address program factors including the purchase, deployment, and maintenance of camera systems and equipment; data storage and access; and privacy considerations. Interested units of local government may wish to refer to the [BWC web page](#) for more information. Units of local government should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BWC Program.



Body Armor

Ballistic-resistant and stab-resistant body armor can be funded through the JAG Program, as well as through BJA's Bulletproof Vest Partnership (BVP) Program. The BVP Program is designed to provide a critical resource to local law enforcement through the purchase of ballistic-resistant and stab-resistant body armor. For more information on the BVP Program, including eligibility and application, refer to the [BVP web page](#). Units of local government should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BVP Program.

Body armor purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the body armor has been tested and found to comply with the latest applicable National Institute of Justice (NIJ) ballistic or stab standards. In addition, body armor purchased must be made in the United States.

As is the case in the BVP Program, units of local government that propose to purchase body armor with JAG funds must certify that law enforcement agencies receiving body armor have a written "mandatory wear" policy in effect. FAQs related to the mandatory wear policy and certifications can be found at:

<https://www.bja.gov/Funding/JAGFAQ.pdf>. This policy must be in place for at least all uniformed officers before any FY 2017 funding can be used by the unit of local government for body armor. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. The certification must be signed by the Authorized Representative and must be attached to the application if proposed as part of the application. If the unit of local government proposes to change project activities to utilize JAG funds to purchase body armor after the award is accepted, the unit of local government must submit the signed certification to BJA at that time. A mandatory wear concept and issues paper and a model policy are available by contacting the BVP Customer Support Center at vests@usdoj.gov or toll free at 1-877-758-3787. The certification form related to mandatory wear can be found at: www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf.



DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database

If JAG Program funds will be used for DNA testing of evidentiary materials, any resulting **eligible** DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the Federal Bureau of Investigation [FBI]) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA.

In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not accepted for entry into CODIS.



Interoperable Communication

Units of local government (including subrecipients) that use FY 2017 JAG funds to support emergency communications activities (including the purchase of interoperable communications equipment and technologies such as voice-over-internet protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission [FCC] Waiver Order) should review [FY 2017 SAFECOM Guidance](#). The SAFECOM Guidance is updated annually to provide current information on emergency communications policies, eligible costs, best practices, and technical standards for State, local, tribal, and territorial grantees investing federal funds in emergency communications projects. Additionally, emergency communications projects should support the Statewide Communication Interoperability Plan (SCIP) and be coordinated with the fulltime Statewide Interoperability Coordinator (SWIC) in the State of the project. As the central coordination point for their State's interoperability effort, the SWIC plays a critical role, and can serve as a valuable resource. SWICs are responsible for the implementation of SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office of Emergency Communications maintains a list of SWICs for each of the States and territories. Contact OEC@hq.dhs.gov. All communications equipment purchased with FY 2017 JAG Program funding should be identified during quarterly performance metrics reporting.

In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety communities, OJP requires the recipient to comply with DOJ's Global Justice Information Sharing Initiative guidelines and recommendations for this particular grant. Recipients must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://www.it.ojp.gov/gsp_grantcondition. Recipients must document planned approaches to information sharing and describe compliance to GSP and an appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

Required compliance with applicable federal laws

By law, the chief executive (e.g., the mayor) of each unit of local government that applies for an FY 2017 JAG award must certify that the unit of local government will "comply with all provisions of [the JAG program statute] and all other applicable Federal laws." To satisfy this requirement, each unit of local government applicant must submit two properly executed certifications using the forms shown in Appendix I and Appendix II.

All applicants should understand that OJP awards, including certifications provided in connection with such awards, are subject to review by DOJ, including by OJP and by the DOJ

Office of the Inspector General. Applicants also should understand that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in a certification submitted to OJP in support of an application may be the subject of criminal prosecution, and also may result in civil penalties and administrative remedies for false claims or otherwise. Administrative remedies that may be available to OJP with respect to an FY 2017 award include suspension or termination of the award, placement on the DOJ high risk grantee list, disallowance of costs, and suspension or debarment of the recipient.

BJA areas of emphasis

BJA recognizes that there are significant pressures on local criminal justice systems. In these challenging times, shared priorities and leveraged resources can make a significant impact. As a component of OJP, BJA intends to focus much of its work on the areas of emphasis described below, and encourages each unit of local government recipient of an FY 2017 JAG award to join us in addressing these challenges:

- *Reducing Gun Violence* – Gun violence has touched nearly every State and local government in America. While our nation has made great strides in reducing violent crime, some municipalities and regions continue to experience unacceptable levels of violent crime at rates far in excess of the national average. BJA encourages units of local government to invest JAG funds in programs to combat gun violence, enforce existing firearms laws, and improve the process for ensuring that persons prohibited from purchasing guns are prevented from doing so by enhancing reporting to the FBI's National Instant Criminal Background Check System (NICS).
- *National Incident-Based Reporting System (NIBRS)* – The FBI has formally announced its intentions to establish NIBRS as the law enforcement crime data reporting standard for the nation. The transition to NIBRS will provide a more complete and accurate picture of crime at the national, State, and local levels. Once this transition is complete, the FBI will no longer collect summary data and will accept data only in the NIBRS format. Also, once the transition is complete, JAG award amounts will be calculated on the basis of submitted NIBRS data. Transitioning all law enforcement agencies to NIBRS is the first step in gathering more comprehensive crime data. BJA encourages recipients of FY 2017 JAG awards to use JAG funds to expedite the transition to NIBRS.
- *Officer Safety and Wellness* – The issue of law enforcement safety and wellness is an important priority for the Department of Justice. Preliminary data compiled by the National Law Enforcement Officers Memorial Fund indicates that there were 135 line-of-duty law enforcement deaths in 2016—the highest level in the past 5 years and a 10 percent increase from 2015 (123 deaths).

Firearms-related deaths continued to be the leading cause of death (64), increasing 56 percent from 2015 (41). Of particular concern is that of the 64 firearms-related deaths, 21 were as a result of ambush-style attacks representing the highest total in more than two decades. Traffic-related deaths continued to rise in 2016 with 53 officers killed, a 10 percent increase from 2015 (48 deaths). Additionally, there were 11 job-related illness deaths in 2016, mostly heart attacks.

BJA sees a vital need to focus not only on tactical officer safety concerns but also on health and wellness as they affect officer performance and safety. It is important for law enforcement to have the tactical skills necessary, and also be physically and mentally well, to perform, survive, and be resilient in the face of the demanding duties of the

profession. BJA encourages units of local government to use JAG funds to address these needs by providing training, including paying for tuition and travel expenses related to attending trainings such as [VALOR training](#), as well as funding for health and wellness programs for law enforcement officers.

- *Border Security* – The security of United States borders is critically important to the reduction and prevention of transnational drug-trafficking networks and combating all forms of human trafficking within the United States (sex and labor trafficking of foreign nationals and U.S. citizens of all sexes and ages). These smuggling operations on both sides of the border contribute to a significant increase in violent crime and U.S. deaths from dangerous drugs. Additionally, illegal immigration continues to place a significant strain on federal, State, and local resources—particularly on those agencies charged with border security and immigration enforcement—as well as the local communities into which many of the illegal immigrants are placed. BJA encourages units of local government to use JAG funds to support law enforcement hiring, training, and technology enhancement in the area of border security.
- *Collaborative Prosecution* – BJA supports strong partnerships between prosecutors and police as a means to improve case outcomes and take violent offenders off the street. BJA strongly encourages State and local law enforcement to foster strong partnerships with prosecutors to adopt new collaborative strategies aimed at combating increases in crime, particularly violent crime. (BJA's "Smart Prosecution" Initiative is a related effort by OJP to promote partnerships between prosecutors and researchers to develop and deliver effective, data-driven, evidence-based strategies to solve chronic problems and fight crime.)

Goals, Objectives, and Deliverables

In general, the FY 2017 JAG Program is designed to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. The JAG Local Program is designed to assist units of local government with respect to criminal justice.

As discussed in more detail [below](#), a unit of local government that receives an FY 2017 JAG award will be required to prepare various types of reports and to submit data related to performance measures and accountability. The Goals, Objectives, and Deliverables are directly related to the [JAG Program accountability measures](#).

Evidence-Based Programs or Practices

OJP strongly emphasizes the use of data and evidence in policy making and program development in criminal justice, juvenile justice, and crime victim services. OJP is committed to:

- Improving the quantity and quality of evidence OJP generates
- Integrating evidence into program, practice, and policy decisions within OJP and the field
- Improving the translation of evidence into practice

OJP considers programs and practices to be evidence-based when their effectiveness has been demonstrated by causal evidence, generally obtained through one or more outcome evaluations. Causal evidence documents a relationship between an activity or intervention (including technology) and its intended outcome, including measuring the direction and size of a change, and the extent to which a change may be attributed to the activity or intervention.

Causal evidence depends on the use of scientific methods to rule out, to the extent possible, alternative explanations for the documented change. The strength of causal evidence, based on the factors described above, will influence the degree to which OJP considers a program or practice to be evidence-based. The OJP CrimeSolutions.gov website is one resource that applicants may use to find information about evidence-based programs in criminal justice, juvenile justice, and crime victim services.

A useful matrix of evidence-based policing programs and strategies is available through the [Center for Evidence-Based Crime Policy](http://CenterforEvidenceBasedCrimePolicy) at George Mason University. BJA offers a number of program models designed to effectively implement promising and evidence-based strategies through the BJA “Smart Suite” of programs, including Smart Policing, Smart Supervision, Smart Pretrial, Smart Defense, Smart Prosecution, Smart Reentry, and others (see: <https://www.bja.gov/Programs/CRPPE/smartsuite.html>). BJA encourages units of local government to use JAG funds to support these “smart on crime” strategies, including effective partnerships with universities, research partners, and non-traditional criminal justice partners.

BJA Success Stories

The [BJA Success Stories](#) web page features projects that have demonstrated success or shown promise in reducing crime and positively impacting communities. This web page will be a valuable resource for States, localities, territories, tribes, and criminal justice professionals that seek to identify and learn about JAG and other successful BJA-funded projects linked to innovation, crime reduction, and evidence-based practices. **BJA strongly encourages the recipient to submit success stories annually (or more frequently).**

If a unit of local government has a success story it would like to submit, it may be submitted through [My BJA account](#), using “add a Success Story” and the Success Story Submission form. Register for a My BJA account using this [registration](#) link.

B. Federal Award Information

BJA estimates that it will make up to 1,100 local awards totaling an estimated \$83,000,000.

Awards of at least \$25,000 are 4 years in length, and award periods will be from October 1, 2016 through September 30, 2020. Extensions beyond this period may be made on a case-by-case basis at the discretion of BJA and must be requested via GMS no less than 30 days prior to the grant end date.

Awards of less than \$25,000 are 2 years in length, and award periods will be from October 1, 2016 through September 30, 2018. Extensions of up to 2 years can be requested for these awards via GMS **no less than 30 days prior to the grant end date**, and will be automatically granted upon request.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by statute.

Type of Award

BJA expects that any award under this solicitation will be in the form of a grant. See [Statutory and Regulatory Requirements; Award Conditions](#), under [Section F. Federal Award Administration Information](#), for a brief discussion of important statutes, regulations, and award conditions that apply to many (or in some cases, all) OJP grants.

JAG awards are based on a statutory formula as described below.

Once each fiscal year's overall JAG Program funding level is determined, BJA works with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process, which, in general, consists of:

- (1) Computing an initial JAG allocation for each State, based on its share of violent crime and population (weighted equally).
- (2) Reviewing the initial JAG allocation amount to determine if the State allocation is less than the minimum award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the State is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining States receive the minimum award plus an additional amount based on its share of violent crime and population.
- (3) Dividing each State's final award amount (except for the territories and District of Columbia) between the State and its units of local governments at a rate of 60 and 40 percent, respectively.
- (4) Determining unit of local government award allocations, which are based on their proportion of the State's 3-year violent crime average. If the "eligible award amount" for a particular unit of local government as determined on this basis is \$10,000 or more, then the unit of local government is eligible to apply directly to OJP (under the JAG Local solicitation) for a JAG award. If the "eligible award amount" to a particular unit of local government as determined on this basis would be less than \$10,000, however, the funds are not made available for a direct award to that particular unit of local government, but instead are added to the amount that otherwise would have been awarded to the State.

Financial Management and System of Internal Controls

Award recipients and subrecipients (including recipients or subrecipients that are pass-through entities¹) must, as described in the Part 200 Uniform Requirements² as set out at 2 C.F.R. 200.303:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that [the recipient (and any subrecipient)] is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

¹ For purposes of this solicitation, the phrase "pass-through entity" includes any recipient or subrecipient that provides a subaward ("subgrant") to carry out part of the funded award or program.

² The "Part 200 Uniform Requirements" refers to the DOJ regulation at 2 C.F.R. Part 2800, which adopts (with certain modifications) the provisions of 2 C.F.R. Part 200.

- (c) Evaluate and monitor [the recipient's (and any subrecipient's)] compliance with statutes, regulations, and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or [the recipient (or any subrecipient)] considers sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and obligations of confidentiality.

To help ensure that applicants understand the administrative requirements and cost principles, OJP encourages prospective applicants to enroll, at no charge, in the DOJ Grants Financial Management Online Training, available [here](#).

Budget and Financial Information

Trust Fund – Units of local government may draw down JAG funds either in advance or on a reimbursement basis. To draw down in advance, a trust fund must be established in which to deposit the funds. The trust fund may or may not be an interest-bearing account. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit funds.

Tracking and reporting regarding JAG funds used for State administrative costs – As indicated earlier, a unit of local government may use up to 10 percent of a JAG award, including up to 10 percent of any earned interest, for costs associated with administering the award. Administrative costs (when utilized) must be tracked separately; a recipient must report in separate financial status reports (SF-425) those expenditures that specifically relate to each particular JAG award during any particular reporting period.

No commingling – Both the unit of local government recipient and all subrecipients of JAG funds are prohibited from commingling funds on a program-by-program or project-by-project basis. *For this purpose, use of the administrative JAG funds to perform work across all active awards in any one year is not considered comingling.*

Disparate Certification – In some cases, as defined by the legislation, a disparity may exist between the funding eligibility of a county and its associated municipalities. Three different types of disparities may exist:

- The first type is a zero-county disparity. This situation exists when one or more municipalities within a county are eligible for a direct award but the county is not; yet the county is responsible for providing criminal justice services (such as prosecution and incarceration) for the municipality. In this case, the county is entitled to part of the municipality's award because it shares the cost of criminal justice operations, although it may not report crime data to the FBI. This is the most common type of disparity.
- A second type of disparity exists when both a county and a municipality within that county qualify for a direct award, but the award amount for the municipality exceeds 150 percent of the county's award amount.

- The third type of disparity occurs when a county and multiple municipalities within that county are all eligible for direct awards, but the sum of the awards for the individual municipalities exceeds 400 percent of the county's award amount.

Jurisdictions certified as disparate must identify a fiscal agent that will submit a joint application for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant or fiscal agent for joint funds must be completed and signed by the Authorized Representative for each participating jurisdiction. The signed MOU should be attached to the application. For a sample MOU, go to: www.bja.gov/Funding/JAGMOU.pdf.

Cost Sharing or Match Requirement

The JAG Program does not require a match.

For additional cost sharing and match information, see the [DOJ Grants Financial Guide](#).

Pre-Agreement Costs (also known as Pre-award Costs)

Pre-agreement costs are costs incurred by the applicant prior to the start date of the period of performance of the grant award.

OJP does *not* typically approve pre-agreement costs. An applicant must request and obtain the prior written approval of OJP for any such costs. All such costs incurred prior to award and prior to approval of the costs are incurred *at the sole risk* of the applicant. (Generally, no applicant should incur project costs *before* submitting an application requesting federal funding for those costs.)

Should there be extenuating circumstances that make it appropriate for OJP to consider approving pre-agreement costs, the applicant may contact the point of contact listed on the title page of this solicitation for the requirements concerning written requests for approval. If approved in advance by OJP, award funds may be used for pre-agreement costs, consistent with the recipient's approved budget and applicable cost principles. See the section on "Costs Requiring Prior Approval" in the [DOJ Grants Financial Guide](#) for more information.

Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs

OJP strongly encourages every applicant that proposes to use award funds for any conference-, meeting-, or training-related activity (or similar event) to review carefully—before submitting an application—the OJP and DOJ policy and guidance on approval, planning, and reporting of such events, available at:

<https://www.ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm>.

OJP policy and guidance (1) encourage minimization of conference, meeting, and training costs; (2) require prior written approval (which may affect project timelines) of most conference, meeting, and training costs for cooperative agreement recipients, as well as some conference, meeting, and training costs for grant recipients; and (3) set cost limits, which include a general prohibition of all food and beverage costs.

Costs Associated with Language Assistance (if applicable)

If an applicant proposes a program or activity that would deliver services or benefits to individuals, the costs of taking reasonable steps to provide meaningful access to those services

or benefits for individuals with limited English proficiency may be allowable. Reasonable steps to provide meaningful access to services or benefits may include interpretation or translation services, where appropriate.

For additional information, see the “Civil Rights Compliance” section under “[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017 Awards](#)” in the [OJP Funding Resource Center](#).

C. Eligibility Information

For information on eligibility, see the title page of this solicitation.

Note that, as discussed in more detail [below](#), the certification regarding compliance with 8 U.S.C. § 1373 must be executed and submitted before a unit of local government (other than an Indian tribal government) can make a valid award acceptance. Also, a unit of local government may not receive award funds (and its award will include a condition that withholds funds) until it submits a properly executed “Certifications and Assurances by Chief Executive of Applicant Government.”

D. Application and Submission Information

What an Application Should Include

This section describes in detail what an application should include. An applicant should anticipate that if it fails to submit an application that contains all of the specified elements, it may negatively affect the review of its application; and, should a decision be made to make an award, it may result in the inclusion of award conditions that preclude the recipient from accessing or using award funds until the recipient satisfies the conditions and OJP makes the funds available.

An applicant may combine the Budget Narrative and the Budget Detail Worksheet in one document. If an applicant submits only one budget document, however, it must contain **both** narrative and detail information. Please review the “Note on File Names and File Types” under [How to Apply](#) to be sure applications are submitted in permitted formats.

OJP strongly recommends that applicants use appropriately descriptive file names (e.g., “Program Narrative,” “Budget Detail Worksheet and Budget Narrative,” “Timelines,” “Memoranda of Understanding,” “Résumés”) for all attachments. Also, OJP recommends that applicants include résumés in a single file.

In general, if a unit of local government fails to submit required information or documents, OJP either will return the unit of local government’s application in the Grants Management System (GMS) for submission of the missing information or documents, or will attach a condition to the award that will withhold award funds until the necessary information and documents are submitted. (As discussed elsewhere in this solicitation, the certification regarding compliance with 8 U.S.C. § 1373—which is set out at [Appendix II](#)—will be handled differently. Unless and until that certification is submitted, the unit of local government (other than an Indian tribal government) will be unable to make a valid acceptance of the award.)

1. Information to Complete the Application for Federal Assistance (SF-424)

The SF-424 is a required standard form used as a cover sheet for submission of pre-applications, applications, and related information. GMS takes information from the applicant's profile to populate the fields on this form.

To avoid processing delays, an applicant must include an accurate legal name on its SF-424. Current OJP award recipients, when completing the field for "Legal Name," should use the same legal name that appears on the prior year award document, which is also the legal name stored in OJP's financial system. On the SF-424, enter the Legal Name in box 5 and Employer Identification Number (EIN) in box 6 exactly as it appears on the prior year award document. An applicant with a current, active award(s) must ensure that its GMS profile is current. If the profile is not current, the applicant should submit a Grant Adjustment Notice updating the information on its GMS profile prior to applying under this solicitation.

A new applicant entity should enter the Official Legal Name and address of the applicant entity in box 5 and the EIN in box 6 of the SF-424.

Intergovernmental Review: This solicitation ("funding opportunity") is within the scope of [Executive Order 12372](#), concerning State opportunities to coordinate applications for federal financial assistance. See 28 C.F.R. Part 30. An applicant may find the names and addresses of State Single Points of Contact (SPOCs) at the following website: https://www.whitehouse.gov/omb/grants_spoc/. If the State appears on the SPOC list, the applicant must contact the State SPOC to find out about, and comply with, the State's process under E.O. 12372. In completing the SF-424, an applicant whose State appears on the SPOC list is to make the appropriate selection in response to question 19 once the applicant has complied with its State E.O. 12372 process. (An applicant whose State does not appear on the SPOC list should answer question 19 by selecting the response that the "Program is subject to E.O. 12372 but has not been selected by the State for review.")

2. Project Abstract

Applications should include a high-quality project abstract that summarizes the proposed project in 400 words or less. Project abstracts should be:

- Written for a general public audience.
- Submitted as a separate attachment with "Project Abstract" as part of its file name.
- Single-spaced, using a standard 12-point font (Times New Roman) with 1-inch margins.
- Include applicant name, title of the project, a brief description of the problem to be addressed and the targeted area/population, project goals and objectives, a description of the project strategy, any significant partnerships, and anticipated outcomes.
- Identify up to 10 project identifiers that would be associated with proposed project activities. The list of identifiers can be found at www.bja.gov/funding/JAGIdentifiers.pdf.

3. Program Narrative

The following sections **should** be included as part of the program narrative³:

- a. Statement of the Problem – Identify the unit of local government's strategy/funding priorities for the FY 2017 JAG funds, the subgrant award process and timeline, and a

³ For information on subawards (including the details on proposed subawards that should be included in the application), see "Budget and Associated Documentation" under [Section D. Application and Submission Information](#).

description of the programs to be funded over the grant period. Units of local government are strongly encouraged to prioritize the funding on evidence-based projects.

- b. Project Design and Implementation – Describe the unit of local government's strategic planning process, if any, that guides its priorities and funding strategy. This should include a description of how the local community is engaged in the planning process and the data and analysis utilized to support the plan; it should identify the stakeholders currently participating in the strategic planning process, the gaps in the needed resources for criminal justice purposes, and how JAG funds will be coordinated with State and related justice funds.
- c. Capabilities and Competencies – Describe any additional strategic planning/coordination efforts in which the units of local government participates with other criminal justice criminal/juvenile justice agencies in the State.
- d. Plan for Collecting the Data Required for this Solicitation's Performance Measures – OJP will require each successful applicant to submit specific performance measures data as part of its reporting under the award (see "[General Information about Post-Federal Award Reporting Requirements](#)" in [Section F. Federal Award Administration Information](#)). The performance measures correlate to the goals, objectives, and deliverables identified under "[Goals, Objectives, and Deliverables](#)" in [Section A. Program Description](#). Post award, recipients will be required to submit quarterly performance metrics through BJA's Performance Measurement Tool (PMT), located at: <https://bjapmt.ojp.gov>. The application should describe the applicant's plan for collection of all of the performance measures data listed in the JAG Program accountability measures at: <https://bjapmt.ojp.gov/help/jagdocs.html>.

BJA does not require applicants to submit performance measures data with their application. Performance measures are included as an alert that BJA will require successful applicants to submit specific data as part of their reporting requirements. For the application, applicants should indicate an understanding of these requirements and discuss how they will gather the required data, should they receive funding.

Note on Project Evaluations

An applicant that proposes to use award funds through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations designed to develop or contribute to generalizable knowledge) may constitute "research" for purposes of applicable DOJ human subjects protection regulations. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet OJP's performance measure data reporting requirements, likely do not constitute "research." Each applicant should provide sufficient information for OJP to determine whether the particular project it proposes would either intentionally or unintentionally collect and/or use information in such a way that it meets the DOJ regulatory definition of research that appears at 28 C.F.R. Part 46 ("Protection of Human Subjects").

Research, for the purposes of human subjects protection for OJP-funded programs, is defined as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." 28 C.F.R. 46.102(d).

For additional information on determining whether a proposed activity would constitute research for purposes of human subjects protection, applicants should consult the decision tree in the “Research and the Protection of Human Subjects” section of the “Requirements related to Research” web page of the [“Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017”](#) available through the OJP Funding Resource Center. Every prospective applicant whose application may propose a research or statistical component also should review the “Data Privacy and Confidentiality Requirements” section on that web page.

4. Budget and Associated Documentation

(a) Budget Detail Worksheet

A sample Budget Detail Worksheet can be found at www.ojp.gov/funding/Apply/Resources/BudgetDetailWorksheet.pdf. An applicant that submits its budget in a different format should use the budget categories listed in the sample budget worksheet. The Budget Detail Worksheet should break out costs by year.

For questions pertaining to budget and examples of allowable and unallowable costs, see the [DOJ Grants Financial Guide](#).

(b) Budget Narrative

The Budget Narrative should thoroughly and clearly describe every category of expense listed in the proposed Budget Detail Worksheet. OJP expects proposed budgets to be complete, cost effective, and allowable (e.g., reasonable, allocable, and necessary for project activities). This narrative should include a full description of all costs, including administrative costs (if applicable).

An applicant should demonstrate in its Budget Narrative how it will maximize cost effectiveness of award expenditures. Budget narratives should generally describe cost effectiveness in relation to potential alternatives and the goals of the project. For example, a budget narrative should detail why planned in-person meetings are necessary, or how technology and collaboration with outside organizations could be used to reduce costs, without compromising quality.

The Budget Narrative should be mathematically sound and correspond clearly with the information and figures provided in the Budget Detail Worksheet. The narrative should explain how the applicant estimated and calculated all costs, and how those costs are necessary to the completion of the proposed project. The narrative may include tables for clarification purposes, but need not be in a spreadsheet format. As with the Budget Detail Worksheet, the Budget Narrative should describe costs by year.

(c) Information on Proposed Subawards (if any), as well as on Proposed Procurement Contracts (if any)

Applicants for OJP awards typically may propose to make “subawards.” Applicants also may propose to enter into procurement “contracts” under the award.

Whether—for purposes of federal grants administrative requirements—a particular agreement between a recipient and a third party will be considered a “subaward” or instead considered a procurement “contract” under the award is determined by federal rules and applicable OJP guidance. It is an important distinction, in part because the

federal administrative rules and requirements that apply to “subawards” and procurement “contracts” under awards differ markedly.

In general, the central question is the relationship between what the third party will do under its agreement with the recipient and what the recipient has committed (to OJP) to do under its award to further a public purpose (e.g., services the recipient will provide, products it will develop or modify, research or evaluation it will conduct). If a third party will provide some of the services the recipient has committed (to OJP) to provide, will develop or modify all or part of a product the recipient has committed (to OJP) to develop or modify, or conduct part of the research or evaluation the recipient has committed (to OJP) to conduct, OJP will consider the agreement with the third party a subaward for purposes of federal grants administrative requirements.

This will be true **even if** the recipient, for internal or other non-federal purposes, labels or treats its agreement as a procurement, a contract, or a procurement contract. Neither the title nor the structure of an agreement determines whether the agreement—for purposes of federal grants administrative requirements—is a “subaward” or is instead a procurement “contract” under an award.

Additional guidance on the circumstances under which (for purposes of federal grants administrative requirements) an agreement constitutes a subaward as opposed to a procurement contract under an award is available (along with other resources) on the [OJP Part 200 Uniform Requirements](#) web page.

(1) Information on proposed subawards and required certification regarding 8 U.S.C. § 1373 from certain subrecipients

General requirement for federal authorization of any subaward; statutory authorizations of subawards under the JAG Program statute. Generally, a recipient of an OJP award may not make subawards (“subgrants”) unless the recipient has specific federal authorization to do so. Unless an applicable statute or DOJ regulation specifically authorizes (or requires) particular subawards, a recipient must have authorization from OJP before it may make a subaward.

JAG subawards that are required or specifically authorized by statute (see 42 U.S.C. § 3751(a) and 42 U.S.C. § 3755) do not require prior approval to authorize subawards. This includes subawards made by units of local government under the JAG Program.

A particular subaward may be authorized by OJP because the recipient included a sufficiently detailed description and justification of the proposed subaward in the application as approved by OJP. If, however, a particular subaward is not authorized by federal statute or regulation and is not sufficiently described and justified in the application as approved by OJP, the recipient will be required, post award, to request and obtain written authorization from OJP before it may make the subaward.

If an applicant proposes to make one or more subawards to carry out the federal award and program, and those subawards are not specifically authorized (or required) by statute or regulation, the applicant should: (1) identify (if known) the proposed subrecipient(s), (2) describe in detail what each subrecipient will do to carry out the federal award and federal program, and (3) provide a justification for the

subaward(s), with details on pertinent matters such as special qualifications and areas of expertise. Pertinent information on subawards should appear not only in the Program Narrative but also in the Budget Detail Worksheet and budget narrative.

NEW Required certification regarding 8 U.S.C. § 1373 from any proposed subrecipient that is a unit of local government or “public” institution of higher education. Before a unit of local government may subaward FY 2017 award funds to another unit of local government or to a public institution of higher education, it will be required (by award condition) to obtain a properly executed certification regarding compliance with 8 U.S.C. § 1373 from the proposed subrecipient. (This requirement regarding 8 U.S.C. § 1373 will not apply to subawards to Indian tribes). The specific certification the unit of local government must require from another unit of local government will vary somewhat from the specific certification it must require from a public institution of higher education. The forms will be posted and available for download at: <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>.

(2) Information on proposed procurement contracts (with specific justification for proposed noncompetitive contracts over \$150,000)

Unlike a recipient contemplating a subaward, a recipient of an OJP award generally does not need specific prior federal authorization to enter into an agreement that—for purposes of federal grants administrative requirements—is considered a procurement contract, **provided that** (1) the recipient uses its own documented procurement procedures and (2) those procedures conform to applicable federal law, including the Procurement Standards of the (DOJ) Part 200 Uniform Requirements (as set out at 2 C.F.R. 200.317 - 200.326). The Budget Detail Worksheet and budget narrative should identify proposed procurement contracts. (As discussed above, subawards must be identified and described separately from procurement contracts.)

The Procurement Standards in the (DOJ) Part 200 Uniform Requirements, however, reflect a general expectation that agreements that (for purposes of federal grants administrative requirements) constitute procurement “contracts” under awards will be entered into on the basis of full and open competition. If a proposed procurement contract would exceed the simplified acquisition threshold—currently, \$150,000—a recipient of an OJP award may not proceed without competition, unless and until the recipient receives specific advance authorization from OJP to use a non-competitive approach for the procurement.

An applicant that (at the time of its application) intends—without competition—to enter into a procurement contract that would exceed \$150,000 should include a detailed justification that explains to OJP why, in the particular circumstances, it is appropriate to proceed without competition. Various considerations that may be pertinent to the justification are outlined in the [DOJ Grants Financial Guide](#).

(d) Pre-Agreement Costs

For information on pre-agreement costs, see [Section B. Federal Award Information](#).

5. Indirect Cost Rate Agreement (if applicable)

Indirect costs may be charged to an award only if:

- (a) The recipient has a current (that is, unexpired), federally approved indirect cost rate; or

- (b) The recipient is eligible to use, and elects to use, the “de minimis” indirect cost rate described in the (DOJ) Part 200 Uniform Requirements, as set out at 2 C.F.R. 200.414(f).

Note: This rule does not eliminate or alter the JAG-specific restriction in federal law that charges for administrative costs may not exceed 10 percent of the award amount, regardless of the approved indirect cost rate.

An applicant with a current (that is, unexpired) federally approved indirect cost rate is to attach a copy of the indirect cost rate agreement to the application. An applicant that does not have a current federally approved rate may request one through its cognizant federal agency, which will review all documentation and approve a rate for the applicant entity, or, if the applicant’s accounting system permits, applicants may propose to allocate costs in the direct cost categories.

For assistance with identifying the appropriate cognizant federal agency for indirect costs, please contact the OCFO Customer Service Center at 1–800–458–0786 or at ask.ocfo@usdoj.gov. If DOJ is the cognizant federal agency, applicants may obtain information needed to submit an indirect cost rate proposal at: www.ojp.gov/funding/Apply/Resources/IndirectCosts.pdf.

Certain OJP recipients have the option of electing to use the “de minimis” indirect cost rate. An applicant that is eligible to use the “de minimis” rate that wishes to use the “de minimis” rate should attach written documentation to the application that advises OJP of both: (1) the applicant’s eligibility to use the “de minimis” rate, and (2) its election to do so. If an eligible applicant elects the “de minimis” rate, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. The “de minimis” rate may no longer be used once an approved federally-negotiated indirect cost rate is in place. (No entity that ever has had a federally approved negotiated indirect cost rate is eligible to use the “de minimis” rate.)

6. Tribal Authorizing Resolution (if applicable)

An applicant that proposes to provide direct services or assistance to residents on tribal lands should include in its application a resolution, a letter, affidavit, or other documentation, as appropriate, that demonstrates (as a legal matter) that the applicant has the requisite authorization from the tribe(s) to implement the proposed project on tribal lands.

OJP will not deny an application for an FY 2017 award for failure to submit such tribal authorizing resolution (or other appropriate documentation) by the application deadline, but a unit of local government will not receive award funds (and its award will include a condition that withholds funds) until it submits the appropriate documentation.

7. Financial Management and System of Internal Controls Questionnaire (including applicant disclosure of high-risk status)

Every unit of local government is to complete the [OJP Financial Management and System of Internal Controls Questionnaire](#) as part of its application. In accordance with the Part 200 Uniform Requirements as set out at [2 C.F.R. 200.205](#), federal agencies must have in place a framework for evaluating the risks posed by applicants before they receive a federal award.

8. Applicant Disclosure of High Risk Status

Applicants that are currently designated high risk by another federal grant making agency must disclose that status. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the applicant's past performance, or other programmatic or financial concerns with the applicant. If an applicant is designated high risk by another federal awarding agency, the applicant must provide the following information:

- The federal agency that currently designated the applicant as high risk
- Date the applicant was designated high risk
- The high risk point of contact at that federal awarding agency (name, phone number, and email address).
- Reasons for the high risk status, as set out by the federal awarding agency

OJP seeks this information to help ensure appropriate federal oversight of OJP awards. An applicant that is considered "high risk" by another federal awarding agency is not automatically disqualified from receiving an OJP award. OJP may, however, consider the information in award decisions, and may impose additional OJP oversight of any award under this solicitation (including through the conditions that accompany the award document).

9. Disclosure of Lobbying Activities

An applicant that expends any funds for lobbying activities is to provide all of the information requested on the form [Disclosure of Lobbying Activities \(SF-LLL\)](#).

10. Certifications and Assurances by the Chief Executive of the Applicant Government

A JAG application is not complete, and a unit of local government may not receive award funds, unless the chief executive of the applicant unit of local government (e.g., the mayor) properly executes, and the unit of local government submits, the "Certifications and Assurances by the Chief Executive of the Applicant Government" attached to this solicitation as [Appendix I](#).

OJP will not deny an application for an FY 2017 award for failure to submit these "Certifications and Assurances by the Chief Executive of the Applicant Government" by the application deadline, but a unit of local government will not receive award funds (and its award will include a condition that withholds funds) until it submits these certifications and assurances, properly executed by the chief executive of the unit of local government (e.g., the mayor).

11. Certification of Compliance with 8 U.S.C. § 1373 by the Chief Legal Officer of the Applicant Government

The chief legal officer of an applicant unit of local government (e.g., the General Counsel) is to carefully review the "State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. § 1373" that is attached as [Appendix II](#) to this solicitation. If the chief legal officer determines that he or she may execute the certification, the unit of local government is to submit the certification as part of its application. (Note: this requirement does not apply to Indian tribal governments.)

As discussed further [below](#), a unit of local government (other than an Indian tribal government) applicant will be *unable to make a valid award acceptance* of an FY 2017 JAG

award unless and until a properly executed certification by its chief legal officer is received by OJP on or before the day the unit of local government submits an executed award document.

12. Additional Attachments

(a) Applicant Disclosure of Pending Applications

Each applicant is to disclose whether it has (or is proposed as a subrecipient under) any pending applications for federally funded grants or cooperative agreements that (1) include requests for funding to support the same project being proposed in the application under this solicitation and (2) would cover identical cost items outlined in the budget submitted to OJP as part of the application under this solicitation. The applicant is to disclose applications made directly to federal awarding agencies, and also applications for subawards of federal funds (e.g., applications to State agencies that will subaward ("subgrant") federal funds).

OJP seeks this information to help avoid any inappropriate duplication of funding. Leveraging multiple funding sources in a complementary manner to implement comprehensive programs or projects is encouraged and is not seen as inappropriate duplication.

Each applicant that has one or more pending applications as described above is to provide the following information about pending applications submitted within the last 12 months:

- The federal or State funding agency
- The solicitation name/project name
- The point of contact information at the applicable federal or State funding agency

Federal or State Funding Agency	Solicitation Name/Project Name	Name/Phone/Email for Point of Contact at Federal or State Funding Agency
DOJ/Office of Community Oriented Policing Services (COPS)	COPS Hiring Program	Jane Doe, 202/000-0000; jane.doe@usdoj.gov
Health & Human Services/ Substance Abuse and Mental Health Services Administration	Drug-Free Communities Mentoring Program/ North County Youth Mentoring Program	John Doe, 202/000-0000; john.doe@hhs.gov

Each applicant should include the table as a separate attachment to its application. The file should be named "Disclosure of Pending Applications." The applicant Legal Name on the application must match the entity named on the disclosure of pending applications statement.

Any applicant that does not have any pending applications as described above is to submit, as a separate attachment, a statement to this effect: “[Applicant Name on SF-424] does not have (and is not proposed as a subrecipient under) any pending applications submitted within the last 12 months for federally funded grants or cooperative agreements (or for subawards under federal grants or cooperative agreements) that request funding to support the same project being proposed in this application to OJP and that would cover identical cost items outlined in the budget submitted as part of this application.”

(b) Research and Evaluation Independence and Integrity (if applicable)

If an application involves research (including research and development) and/or evaluation, the applicant must demonstrate research/evaluation independence and integrity, including appropriate safeguards, before it may receive award funds. The applicant must demonstrate independence and integrity regarding both this proposed research and/or evaluation, and any current or prior related projects.

Each application should include an attachment that addresses **both** i. and ii. below.

- i. For purposes of this solicitation, each applicant is to document research and evaluation independence and integrity by including one of the following two items:
 - a. A specific assurance that the applicant has reviewed its application to identify any actual or potential apparent conflicts of interest (including through review of pertinent information on the principal investigator, any co-principal investigators, and any subrecipients), and that the applicant has identified no such conflicts of interest—whether personal or financial or organizational (including on the part of the applicant entity or on the part of staff, investigators, or subrecipients)—that could affect the independence or integrity of the research, including the design, conduct, and reporting of the research.

OR

- b. A specific description of actual or potential apparent conflicts of interest that the applicant has identified—including through review of pertinent information on the principal investigator, any co-principal investigators, and any subrecipients—that could affect the independence or integrity of the research, including the design, conduct, or reporting of the research. These conflicts may be personal (e.g., on the part of investigators or other staff), financial, or organizational (related to the applicant or any subrecipient entity). Some examples of potential investigator (or other personal) conflict situations are those in which an investigator would be in a position to evaluate a spouse’s work product (actual conflict), or an investigator would be in a position to evaluate the work of a former or current colleague (potential apparent conflict). With regard to potential organizational conflicts of interest, as one example, generally an organization would not be given an award to evaluate a project, if that organization had itself provided substantial prior technical assistance to that specific project or a location implementing the project (whether funded by OJP or other sources), because the organization in such an

instance might appear to be evaluating the effectiveness of its own prior work. The key is whether a reasonable person understanding all of the facts would be able to have confidence that the results of any research or evaluation project are objective and reliable. Any outside personal or financial interest that casts doubt on that objectivity and reliability of an evaluation or research product is a problem and must be disclosed.

- ii. In addition, for purposes of this solicitation, each applicant is to address possible mitigation of research integrity concerns by including, at a minimum, one of the following two items:
 - a. If an applicant reasonably believes that no actual or potential apparent conflicts of interest (personal, financial, or organizational) exist, then the applicant should provide a brief narrative explanation of how and why it reached that conclusion. The applicant also is to include an explanation of the specific processes and procedures that the applicant has in place, or will put in place, to identify and prevent (or, at the very least, mitigate) any such conflicts of interest pertinent to the funded project during the period of performance. Documentation that may be helpful in this regard may include organizational codes of ethics/conduct and policies regarding organizational, personal, and financial conflicts of interest. There is no guarantee that the plan, if any, will be accepted as proposed.

OR

- b. If the applicant has identified actual or potential apparent conflicts of interest (personal, financial, or organizational) that could affect the independence and integrity of the research, including the design, conduct, or reporting of the research, the applicant is to provide a specific and robust mitigation plan to address each of those conflicts. At a minimum, the applicant is expected to explain the specific processes and procedures that the applicant has in place, or will put in place, to identify and eliminate (or, at the very least, mitigate) any such conflicts of interest pertinent to the funded project during the period of performance. Documentation that may be helpful in this regard may include organizational codes of ethics/conduct and policies regarding organizational, personal, and financial conflicts of interest. There is no guarantee that the plan, if any, will be accepted as proposed.

OJP will assess research and evaluation independence and integrity based on considerations such as the adequacy of the applicant's efforts to identify factors that could affect the objectivity or integrity of the proposed staff and/or the applicant entity (and any subrecipients) in carrying out the research, development, or evaluation activity; and the adequacy of the applicant's existing or proposed remedies to control any such factors.

(c) Local Governing Body Review

Applicants must submit information via the Certification and Assurances by the Chief Executive (See [Appendix I](#)) which documents that the JAG application was made available for review by the governing body of the unit of local government, or to an organization designated by that governing body, for a period that was not less than 30

days before the application was submitted to BJA. The same Chief Executive Certification will also specify that an opportunity to comment on this application was provided to citizens prior to the application submission to the extent applicable law or established procedures make such opportunity available. In the past, this has been accomplished via submission of specific review dates; now OJP will only accept a chief executive's certification to attest to these facts. Units of local government may continue to submit actual dates of review should they wish to do so, in addition to the submission of the Chief Executive Certification.

How to Apply

An applicant must submit its application through the [Grants Management System \(GMS\)](#), which provides support for the application, award, and management of awards at OJP. Each applicant entity **must register in GMS for each specific funding opportunity**. Although the registration and submission deadlines are the same, OJP urges each applicant entity to **register promptly**, especially if this is the first time the applicant is using the system. Find complete instructions on how to register and submit an application in GMS at www.ojp.gov/gmscbt/. An applicant that experiences technical difficulties during this process should email GMS.HelpDesk@usdoj.gov or call 888-549-9901 (option 3), 24 hours every day, including during federal holidays. OJP recommends that each applicant **register promptly** to prevent delays in submitting an application package by the deadline.

Note on File Types: GMS does not accept executable file types as application attachments. These disallowed file types include, but are not limited to, the following extensions: ".com," ".bat," ".exe," ".vbs," ".cfg," ".dat," ".db," ".dbf," ".dll," ".ini," ".log," ".ora," ".sys," and ".zip."

Every applicant entity must comply with all applicable System for Award Management (SAM) and unique entity identifier (currently, a Data Universal Numbering System [DUNS] number) requirements. If an applicant entity has not fully complied with applicable SAM and unique identifier requirements by the time OJP makes award decisions, OJP may determine that the applicant is not qualified to receive an award and may use that determination as a basis for making the award to a different applicant.

All applicants should complete the following steps:

1. Acquire a unique entity identifier (DUNS number). In general, the Office of Management and Budget requires every applicant for a federal award (other than an individual) to include a "unique entity identifier" in each application, including an application for a supplemental award. Currently, a DUNS number is the required unique entity identifier.

A DUNS number is a unique nine-digit identification number provided by the commercial company Dun and Bradstreet. This unique entity identifier is used for tracking purposes, and to validate address and point of contact information for applicants, recipients, and subrecipients. It will be used throughout the life cycle of an OJP award. Obtaining a DUNS number is a free, one-time activity. Call Dun and Bradstreet at 866-705-5711 to obtain a DUNS number or apply online at www.dnb.com. A DUNS number is usually received within 1–2 business days.

2. Acquire registration with the SAM. SAM is the repository for certain standard information about federal financial assistance applicants, recipients, and subrecipients. All applicants for OJP awards (other than individuals) must maintain current registrations in the SAM database.

Each applicant must **update or renew its SAM registration at least annually** to maintain an active status. SAM registration and renewal can take as long as 10 business days to complete.

Information about SAM registration procedures can be accessed at <https://www.sam.gov/>.

3. Acquire a GMS username and password. New users must create a GMS profile by selecting the “First Time User” link under the sign-in box of the [GMS](#) home page. For more information on how to register in GMS, go to www.ojp.gov/gmscbt. Previously registered applicants should ensure, prior to applying, that the user profile information is up-to-date in GMS (including, but not limited to, address, legal name of agency and authorized representative) as this information is populated in any new application.

4. Verify the SAM (formerly CCR) registration in GMS. OJP requires each applicant to verify its SAM registration in GMS. Once logged into GMS, click the “CCR Claim” link on the left side of the default screen. Click the submit button to verify the SAM (formerly CCR) registration.

5. Search for the funding opportunity on GMS. After logging into GMS or completing the GMS profile for username and password, go to the “Funding Opportunities” link on the left side of the page. Select BJA and **FY 17 Edward Byrne Memorial Local Justice Assistance Grant (JAG) Program**.

6. Register by selecting the “Apply Online” button associated with the funding opportunity title. The search results from step 5 will display the “funding opportunity” (solicitation) title along with the registration and application deadlines for this solicitation. Select the “Apply Online” button in the “Action” column to register for this solicitation and create an application in the system.

7. Follow the directions in GMS to submit an application consistent with this solicitation. Once the application is submitted, GMS will display a confirmation screen stating the submission was successful. **Important:** In some instances, applicants must wait for GMS approval before submitting an application. OJP urges each applicant to submit its application **at least 72 hours prior** to the application due date.

Note: Application Versions

If an applicant submits multiple versions of the same application, OJP will review **only** the most recent system-validated version submitted.

Experiencing Unforeseen GMS Technical Issues

An applicant that experiences unforeseen GMS technical issues beyond its control that prevent it from submitting its application by the deadline may contact the [GMS Help Desk](#) or the [SAM Help Desk](#) (Federal Service Desk) to report the technical issue and receive a tracking number. The applicant is expected to email the NCJRS Response Center identified in the Contact Information section on the title page **within 24 hours after the application deadline** to request approval to submit its application after the deadline. The applicant’s email must describe the technical difficulties, and must include a timeline of the applicant’s submission efforts, the complete grant application, the applicant’s DUNS number, and any GMS Help Desk or SAM tracking number(s).

Note: OJP does not automatically approve requests to submit a late application. After OJP reviews the applicant’s request, and contacts the GMS Help Desk to verify the reported technical issues, OJP will inform the applicant whether the request to submit a late application

has been approved or denied. If OJP determines that the untimely application submission was due to the applicant's failure to follow all required procedures, OJP will deny the applicant's request to submit its application.

The following conditions generally are insufficient to justify late submissions to OJP solicitations:

- Failure to register in SAM or GMS in sufficient time (SAM registration and renewal can take as long as 10 business days to complete.)
- Failure to follow GMS instructions on how to register and apply as posted on the GMS website
- Failure to follow each instruction in the OJP solicitation
- Technical issues with the applicant's computer or information technology environment such as issues with firewalls

E. Application Review Information

Review Process

OJP is committed to ensuring a fair and open process for making awards. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. BJA will also review applications to help ensure that JAG program-statute requirements have been met.

Pursuant to the (DOJ) Part 200 Uniform Requirements, before awards are made, OJP also reviews information related to the degree of risk posed by applicants. Among other things, to help assess whether an applicant that has one or more prior federal awards has a satisfactory record with respect to performance, integrity, and business ethics, OJP checks whether the applicant is listed in SAM as excluded from receiving a federal award. In addition, if OJP anticipates that an award will exceed \$150,000 in federal funds, OJP also must review and consider any information about the applicant that appears in the non-public segment of the integrity and performance system accessible through SAM (currently, the Federal Awardee Performance and Integrity Information System; "FAPIIS").

Important note on FAPIIS: An applicant, at its option, may review and comment on any information about itself that currently appears in FAPIIS and was entered by a federal awarding agency. OJP will consider any such comments by the applicant, in addition to the other information in FAPIIS, in its assessment of the risk posed by the applicant.

The evaluation of risks goes beyond information in SAM, however. OJP itself has in place a framework for evaluating risks posed by applicants. OJP takes into account information pertinent to matters such as—

1. Applicant financial stability and fiscal integrity
2. Quality of the management systems of the applicant, and the applicant's ability to meet prescribed management standards, including those outlined in the DOJ Grants Financial Guide
3. Applicant's history of performance under OJP and other DOJ awards (including compliance with reporting requirements and award conditions), as well as awards from other federal agencies

4. Reports and findings from audits of the applicant, including audits under the (DOJ) Part 200 Uniform Requirements
5. Applicant's ability to comply with statutory and regulatory requirements, and to effectively implement other award requirements

Absent explicit statutory authorization or written delegation of authority to the contrary, the Assistant Attorney General will make all final award decisions.

F. Federal Award Administration Information

Federal Award Notices

OJP expects to issue award notifications by September 30, 2017. OJP sends award notifications by email through GMS to the individuals listed in the application as the point of contact and the authorizing official. The email notification includes detailed instructions on how to access and view the award documents, and steps to take in GMS to start the award acceptance process. GMS automatically issues the notifications at 9:00 p.m. eastern time on the award date.

NOTE: In order validly to accept an award under the FY 2017 JAG Program, a unit of local government (other than an Indian tribal government) must submit to GMS the certification by its chief legal officer regarding compliance with 8 U.S.C. § 1373, executed using the form that appears in [Appendix II](#). (The form also may be downloaded at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>.) Unless the executed certification either (1) is submitted to OJP together with the signed award document or (2) is uploaded in GMS no later than the day the signed award document is submitted, **OJP will reject as invalid** any submission by a unit of local government (other than an Indian tribal government) that purports to accept an award under this solicitation.

Rejection of an initial submission as an invalid award acceptance is not a denial of the award. Consistent with award requirements, once the unit of local government **does** submit the necessary certification regarding 8 U.S.C. § 1373, the unit of local government **will** be permitted to submit an award document executed by the unit of local government on or after the date of that certification.

Also, in order for a unit of local government applicant validly to accept an award under the FY 2017 JAG Program, an individual with the necessary authority to bind the applicant will be required to log in; execute a set of legal certifications and a set of legal assurances; designate a financial point of contact; thoroughly review the award, including **all** award conditions; and sign and accept the award. The award acceptance process requires physical signature of the award document by the authorized representative and the scanning of the fully executed award document (along with the required certification regarding 8 U.S.C. § 1373, if not already uploaded in GMS) to OJP.

Statutory and Regulatory Requirements; Award Conditions

If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with all award requirements (including all award conditions), as well as all applicable requirements of federal statutes and regulations (including those referred to in assurances and certifications executed as part of the application or in

connection with award acceptance, and administrative and policy requirements set by statute or regulation).

OJP strongly encourages prospective applicants to review information on post-award legal requirements generally applicable to FY 2017 OJP awards and common OJP award conditions **prior** to submitting an application.

Applicants should consult the "[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017 Awards](#)," available in the [OJP Funding Resource Center](#). In addition, applicants should examine the following two legal documents, as each successful applicant must execute both documents in GMS before it may receive any award funds.

- [Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements](#)
- OJP Certified Standard Assurances (attached to this solicitation as [Appendix IV](#))

The web pages accessible through the "[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017 Awards](#)" are intended to give applicants for OJP awards a general overview of important statutes, regulations, and award conditions that apply to many (or in some cases, all) OJP grants and cooperative agreements awarded in FY 2017. Individual OJP awards typically also will include additional award conditions. Those additional conditions may relate to the particular statute, program, or solicitation under which the award is made; to the substance of the funded application; to the recipient's performance under other federal awards; to the recipient's legal status (e.g., as a for-profit entity); or to other pertinent considerations.

Individual FY 2017 JAG awards will include two new express conditions that, with respect to the "program or activity" that would be funded by the FY 2017 award, are designed to ensure that States and units of local government that receive funds from the FY 2017 JAG award: (1) permit personnel of the U.S. Department of Homeland Security (DHS) to access any correctional or detention facility in order to meet with an alien (or an individual believed to be an alien) and inquire as to his or her right to be or remain in the United States and (2) provide at least 48 hours' advance notice to DHS regarding the scheduled release date and time of an alien in the jurisdiction's custody when DHS requests such notice in order to take custody of the alien pursuant to the Immigration and Nationality Act.

Compliance with the requirements of the two foregoing new award conditions will be an authorized and priority purpose of the award. The reasonable costs (to the extent not reimbursed under any other federal program) of developing and putting into place statutes, rules, regulations, policies, or practices as required by these conditions, and to honor any duly authorized requests from DHS that is encompassed by these conditions, will be allowable costs under the award.

General Information about Post-Federal Award Reporting Requirements

A unit of local government recipient of an award under this solicitation will be required to submit the following reports and data:

Required reports. Recipients typically must submit quarterly financial status reports, semi-annual progress reports, final financial and progress reports, and, if applicable, an annual audit report in accordance with the (DOJ) Part 200 Uniform Requirements or specific award conditions. Future awards and fund drawdowns may be withheld if reports are delinquent. (In appropriate cases, OJP may require additional reports.)

Awards that exceed \$500,000 will include an additional condition that, under specific circumstances, will require the recipient to report (to FAPIIS) information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either the OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Additional information on this reporting requirement appears in the text of the award condition posted on the OJP website at: <https://ojp.gov/funding/FAPIIS.htm>

Data on performance measures. In addition to required reports, each recipient of an award under this solicitation also must provide data that measure the results of the work done under the award. To demonstrate program progress and success, as well as to assist DOJ with fulfilling its responsibilities under GPRA and the GPRA Modernization Act of 2010, OJP will require State recipients to provide accountability metrics data. Accountability metrics data must be submitted through BJA's Performance Measurement Tool (PMT), available at <https://bjapmt.ojp.gov>. The accountability measures are available at: <https://bjapmt.ojp.gov/help/jagdocs.html>. (Note that if a law enforcement agency receives JAG funds from a State, the State must submit quarterly accountability metrics data related to training that officers have received on use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.)

OJP may restrict access to award funds if a recipient of an OJP award fails to report required performance measures data in a timely manner.

G. Federal Awarding Agency Contact(s)

For OJP contact(s), see the title page of this solicitation.

For contact information for GMS, see the title page.

H. Other Information

Freedom of Information Act and Privacy Act (5 U.S.C. § 552 and 5 U.S.C. § 552a)

All applications submitted to OJP (including all attachments to applications) are subject to the federal Freedom of Information Act (FOIA) and to the Privacy Act. By law, DOJ may withhold information that is responsive to a request pursuant to FOIA if DOJ determines that the responsive information either is protected under the Privacy Act or falls within the scope of one of nine statutory exemptions under FOIA. DOJ cannot agree in advance of a request pursuant to FOIA not to release some or all portions of an application.

In its review of records that are responsive to a FOIA request, OJP will withhold information in those records that plainly falls within the scope of the Privacy Act or one of the statutory exemptions under FOIA. (Some examples include certain types of information in budgets, and names and contact information for project staff other than certain key personnel.) In appropriate

circumstances, OJP will request the views of the applicant/recipient that submitted a responsive document.

For example, if OJP receives a request pursuant to FOIA for an application submitted by a nonprofit or for-profit organization or an institution of higher education, or for an application that involves research, OJP typically will contact the applicant/recipient that submitted the application and ask it to identify—quite precisely—any particular information in the application that applicant/recipient believes falls under a FOIA exemption, the specific exemption it believes applies, and why. After considering the submission by the applicant/recipient, OJP makes an independent assessment regarding withholding information. OJP generally follows a similar process for requests pursuant to FOIA for applications that may contain law-enforcement sensitive information.

Provide Feedback to OJP

To assist OJP in improving its application and award processes, OJP encourages applicants to provide feedback on this solicitation, the application submission process, and/or the application review process. Provide feedback to OJPSolicitationFeedback@usdoj.gov.

IMPORTANT: This email is for feedback and suggestions only. OJP does **not** reply to messages it receives in this mailbox. A prospective applicant that has specific questions on any program or technical aspect of the solicitation **must** use the appropriate telephone number or email listed on the front of this solicitation document to obtain information. These contacts are provided to help ensure that prospective applicants can directly reach an individual who can address specific questions in a timely manner.

If you are interested in being a reviewer for other OJP grant applications, please email your résumé to ojppeerreview@lmsolas.com. (Do not send your résumé to the OJP Solicitation Feedback email account.) **Note:** Neither you nor anyone else from your organization or entity can be a peer reviewer in a competition in which you or your organization/entity has submitted an application.

Application Checklist

Edward Byrne Memorial Justice Assistance Grant (JAG) Program:

FY 2017 Local Solicitation

This application checklist has been created as an aid in developing an application.

What an Applicant Should Do:

Prior to Registering in GMS:

- _____ Acquire a DUNS Number (see page 27)
- _____ Acquire or renew registration with SAM (see page 27)

To Register with GMS:

- _____ For new users, acquire a GMS username and password* (see page 27)
- _____ For existing users, check GMS username and password* to ensure account access (see page 27)
- _____ Verify SAM registration in GMS (see page 27)
- _____ Search for correct funding opportunity in GMS (see page 27)
- _____ Select correct funding opportunity in GMS (see page 27)
- _____ Register by selecting the “Apply Online” button associated with the funding opportunity title (see page 27)
- _____ Read OJP policy and guidance on conference approval, planning, and reporting available at ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm (see page 14)
- _____ If experiencing technical difficulties in GMS, contact the NCJRS Response Center (see page 2)

*Password Reset Notice – GMS users are reminded that while password reset capabilities exist, this function is only associated with points of contact designated within GMS at the time the account was established. Neither OJP nor the GMS Help Desk will initiate a password reset unless requested by the authorized official or a designated point of contact associated with an award or application.

Overview of Post-Award Legal Requirements:

- _____ Review the “[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2017 Awards](#)” in the OJP Funding Resource Center.

Scope Requirement:

- _____ The federal amount requested is within the allowable limit(s) of the FY 2017 JAG Allocations List as listed on BJA’s [JAG web page](#).

What an Application Should Include:

_____ Application for Federal Assistance (SF-424)	(see page 16)
_____ Project Abstract	(see page 16)
_____ Program Narrative	(see page 17)
_____ Budget Detail Worksheet	(see page 18)
_____ Budget Narrative	(see page 18)
_____ Indirect Cost Rate Agreement (if applicable)	(see page 21)
_____ Tribal Authorizing Resolution (if applicable)	(see page 21)
_____ Financial Management and System of Internal Controls Questionnaire	(see page 22)
_____ Disclosure of Lobbying Activities (SF-LLL) (if applicable)	(see page 22)
_____ Certifications and Assurances by Chief Executive	(see page 22)
_____ Certification of Compliance with 8 U.S.C. § 1373 by Chief Legal Officer (Note: this requirement does not apply to Indian tribal governments.)	(see page 23)
_____ OJP Certified Standard Assurances	(see page 40)
_____ Additional Attachments	
_____ Applicant Disclosure of Pending Applications	(see page 23)
_____ Research and Evaluation Independence and Integrity (if applicable)	(see page 24)

Appendix I

Certifications and Assurances by the Chief Executive of the Applicant Government

Template for use by *chief executive* of the “Unit of local government” (e.g., the mayor)

Note: By law, for purposes of the JAG Program, the term “unit of local government ” includes a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government may be any law enforcement district or judicial enforcement district established under applicable State law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

**Edward Byrne Justice Assistance Grant Program
FY 2017 Local Solicitation**

**Certifications and Assurances
by the Chief Executive of the Applicant Government**

On behalf of the applicant unit of local government named below, in support of that locality's application for an award under the FY 2017 Edward Byrne Justice Assistance Grant ("JAG") Program, and further to 42 U.S.C. § 3752(a), I certify under penalty of perjury to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief executive of the applicant unit of local government named below, and I have the authority to make the following representations on my own behalf and on behalf of the applicant unit of local government. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant unit of local government.
2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.
3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the unit of local government (e.g., city council or county commission), or to an organization designated by that governing body, not less than 30 days before the date of this certification.
4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.
5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant unit of local government will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require.
6. I certify that— (a) the programs to be funded by the award (if any) that OJP makes based on the application described above meet all the requirements of the JAG Program statute (42 U.S.C. §§ 3750-3758); (b) all the information contained in that application is correct; (c) in connection with that application, there has been appropriate coordination with affected agencies; and (d) in connection with that award (if any), the applicant unit of local government will comply with all provisions of the JAG Program statute and all other applicable federal laws.
7. I have examined certification entitled "State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. § 1373" executed by the chief legal officer of the applicant government with respect to the FY 2017 JAG program and submitted in support of the application described above, and I hereby adopt that certification as my own on behalf of that government.

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the applicant unit of local government to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by USDOJ, including by OJP and by the USDOJ Office of the Inspector General.

Signature of Chief Executive of the Applicant Unit of
Local Government

Date of Certification

Printed Name of Chief Executive

Title of Chief Executive

Name of Applicant Unit of Local Government

Appendix II

State or Local Government:

Certification of Compliance with 8 U.S.C. § 1373

Template for use by the *chief legal officer* of the “Local Government” (e.g., the General Counsel) (Note: this Certification is not required by Indian tribal government applicants.)

Available for download at:

<https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>

**U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS**

State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. § 1373

On behalf of the applicant government entity named below, and in support of its application, I certify under penalty of perjury to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDJ"), that all of the following are true and correct:

- (1) I am the chief legal officer of the State or local government of which the applicant entity named below is a part ("the jurisdiction"), and I have the authority to make this certification on behalf of the jurisdiction and the applicant entity (that is, the entity applying directly to OJP). I understand that OJP will rely upon this certification as a material representation in any decision to make an award to the applicant entity.
- (2) I have carefully reviewed 8 U.S.C. § 1373(a) and (b), including the prohibitions on certain actions by State and local government entities, -agencies, and -officials regarding information on citizenship and immigration status. I also have reviewed the provisions set out at (or referenced in) 8 U.S.C. § 1551 note ("Abolition ... and Transfer of Functions"), pursuant to which references to the "Immigration and Naturalization Service" in 8 U.S.C. § 1373 are to be read, as a legal matter, as references to particular components of the U.S. Department of Homeland Security.
- (3) I (and also the applicant entity) understand that the U.S. Department of Justice will require States and local governments (and agencies or other entities thereof) to comply with 8 U.S.C. § 1373, with respect to any "program or activity" funded in whole or in part with the federal financial assistance provided through the FY 2017 OJP program under which this certification is being submitted ("the FY 2017 OJP Program" identified below), specifically including any such "program or activity" of a governmental entity or -agency that is a subrecipient (at any tier) of funds under the FY 2017 OJP Program.
- (4) I (and also the applicant entity) understand that, for purposes of this certification, "program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. § 2000d-4a), and that terms used in this certification that are defined in 8 U.S.C. § 1101 mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (*cf.* 42 U.S.C. § 901(a)(2)). Also, I understand that, for purposes of this certification, neither a "public" institution of higher education (*i.e.*, one that is owned, controlled, or directly funded by a State or local government) nor an Indian tribe is considered a State or local government entity or -agency.
- (5) I have conducted (or caused to be conducted for me) a diligent inquiry and review concerning both—
 - (a) the "program or activity" to be funded (in whole or in part) with the federal financial assistance sought by the applicant entity under this FY 2017 OJP Program; and
 - (b) any prohibitions or restrictions potentially applicable to the "program or activity" sought to be funded under the FY 2017 OJP Program that deal with sending to, requesting or receiving from, maintaining, or exchanging information of the types described in 8 U.S.C. § 1373(a) or (b), whether imposed by a State or local government entity, -agency, or -official.
- (6) As of the date of this certification, neither the jurisdiction nor any entity, agency, or official of the jurisdiction has in effect, purports to have in effect, or is subject to or bound by, any prohibition or any restriction that would apply to the "program or activity" to be funded in whole or in part under the FY 2017 OJP Program (which, for the specific purpose of this paragraph 6, shall not be understood to include any such "program or activity" of any subrecipient at any tier), and that deals with either— (1) a government entity or -official sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. § 1373(a); or (2) a government entity or -agency sending to, requesting or receiving from, maintaining, or exchanging information of the types (and with respect to the entities) described in 8 U.S.C. § 1373(b).

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the applicant entity to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and §§ 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by USDJ, including by OJP and by the USDJ Office of the Inspector General.

Signature of Chief Legal Officer of the Jurisdiction

Printed Name of Chief Legal Officer

Date of Certification

Title of Chief Legal Officer of the Jurisdiction

Name of Applicant Government Entity (*i.e.*, the applicant to the FY 2017 OJP Program identified below)

FY 2017 OJP Program: Byrne Justice Assistance Grant ("JAG") Program

Appendix III

8 U.S.C. § 1373 (as in effect on June 21, 2017)

Communication between government agencies and the Immigration and Naturalization Service

(a) In general

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) Additional authority of government entities

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2) Maintaining such information.
- (3) Exchanging such information with any other Federal, State, or local government entity.

(c) Obligation to respond to inquiries

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

See *also* provisions set out at (or referenced in) 8 U.S.C. § 1551 note (“Abolition ... and Transfer of Functions”)

Appendix IV

OJP Certified Standard Assurances

OMB No. 1121-0140
Expires 5/31/2019

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

CERTIFIED STANDARD ASSURANCES

On behalf of the Applicant, and in support of this application for a grant or cooperative agreement, I certify under penalty of perjury to the Office of Justice Programs (OJP), U.S. Department of Justice ("Department"), that all of the following are true and correct:

- (1) I have the authority to make the following representations on behalf of myself and the Applicant. I understand that these representations will be relied upon as material in any OJP decision to make an award to the Applicant based on its application.
- (2) I certify that the Applicant has the legal authority to apply for the federal assistance sought by the application, and that it has the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project costs) to plan, manage, and complete the project described in the application properly.
- (3) I assure that, throughout the period of performance for the award (if any) made by OJP based on the application—
 - (a) the Applicant will comply with all award requirements and all federal statutes and regulations applicable to the award;
 - (b) the Applicant will require all subrecipients to comply with all applicable award requirements and all applicable federal statutes and regulations; and
 - (c) the Applicant will maintain safeguards to address and prevent any organizational conflict of interest, and also to prohibit employees from using their positions in any manner that poses, or appears to pose, a personal or financial conflict of interest.
- (4) The Applicant understands that the federal statutes and regulations applicable to the award (if any) made by OJP based on the application specifically include statutes and regulations pertaining to civil rights and nondiscrimination, and, in addition—
 - (a) the Applicant understands that the applicable statutes pertaining to civil rights will include section 601 of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); section 901 of the Education Amendments of 1972 (20 U.S.C. § 1881); and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. § 6102);
 - (b) the Applicant understands that the applicable statutes pertaining to nondiscrimination may include section 815(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d(c)); section 1407(e) of the Victims of Crime Act of 1984 (42 U.S.C. § 10604(e)); section 299A(b) of the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); and that the grant condition set out at section 40002(b)(13) of the Violence Against Women Act (42 U.S.C. § 13925(b)(13)) also may apply;
 - (c) the Applicant understands that it must require any subrecipient to comply with all such applicable statutes (and associated regulations); and
 - (d) on behalf of the Applicant, I make the specific assurances set out in 28 C.F.R. §§ 42.105 and 42.204.
- (5) The Applicant also understands that (in addition to any applicable program-specific regulations and to applicable federal regulations that pertain to civil rights and nondiscrimination) the federal regulations applicable to the award (if any) made by OJP based on the application may include, but are not limited to, 2 C.F.R. Part 2800 (the DOJ "Part 200 Uniform Requirements") and 28 C.F.R. Parts 22 (confidentiality - research and statistical information), 23 (criminal intelligence systems), and 46 (human subjects protection).
- (6) I assure that the Applicant will assist OJP as necessary (and will require subrecipients and contractors to assist as necessary) with the Department's compliance with section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306106), the Archeological and Historical Preservation Act of 1974 (54 U.S.C. §§ 312501-312508), and the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4335), and 28 C.F.R. Parts 61 (NEPA) and 63 (floodplains and wetlands).
- (7) I assure that the Applicant will give the Department and the Government Accountability Office, through any authorized representative, access to, and opportunity to examine, all paper or electronic records related to the award (if any) made by OJP based on the application.
- (8) I assure that, if the Applicant is a governmental entity, with respect to the award (if any) made by OJP based on the application—
 - (a) it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
 - (b) it will comply with requirements of 5 U.S.C. §§ 1501-1508 and 7324-7328, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 42 U.S.C. § 3795a), and also may subject me and the Applicant to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and 3801-3812). I also acknowledge that OJP awards, including certifications provided in connection with such awards, are subject to review by the Department, including by OJP and by the Department's Office of the Inspector General.