

Staff Summary Report



Council Meeting Date: 04/23/2009

Agenda Item Number: 43

SUBJECT: Request approval of a resolution to enter into a Memorandum of Understanding (MOU) with Maricopa County to accept funding from the Justice Assistance Grant (JAG) program.

DOCUMENT NAME: 20090423pdsj01 **POLICE DEPARTMENT ADMINISTRATION (0606-02)**
Resolution No. 2009.28

SUPPORTING DOCS: Memorandum of Understanding
Jag Program Partner Certifications and Assurances

COMMENTS: Funding in the amount of \$510,423.

PREPARED BY: Shannon Johnson, Management Assistant II **EXT. 2023**

REVIEWED BY: Paul Bentley, Fiscal & Research Administrator **EXT. 6204**

LEGAL REVIEW BY: Bill Amato, Police Legal Advisor **EXT. 8610**

DEPARTMENT APPROVAL: Tom Ryff, Chief of Police **EXT. 8214**

FISCAL NOTE: N/A

RECOMMENDATION: Approve and sign the MOU and Certifications & Assurances.

ADDITIONAL INFO: The PD seeks to utilize this funding to help prevent the elimination of critical sworn positions.

RESOLUTION NO. 2009.28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN MARICOPA COUNTY AND THE CITY OF TEMPE FOR JUSTICE ASSISTANCE GRANT PROGRAM DOLLARS, AND AUTHORIZING THE CHIEF OF POLICE OR HIS DESIGNEE TO ACT AS AGENT OF THE CITY OF TEMPE FOR ALL NEGOTIATIONS AND NECESSARY INSTRUMENTS.

WHEREAS, the City of Tempe, at the recommendation of the Police Department, will approve the Memorandum of Understanding; and

WHEREAS, this project is for the benefit of all citizens of Tempe; and

WHEREAS, the project is compatible with the laws of the United States of America, Arizona and the City of Tempe.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, HEREBY:

1. Approves the Memorandum of Understanding between Maricopa County and the City of Tempe; and
2. Gives authority to the Tempe Chief of Police or his designee, to act as agent of the City of Tempe to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments, billing statements, and any other necessary or desirable instruments in connection with such funding.

PASSED, ADOPTED, AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2009.

Hugh Hallman, MAYOR

ATTEST:

Jan Hort, City Clerk

APPROVED AS TO FORM:

Andrew Ching, City Attorney

CONTRACT NO. _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

KNOW ALL BY THESE PRESENT

**MEMORANDUM OF UNDERSTANDING
AMONG**

CITY OF AVONDALE, TOWN OF BUCKEYE, CITY OF CHANDLER, CITY OF EL MIRAGE, TOWN OF GILBERT, CITY OF GLENDALE, CITY OF GOODYEAR, CITY OF MESA, CITY OF PEORIA, CITY OF PHOENIX, CITY OF SCOTTSDALE, CITY OF TEMPE, CITY OF TOLLESON, CITY OF SURPRISE, TOWN OF YOUNGTOWN AND COUNTY OF MARICOPA, ARIZONA

2009 BYRNE JUSTICE ASSISTANCE GRANT PROGRAM AWARD

This Memorandum of Understanding (MOU) is made and entered into by and among the COUNTY of MARICOPA, hereinafter referred to as COUNTY; and the CITY of AVONDALE; and the TOWN of BUCKEYE; and the CITY of CHANDLER; and the CITY of EL MIRAGE; and the TOWN of GILBERT; and the CITY of GLENDALE; and the CITY of GOODYEAR; and the CITY of MESA; and the CITY of PEORIA; and the CITY of PHOENIX; and the CITY of SCOTTSDALE; and the CITY of TEMPE; and the CITY of TOLLESON; and the CITY of SURPRISE; and the TOWN of YOUNGTOWN, hereinafter referred to as CITIES and TOWNS; all of Maricopa County, State of Arizona, witnesseth:

WHEREAS, this MOU is made under the authority of A.R.S. §§11-201, et seq.:

WHEREAS, the CITIES and TOWNS and the COUNTY have become entitled to certain grant funds through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this MOU is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and

WHEREAS, the COUNTY agrees to receive \$10,536,695 from the JAG award for the Maricopa County JAG Program; and

WHEREAS, the CITIES and TOWNS and COUNTY believe it to be in their best interests to reallocate the JAG funds;

NOW THEREFORE, the COUNTY and CITIES and TOWNS agree as follows:

Section 1

- COUNTY agrees to pay City of Avondale a total of \$47,883 of JAG funds.
- COUNTY agrees to pay Town of Buckeye a total of \$21,614 of JAG funds.
- COUNTY agrees to pay City of Chandler a total of \$433,610 of JAG funds.
- COUNTY agrees to pay City of El Mirage a total of \$43,893 of JAG funds.
- COUNTY agrees to pay Town of Gilbert a total of \$117,214 of JAG funds.
- COUNTY agrees to pay City of Glendale a total of \$740,863 of JAG funds.
- COUNTY agrees to pay City of Goodyear a total of \$56,197 of JAG funds.
- COUNTY agrees to pay City of Mesa a total of \$1,095,332 of JAG funds.
- COUNTY agrees to pay City of Peoria a total of \$159,778 of JAG funds.
- COUNTY agrees to pay City of Phoenix a total of \$5,494,118 of JAG funds.
- COUNTY agrees to pay City of Scottsdale a total of \$234,096 of JAG funds.

GMS APPLICATION NUMBER 2009-F1486-AZ-SB (Mandatory)

COUNTY agrees to pay City of Tempe a total of \$510,423 of JAG funds.
COUNTY agrees to pay City of Tolleson a total of \$32,920 of JAG funds.
COUNTY agrees to pay City of Surprise a total of \$57,194 of JAG funds.
COUNTY agrees to pay Town of Youngtown a total of \$13,800 of JAG funds.

All payments to CITIES and TOWNS will be made within thirty (30) days after receipt of the JAG funds by COUNTY.

Section 2

COUNTY agrees to use \$1,477,760 for the JAG Program until September 30, 2012.

Section 3

1. **Term.** This Agreement shall be in effect for the term of the FY2009 JAG grant, being October 1, 2008 through September 30, 2012, unless terminated sooner in accordance with the terms of the grant, and such reasonable time thereafter as may be needed to complete the administration of the grant.
2. **Obligations of the COUNTY.** The COUNTY agrees to administer the Funds as provided in Section 1, and shall:
 - A. Ensure that the funds received by COUNTY are dispersed to the CITIES and TOWNS in accordance to this MOU, and shall
 - B. Collect and transmit to the appropriate Federal funding authorities all financial and program reports as required by the terms and conditions of the grant and applicable Federal regulations.
3. **Obligations of the CITIES and TOWNS.** During the term of this Agreement;
 - A. The CITIES and TOWNS agree that the COUNTY will administer the Funds as provided in Section 1.
 - B. The CITIES and TOWNS will maintain and provide to the COUNTY all financial and program reports as required by the terms and conditions of the grant and applicable Federal regulations.
 - C. The CITIES and TOWNS will be responsible for their own actions in providing services under this MOU and shall hold harmless the parties to this MOU from any liability that may arise from the furnishing of the services by the other parties.
4. **DISCLAIMER.** This MOU is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, agency, partnership or formal business association or organization of any kind among the parties, and the rights and obligations of the parties shall be only those expressly set forth in this MOU.
5. **NON-AVAILABILITY OF FUNDS.** Each payment obligation of the parties created hereby is conditioned on the availability of funds. The parties recognize that the continuation of this MOU after the close of any of their respective fiscal years shall be subject to the approval of their respective governing bodies providing an appropriation covering this item as an expenditure. None of the parties represent that said budget items will be actually adopted.

6. NOTICES. Notices provided under this Agreement shall be directed to the following persons:

<p>The COUNTY:</p> <p>Teresa Tschupp C/O Juvenile Probation Department Finance Office 3125 W. Durango Phoenix, AZ 85009 602-372-0332 Fax: 602-506-4165</p>	<p>The CITY of AVONDALE</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p>
<p>The TOWN of BUCKEYE</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p>	<p>The CITY of CHANDLER</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p>
<p>The CITY of EL MIRAGE</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p>	<p>The TOWN of GILBERT</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p>
<p>The CITY of GLENDALE</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p>	<p>The CITY of GOODYEAR</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p>

The CITY of <u>MESA</u> Name: Address: Address: Address: City/St/Zip: Phone: Fax:	The CITY of <u>PEORIA</u> Name: Address: Address: Address: City/St/Zip: Phone: Fax:
The CITY of <u>PHOENIX</u> Name: Address: Address: Address: City/St/Zip: Phone: Fax:	The CITY of <u>SCOTTSDALE</u> Name: Address: Address: Address: City/St/Zip: Phone: Fax:
The CITY of <u>TEMPE</u> Name: Chief of Police Thomas Ryff Address: Tempe Police Department Address: 120 East Fifth Street Address: City/St/Zip: Tempe, AZ 85281 Phone: 480-350-8306 Fax: 480-350-8337	The CITY of <u>TOLLESON</u> Name: Address: Address: Address: City/St/Zip: Phone: Fax:
The CITY of <u>SURPRISE</u> Name: Address: Address: Address: City/St/Zip: Phone: Fax:	The TOWN of <u>YOUNGTOWN</u> Name: Address: Address: Address: City/St/Zip: Phone: Fax:

Section 4

The parties to this MOU do not intend for any third party to obtain a right by virtue of this MOU.

Section 5

CONFLICT OF INTEREST. This MOU is subject to A.R.S. §38-511.

Section 6

By entering into this MOU, the parties do not intend to create any obligations express or implied other than those set out herein; further, this MOU shall not create any rights in any party not a signatory hereto.

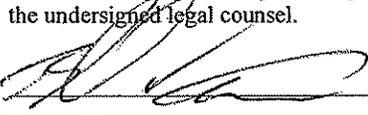
Section 7

This MOU shall not be effective until filed with the Maricopa County Recorder's Office.

<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Deputy County Attorney Date</p>	<p>MARICOPA COUNTY</p> <p>By: _____ Max Wilson</p> <p>Its: <u>Chairman of the Board of Supervisors</u></p> <p>Attest: _____ Fran McCarroll, Clerk of the Board</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Avondale City Attorney Date</p>	<p>CITY OF AVONDALE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Buckeye Town Attorney Date</p>	<p>TOWN OF BUCKEYE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Chandler City Attorney Date</p>	<p>CITY OF CHANDLER</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>

<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>El Mirage City Attorney Date</p>	<p>CITY OF EL MIRAGE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Gilbert Town Attorney Date</p>	<p>TOWN OF GILBERT</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Glendale City Attorney Date</p>	<p>CITY OF GLENDALE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Goodyear City Attorney Date</p>	<p>CITY OF GOODYEAR</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>

<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Mesa City Attorney Date</p>	<p>CITY OF MESA</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Peoria City Attorney Date</p>	<p>CITY OF PEORIA</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Phoenix City Attorney Date</p>	<p>CITY OF PHOENIX</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Scottsdale City Attorney Date</p>	<p>CITY OF SCOTTSDALE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p>

<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p> 4/10/09 Date</p> <p>Tempe City Attorney</p>	<p>CITY OF TEMPE</p> <p>By: _____ Type Name: _____ Its: _____ Attest: _____ DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____ Tolleson City Attorney Date</p>	<p>CITY OF TOLLESON</p> <p>By: _____ Type Name: _____ Its: _____ Attest: _____ DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____ Surprise City Attorney Date</p>	<p>CITY OF SURPRISE</p> <p>By: _____ Type Name: _____ Its: _____ Attest: _____ DATE: _____</p>
<p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____ Youngtown Town Attorney Date</p>	<p>TOWN OF YOUNGTOWN</p> <p>By: _____ Type Name: _____ Its: _____ Attest: _____ DATE: _____</p>

JAG GRANT
PROGRAM PARTNER CERTIFICATIONS AND ASSURANCES

Instructions:

Please prepare the attachments for review and signature by the City/Town/County Manager (or designee).

After review and signature of the certifications (page 2 & 3 of this document), please submit scanned signature pages to:

Teresa Tschupp
Management Analyst
Maricopa County Juvenile Probation Department

TerTsc@juvenile.maricopa.gov

Each partner agency is required to submit certifications for the combined application.

Questions should be directed to Teresa Tschupp via email
(TerTsc@juvenile.maricopa.gov) or telephone: 602-372-0332

Thank you.

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Recovery Act – Justice Assistance Grant (JAG) Program

**General Certification as to Requirements for Receipt of Funds
for Infrastructure Investments**

On behalf of the applicant State or unit of local government (including tribal government) named below, I certify the following to the Office of Justice Programs (“OJP”), U.S. Department of Justice: I have personally read and reviewed the section entitled “Eligibility” in the program announcement for the Recovery Act grant program named above. I also have personally read and reviewed section 1511 of the American Recovery and Reinvestment Act of 2009 (the “Recovery Act”), which requires a specific certification prior to receipt of Recovery Act funds for infrastructure investments.

Initial the statement that applies:

_____ The applicant identified below does not intend to use any portion of any funds received under this Recovery Act grant program for any infrastructure investment. Should this intention change, the applicant will promptly notify OJP, and (except to the extent, if any, that OJP has given prior written approval to expend funds to conduct the review and vetting required by law) will not draw down, obligate, or expend any funds received under this Recovery Act program for any infrastructure investment project until section 1511 of the Recovery Act has been satisfied, and an adequate project-specific certification has been executed, posted, and submitted to OJP.

_____ The applicant identified below does intend to use some or all of any funds received under this Recovery Act grant program for one or more infrastructure investment projects. Except to the extent, if any, that OJP has given prior written approval to expend funds to conduct the review and vetting required by law, I agree that the applicant entity will execute, post, and submit to OJP, prior to obligating, expending, or drawing down funds for such project, a project-specific certification that satisfies all of the requirements of section 1511 (including execution by the Governor, mayor, or other chief executive, as appropriate) for each such infrastructure investment project.

General Certification as to Requirements for Receipt of Funds for Infrastructure Investments
I acknowledge that a false statement in this certification may be subject to criminal prosecution, including under 18 U.S.C. § 1001. I also acknowledge that Office of Justice Program grants, including certifications provided in connection with such grants, are subject to review by the Office of Justice Programs and/or by the Department of Justice’s Office of the Inspector General. I have authority to make this certification on behalf of the applicant (that is, the governmental entity applying directly to the Office of Justice Programs).

Signature of Certifying Official

Printed Name of Certifying Official

Title of Certifying Official

Full Name of Applicant Government Entity

Date

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

Recovery Act – Justice Assistance Grant (JAG) Program

Certification as to Recovery Act Reporting Requirements

On behalf of the applicant entity named below, I certify the following to the Office of Justice Programs, U.S. Department of Justice:

I have personally read and reviewed the section entitled “Accountability and Transparency under the Recovery Act” in the program announcement for the Recovery Act grant program identified above. I have also read and reviewed section 1512(c) of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), concerning reporting requirements for grants. I agree that the applicant will comply with the reporting requirements set forth therein with respect to any grant the applicant may receive under the Recovery Act grant program identified above.

I acknowledge that a false statement in this certification may be subject to criminal prosecution, including under 18 U.S.C. § 1001. I also acknowledge that Office of Justice Program grants, including certifications provided in connection with such grants, are subject to review by the Office of Justice Programs, and/or by the Department of Justice’s Office of the Inspector General.

I have authority to make this certification on behalf of the applicant entity (that is, the entity applying directly to the Office of Justice Programs).

Signature of Certifying Official

Printed Name of Certifying Official

Title of Certifying Official

Full Name of Applicant Government Entity

Date

Office of Justice Programs (OJP) Recovery Act Additional Requirements

(Applicable to Programs Funded under the American Recovery and Reinvestment Act of 2009, Public Law 111-5)

On February 17, 2009, President Obama signed into law the landmark American Recovery and Reinvestment Act of 2009 (the "Recovery Act"). As one of its many elements, the Recovery Act provides the U.S. Department of Justice with funding for grants to assist state, local, and tribal law enforcement (including support for hiring), to combat violence against women, to fight internet crimes against children, to improve the functioning of the criminal justice system, to assist victims of crime, and to support youth mentoring. DOJ is committed to working with our national, state, local and tribal partnerships to ensure this funding invests in the American workforce.

Successful applicants for awards under OJP Recovery Act programs must comply with various applicable requirements, including the following.

Recovery Act Reporting Requirements; Section 1512(c) of the Recovery Act

The Recovery Act places great emphasis on accountability and transparency in the use of taxpayer dollars. Among other things, it creates a new Recovery Accountability and Transparency Board and a new website -- Recovery.gov -- to provide information to the public, including access to detailed information on grants and contracts made with Recovery Act funds.

As indicated in the "Accountability and Transparency under the Recovery Act" section of the program solicitation, awardees of Recovery Act funds must comply with the extensive reporting requirements. Quarterly financial and programmatic reporting will be required; reports will be due **within 10 calendar days after the end of each calendar quarter**. Applicants for and recipients of awards may expect that a standard form(s) and/or reporting mechanism will be made available at a future date.

Additional instructions and guidance regarding the required reporting will be provided as they become available. For planning purposes, however, all applicants for and recipients of awards of Recovery Act funds should be aware that Recovery Act section 1512(c) provides:

- (c) Recipient Reports- Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains--
 - (1) the total amount of recovery funds received from that agency;
 - (2) the amount of recovery funds received that were expended or obligated to projects or activities; and
 - (3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including--
 - (A) the name of the project or activity;
 - (B) a description of the project or activity;
 - (C) an evaluation of the completion status of the project or activity;
 - (D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
 - (E) for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

(4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

Section 1511 of the Recovery Act: Certifications (if applicable)

Section 1511 of the Recovery Act provides-

With respect to covered funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Such certification shall include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and shall be posted on a website and linked to the website established by section 1526. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made and posted.

Section 1602 of the Recovery Act: Preference for Quick-Start Activities (if applicable)

Section 1602 of the Recovery Act provides-

In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.

Section 1604 of the Recovery Act: Limit on Funds

Section 1604 of the Recovery Act provides-

None of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

Section 1605 of the Recovery Act: Buy American (if applicable)

Section 1605 of the Recovery Act provides-

Use of American Iron, Steel, and Manufactured Goods. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that--

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

Section 1606 of the Recovery Act: Wage Rate Requirements (if applicable)

Section 1606 of the Recovery Act provides-

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

Section 1607 of the Recovery Act: Additional Funding Distribution and Assurance of Appropriate Use of Funds (if applicable)

Section 1607 of the Recovery Act provides-

(a) Certification by Governor- Not later than 45 days after the date of enactment of this Act, for funds provided to any State or agency thereof, the Governor of the State shall certify that: (1) the State will request and use funds provided by this Act; and (2) the funds will be used to create jobs and promote economic growth.

(b) Acceptance by State Legislature- If funds provided to any State in any division of this Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

(c) Distribution- After the adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State's discretion.

Section 1609 of the Recovery Act: Relating to National Environmental Policy Act

Section 1609 of the Recovery Act provides-

(a) FINDINGS-

(1) The National Environmental Policy Act protects public health, safety and environmental quality: by ensuring transparency, accountability and public involvement in federal actions and in the use of public funds;

(2) When President Nixon signed the National Environmental Policy Act into law on January 1, 1970, he said that the Act provided the "direction" for the country to "regain a productive harmony between man and nature";

(3) The National Environmental Policy Act helps to provide an orderly process for

considering federal actions and funding decisions and prevents litigation and delay that would otherwise be inevitable and existed prior to the establishment of the National Environmental Policy Act.

(b) Adequate resources within this bill must be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act are completed on an expeditious basis and that the shortest existing applicable process under the National Environmental Policy Act shall be utilized.

(c) The President shall report to the Senate Environment and Public Works Committee and the House Natural Resources Committee every 90 days following the date of enactment until September 30, 2011 on the status and progress of projects and activities funded by this Act with respect to compliance with National Environmental Policy Act requirements and documentation.

Non-supplanting of State and Local Funds (if applicable -- consult the program solicitation and the special conditions in the award document)

Grantees must use federal funds to supplement existing State and local funds for program activities and must not replace (supplant) State or local funds that they have appropriated or allocated for the same purpose. Potential supplanting will be the subject of monitoring and audit. Violations may result in a range of penalties, including suspension of current and future funds under this program, suspension or debarment from federal grants, recoupment of monies provided under a grant, and civil and/or criminal penalties. For additional guidance regarding supplanting, refer to the information provided at <http://www.ojp.usdoj.gov/recovery/supplantingguidance.htm>.

Civil Rights Compliance

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

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

For technical assistance on complying with the civil rights laws linked to the receipt of federal financial assistance from OJP, please contact the Office for Civil Rights by telephone at (202) 307-0690, by facsimile at (202) 616-9865, by TTY at (202) 307-2027, or by mail at the following address:

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531

Funding to Faith-Based Organizations

In 2002, Executive Order 13279 was issued and in 2004, the Department of Justice (DOJ) issued the regulation, Equal Treatment for Faith-Based Organizations, 28 C.F.R. Part 38. In general, the Executive Order and regulation require funding organizations to treat faith-based organizations (FBOs) the same as any other applicant or recipient of DOJ funding, neither favoring nor discriminating against FBOs in making and administering grant awards, and require that FBOs be allowed to retain their independence, autonomy, expression, and religious character when competing for DOJ financial assistance used to support social service programs and participating in the social service programs supported with DOJ financial assistance.

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

Some program statutes, including the Omnibus Crime Control and Safe Streets Act of 1968, the Victims of Crime Act, and the Juvenile Justice and Delinquency Prevention Act, contain express nondiscrimination provisions that prohibit all recipients of funding under these statutes from discriminating on the basis of religion in employment. Despite these nondiscrimination provisions, the Justice Department has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit FBOs applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering of religion in employment decisions by grantees.

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

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

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

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

FBOs that are seeking federal financial assistance under the Safe Streets Act, VOCA, and JJDPa as well as an exemption to their prohibition against religious discrimination in hiring, must complete and retain *an original, signed document for their records* (see [sample](#)), certifying to the three provisions set forth above, *and then, must work with OJP to attach it to the grant file after receipt of an award*. For more information, please consult OJP's [Office for Civil Rights](#).

Confidentiality and Human Subjects Protection (if applicable)

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

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

General information regarding Data Confidentiality and Protection of Human Research Subjects (and Model Privacy Certificates and other forms) can be found on the following web sites: www.ojp.usdoj.gov/forms.htm; www.ojp.usdoj.gov/nij/funding/humansubjects/index.html; www.ojp.usdoj.gov/bjs/pub/pdf/bjsmpc.pdf; and www.ojp.usdoj.gov/bjs/funding.htm.

Anti-Lobbying Act

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

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

Financial and Government Audit Requirements

Federal grants are governed by the provisions of the OMB circulars applicable to financial assistance and OJP's *Financial Guide*, which is available from the OJP Web site (www.ojp.usdoj.gov/oc). The *Financial Guide* includes information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records. This document will govern how all successful applicants administer funds.

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

National Environmental Policy Act (if applicable)

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

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

DOJ Information Technology Standards (if applicable)

As appropriate, all equipment and software developed under OJP awards must be compliant with U.S. Department of Justice information technology interface standards, including the National Criminal Intelligence Sharing Plan, the Global Justice XML Data Model, and the Law Enforcement Information Sharing Plan (LEISP). A list of additional standards can be found at the OJP Standards Clearinghouse.

Single Point of Contact Review

Executive Order 12372 requires applicants from state and local units of government or other organizations providing services within a state to submit a copy of the application to the state Single Point of Contact (SPOC) if one exists and if the state has selected this program for review. A list of state SPOCs is available on the OMB Web site (www.whitehouse.gov/omb/grants/spoc.html). Applicants must contact their state SPOCs to determine whether their programs have been selected for state review. The applicant should enter the date that the application was sent to the SPOC or the reason such submission is not required in Block 3 of the Overview section of the GMS application.

Criminal Penalty for False Statements

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

Compliance with Office of Justice Programs Financial Guide

Awardees must comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.

Suspension or Termination of Funding

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

- Failing to comply substantially with the requirements or statutory objectives of the appropriate Act, program guidelines issued thereunder, or other provisions of federal law.
- Failing to make satisfactory progress toward the goals, objectives, or strategies set forth in the application.
- Failing to adhere to the requirements in the agreement, standard conditions, or special conditions.
- Proposing or implementing substantial plan changes to the extent that, if originally submitted, the application would not have been selected for funding.
- Failing to submit reports.
- Filing a false certification in this application or other report or document.

Before imposing sanctions, OJP will provide reasonable notice to the recipient of its intent to impose sanctions and will attempt to resolve the problem informally. Hearing and appeal procedures will follow those in U.S. Department of Justice regulations in 28 CFR Part 18.

Non-profit organizations

In all OJP funded programs for which nonprofit organizations are eligible recipients or subrecipients, with the exception of those funded under authority of the Juvenile Justice and Delinquency Prevention Act, it is Department of Justice policy that an organization can demonstrate its non-profit status in any one of four methods:

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

All nonprofit subrecipients of formula funds provided under the Juvenile Justice and Delinquency Prevention Act must have 501(c)(3) status recognized by the Internal Revenue Service.

For-Profit Organizations

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

Government Performance and Results Act (GPRA)

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

Rights in Intellectual Property

In connection with OJP awards, the U.S. Department of Justice reserves certain rights with respect to data, patentable inventions, works subject to copyright, and other intellectual property associated with an award of Federal funds. *See, e.g.*, 28 C.F.R. § 66.34, 70.36, and 37 C.F.R. Part 401.

Federal Funding Accountability and Transparency Act (FFATA) of 2006

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

- (1) The name of the entity receiving the award;
- (2) The amount of the award;

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

Direct grant award information must be collected starting in FY 2007 and available for disclosure beginning in January 2008; subgrantee award data must be available beginning in January 2009. OJP will be responsible for collecting grantee information and providing it to the public website, using data provided by grantees through grants.gov and the Grants Management System. Additional information regarding these requirements will be provided when available. For updates, please visit the FFATA website at www.fedspending.gov.