

AGREEMENT FOR SERVICES #097-116-P-E2009  
Driving Under the Influence (DUI) Court Expansion Program

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THIS AGREEMENT made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "COUNTY") and Progress House, Inc., a California non-profit public benefit corporation tax exempt organization under Title 26 Code of Federal Regulations Section 1.501 (c) (3) commonly referred to as Section 501 (c) (3) of the Internal Revenue Code of 1986, whose principal place of business is 2844 Coloma Street, Placerville, CA 95667 (hereinafter referred to as "CONTRACTOR");

R E C I T A L S

WHEREAS, COUNTY has determined that it is necessary to obtain a Contractor to provide Alcohol and Drug Treatment Services for those clients found to be eligible for the Driving Under the Influence (DUI) Court Expansion Program (PROGRAM) through a grant from the U.S. Department of Justice (DOJ), Bureau of Justice Assistance #2009-DC-BX-0076; and

WHEREAS, CONTRACTOR has represented to COUNTY that it is specially trained, experienced, expert and competent to perform the special services required hereunder and COUNTY has determined to rely upon such representations; and

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, State and local laws; and

WHEREAS, COUNTY has determined that the provision of these services provided by CONTRACTOR is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

NOW, THEREFORE, COUNTY and CONTRACTOR mutually agree as follows:

## **Article I. DEFINITIONS**

- ADP refers to the El Dorado County Health Services Department – Public Health Division Alcohol and Drug Program.
- CalOMS – California Outcomes Measurement System is a data collection system used to report information to the California Department of Alcohol and Drug Program.
- Case Management Conference refers to activities involved in the integrating and coordinating of all necessary services to ensure successful treatment and recovery. This involves managing multiple clients and is limited to four (4) episodes per month; this is not billable per client.
- Client refers to those persons referred to the DUI Court Coordinator by community partners and approved by the Coordinator for participation in the program.
- Community partners refers to entities in the community with whom the Alcohol Drug Program collaborates to provide services. Examples include, but are not limited to, Family Connections, New Morning Youth and Family, Marshall Hospital, Community Health Center, Literacy Council, etc.
- CONTRACTOR refers to Progress House, Inc. for the purpose of this Agreement.
- Dual Diagnosis refers to someone who has both a mental disorder and an alcohol or drug problem.
- DUI Court Coordinator refers to the COUNTY Alcohol and Drug Program employee assigned to the role by the ADP Manager.
- DUI refers to driving under the influence of alcohol or a substance.
- DUI Court Team refers to representatives assigned to participate by the following: District Attorney's Office, Public Defender's Office, Probation Department, and CONTRACTOR, along with the DUI Court Coordinator. Other ancillary agencies (e.g. Mental Health, Child Protective Services, and Public Health) will be included on an as-needed basis.
- Grant refers to local assistance funding from the Department of Justice – Office of Justice Programs grant specifically award #2009-DC-BX-0076.
- Subcontractor / subrecipient shall mean an individual, organization, firm, partnership, or corporation having a contract, purchase order, or agreement with the CONTRACTOR or with any subcontractor of any tier for the performance of any part of this Agreement. Units of government and other organizations receiving Federal assistance for the purposes of this Agreement, and unless expressly stated, the term "subcontractor" includes at every level and/or tier, all subcontractors, subconsultants, suppliers, vendors and material men.

## **Article II. TERM**

This Agreement shall become effective September 1, 2009 and shall expire August 31, 2011 to coincide with the grant funding agreement unless earlier terminated pursuant to the provisions under Article XIII herein.

## **Article III. SCOPE OF SERVICES**

Section 3.01 COUNTY agrees to provide a DUI Court Coordinator who shall:

- (a) Provide the initial intake process and assessment based on DWI Guiding Principles #2, attached hereto as Exhibit C, and incorporated by reference herein.
- (b) Provide written recommendation for placement into a level of treatment in writing, indicating the services to be provided on Exhibit F – Treatment Authorization Form, attached hereto and incorporated by reference herein.
- (c) Facilitate case management and supervision of DUI Court clients.
- (d) Advise all participants in the pre-court and collaborative case management sessions of the schedule of said meetings.
- (e) Maintain records of all client information.

- (f) Represent clients at monthly court sessions, in keeping with DWI Guiding Principles #7, attached hereto as Exhibit C. Direct all collaborative meetings.
- (g) Act as the program contact for the court administrative purposes.
- (h) Facilitate the implementation of a comprehensive program evaluation to track program outcomes including participant recidivism, successful treatment completion, vocational attainment, and number of jail days avoided, in accordance with DWI Guiding Principle #9, attached hereto as Exhibit C, and incorporated by reference herein.

**Section 3.02** CONTRACTOR agrees to:

- (i) Provide a comprehensive continuum of substance abuse treatment, provided on an as-needed basis, and require written approval by the DUI Court Coordinator prior to providing services, including the following:
  - a. Recovery and support sessions – including individual counseling sessions for clients designed to address threats, or perceived threats, to a client’s recovery.
  - b. Residential treatment – including perinatal women’s facilities, and men’s facilities; transitional living facilities for men and women; intensive outpatient groups; and Dual Diagnosis groups.
  - c. Documentation of treatment plans, progress reports, noncompliance reports, treatment discharges, and other reports, in accordance with DWI Principle #3, attached hereto as Exhibit C, and incorporated by reference herein.
- (b) Attend pre-court and collaborative case management sessions, based on communication of schedules by the DUI Court Coordinator, in accordance with Section 3.01(d).
- (c) Provide ancillary services – these supplementary services are available from existing community resources that promote successful rehabilitation of PROGRAM clients.
  - (i) CONTRACTOR shall identify the need for ancillary services, document the need in the treatment plan, request, and receive written approval of DUI Court Coordinator prior to providing or arranging for clients to receive ancillary services.
  - (ii) Ancillary services include but are not limited to literacy training, vocational training, family counseling, detoxification and other miscellaneous services that support clients’ successful completion of treatment, in accordance with DWI Guiding Principle #5, attached hereto as Exhibit C, incorporated by reference herein.

**Section 3.03** CONTRACTOR shall maintain full knowledge of all Federal and State laws, rules, and regulations with which, as a provider of services in the PROGRAM, CONTRACTOR must comply, including but not limited to, the Department of Justice – Office of Justice Programs grant #2009-DC-BX-0076, Exhibits A and B “Office of Justice Programs Financial Guide”, attached hereto and incorporated by reference herein. CONTRACTOR must apply “The Ten Guiding Principles of DWI Courts” Exhibit C, attached hereto and incorporated by reference herein, when providing services to PROGRAM participants. In the event COUNTY determines in its sole discretion that CONTRACTOR has not adhered to any terms and conditions, COUNTY reserves the right to pursue all remedies up to and including termination of this Agreement.

**Section 3.04** CONTRACTOR agrees to provide the alcohol/substance abuse services listed below in accordance with the above referenced laws, rules, regulations and requirements, including but not limited to all exhibits attached hereto. All services provided must have prior written authorization by the DUI Court Coordinator designated by the COUNTY, pursuant to Article III, Section 3.01 (b) herein:

- (a) Intake: Demographic, financial, health, family, living situation and other pertinent information shall be collected as necessary to establish client records and support reporting requirements. Intake

also includes dissemination of required information to clients including but not limited to CONTRACTOR confidentiality policies, complaint procedures, and admission procedures.

- (b) Assessments: Initial assessments of clients shall be developed using appropriate assessment and screening tools, as identified by the DUI Court Coordinator and/or the DUI Court Team.
- (c) Treatment plans: An individualized treatment plan shall be developed for each client using information obtained in the intake and assessment process. The treatment plan must be completed within thirty (30) days of the date the client is admitted to treatment. The treatment plan shall identify problems to be addressed, goals to be reached, action steps, target dates, type and frequency of services to be provided, and the assigned counselor. Treatment plans must be maintained in client records, and kept current as treatment progresses.
- (d) Case Management: This function shall be performed to integrate and coordinate all necessary services and to help ensure successful treatment and recovery. Case management may include evaluating payment resources, determining the nature of services to be provided, planning the delivery of treatment services, identifying services to be provided, referring clients to other resources as appropriate, monitoring client progress, documenting treatment, participating in case conferences, and other similar types of activities.
- (e) Client Treatment: Treatment shall be delivered through a program that offers services at different levels of intensity depending on individual client needs. Treatment shall be consistent with findings that result from administration of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders, 2nd edition (ASAM PPC-2). Clients admitted to treatment may be tested for drug usage; however, the cost of drug testing shall be included within CONTRACTOR's rate for services and shall not be billed separately. Following is a description of the required services:
  - (i) *Low intensity outpatient education and treatment services* are those services or activities provided to clients who are willing to cooperate in their own treatment but who need motivating and monitoring to sustain the recovery process. These services are appropriate for individuals who are able to maintain abstinence or control their substance use and to pursue recovery goals with minimal support. Participants served at this level are in a supportive recovery environment or have the necessary coping skills to deal with a non-supportive recovery environment. Outpatient drug free (individual and/or group), health/addiction education, crisis intervention, and/or collateral visits may be provided at this level.
  - (ii) *High intensity outpatient education and treatment services* are those services provided to clients whose resistance to treatment is high enough to require a structured program, but not so high as to render outpatient treatment ineffective. These services may also be indicated for individuals whose addiction symptoms intensify while participating in low intensity outpatient services. Outpatient drug free (individual and/or group), day care habilitative, health/addiction education, crisis intervention, and/or collateral visits may be provided at this level.
  - (iii) *Residential Treatment Services* are those services provided to clients for 30 to 90 days of in-house alcohol/substance abuse treatment.



- (f) Support Tasks and Activities: CONTRACTOR agrees to provide the following support services and complete the following tasks and activities:
- (i) *Recovery support sessions*: Recovery support refers to an individual counseling session for PROGRAM participants designed to address threats or perceived threats to a participant's recovery. These services shall be provided on an as-needed basis and must be approved by the DUI Court Coordinator before they can be offered.
  - (ii) *Reports*: Treatment plans, progress reports, non-compliance reports, treatment discharges, and other requested reports must be submitted to the appropriate party as requested by DUI Court Coordinator and/or Judge.
  - (iii) *Ancillary Services*: These are supplementary services, available from existing community resources that promote successful rehabilitation of PROGRAM participants. CONTRACTOR shall determine the need for ancillary services, document this need in the treatment plan, and request and receive approval from the DUI Court Coordinator before providing or arranging for participants to receive ancillary services in accordance with Article III, Section 3.01 (b) herein. Ancillary services consist of literacy training, vocational training, family counseling, perinatal services, transitional housing, detoxification and other miscellaneous items that support participants' successful completion of treatment.

**Section 3.05 General Program Requirements**: CONTRACTOR agrees to comply with the following general program requirements:

- (a) *Clients to be served*: CONTRACTOR must use these funds to serve DUI offenders having received a minimum of two DUI convictions within a 5-year period or with three or more lifetime DUI convictions.
- (b) *Ancillary Resource linkages*: CONTRACTOR shall have established linkages to ancillary service resources and shall manage funds for services provided under this Agreement. CONTRACTOR shall make every attempt to maximize funding under this Agreement for ancillary services by utilizing community resources funded by sources other than this instant Agreement.
- (c) *Attendance at case management conferences and court sessions*: CONTRACTOR shall attend case management conferences and, upon request, shall attend court sessions, which take place twice monthly. COUNTY will furnish CONTRACTOR with the schedule of DUI Court sessions and provide reasonable advance notice of case management conference times and locations.
- (d) *Data*: CONTRACTOR shall ensure it provides computer software and Internet access suitable for data tracking in the California Outcomes Measurement System (CalOMS).
- (e) *Cultural competency*: CONTRACTOR shall provide services that are culturally relevant and physically accessible to PROGRAM participants.
- (f) *Client Fees*:
  - (i) *Fees*: As defined in Exhibit D, CONTRACTOR's fees for service will be \$75.00 for each Individual Session and \$35.00 for each Group Session.
  - (ii) *Sliding Fee Scale*: CONTRACTOR shall provide COUNTY a copy of the CONTRACTOR's Sliding Fee Scale attached hereto as Exhibit D, and incorporated by reference herein; and a copy of CONTRACTOR's Client Financial Assessment Form to include certification of "inability to pay", Exhibit H, attached hereto and incorporated by reference herein.
  - (iii) CONTRACTOR shall determine client's ability to pay, based on the following:

- a. Availability of any third party funding on the client's behalf, including, but not limited to, Drug Medi-Cal and any other applicable State, federal or private sources available at the time services are performed.
  - b. Client's monthly income and family size.
  - c. Once a client's ability to pay has been determined, CONTRACTOR shall utilize the Sliding Fee Scale, attached as Exhibit D to determine client's obligation for payment.
  - d. CONTRACTOR shall require the client to execute a Self Pay Agreement, attached as Exhibit E, incorporated by reference herein.
- (g) *Required Procedures:* CONTRACTOR shall establish written procedures informing clients of their rights, including the right to file a complaint alleging discrimination, violation of civil rights, or any type of inappropriate or offensive treatment by CONTRACTOR staff. CONTRACTOR shall provide a copy of its complaint procedures to all clients upon their admission to treatment. These procedures shall describe the specific steps clients are to follow when filing complaints and the action that CONTRACTOR will take to resolve client complaints.

**Section 3.06 Reporting Requirements:** CONTRACTOR agrees to provide the following:

- (a) All services for participants in the PROGRAM must be tracked and reported in accordance with Section 4.01 as a component of monthly invoicing.
- (b) CONTRACTOR may be asked to supply additional data, as needed for COUNTY to comply with State statistical reporting requirements.

**Section 3.07** CONTRACTOR also agrees to comply with the following:

- (a) Assure the highest level of client participation through formalized program structure as evidenced by clinical documentation of (1) client attendance, (2) motivation to succeed in treatment, and (3) goal accomplishments.
- (b) Provide Drug Medi-Cal reimbursable services whenever possible to serve client needs and to maximize funding available.
- (c) Operate continuously throughout the term of this Agreement, with at least the minimum number and type of staff needed to provide required services and to meet federal, State and COUNTY requirements.

#### **Article IV. COMPENSATION FOR SERVICES**

**Section 4.01** CONTRACTOR shall submit monthly invoices no later than thirty (30) days following the end of a "service month" except in those instances where CONTRACTOR obtains written approval from COUNTY Health Services Department Director or Director's designee granting an extension of the time to complete billing for services or expenses. For billing purposes, a "service month" shall be defined as a calendar month during which CONTRACTOR provides services in accordance with Article I – Scope of Services.

**Section 4.02** For services provided herein, COUNTY agrees to pay CONTRACTOR monthly in arrears and within forty-five (45) days following the COUNTY's receipt and approval of itemized invoice(s) identifying services rendered. Monthly payments are billing rate payments only, and subject to Cost Report final settlement in accordance with 4.04 through 4.06 of this Agreement.

**Section 4.03** Not-to-Exceed: \$134,000.00 over the term of this Agreement.

**Section 4.04** CONTRACTOR billing rates for services performed during the term of this agreement shall be in accordance with the State-approved Drug Medi-Cal (DMC) rates in effect for the period in which services were performed. This standardized rate provision applies to all substance abuse and other therapeutic counseling and treatment services, as defined in the Service Reimbursement Schedule - Exhibit E, attached hereto and made a part hereof, regardless of the type of funding used for such services. Approved DMC rates may be obtained by CONTRACTOR from the California Department of Alcohol and Drug Programs (State ADP) website (currently <http://www.adp.ca.gov/dmc/dmc.shtml> ) or by contacting State ADP or COUNTY ADP directly. Any changes made by the State to DMC rates, and the effective date of those changes, shall be as defined by the State and automatically become a part herein. Should the State at any time provide notification that it does not have approved DMC rates, CONTRACTOR shall continue to use the last approved DMC rates in effect prior to such notification, until the State identifies new approved DMC rates. The effective date of new State-approved rates will be as stipulated by the State.

The maximum payment rates for specified services included in Article II – Scope of Services, are as outlined in the Service Reimbursement Schedule – Exhibit G.

**Section 4.05 Billing:**

- (a) CONTRACTOR will bill Drug Medi-Cal and any other applicable State, federal or private sources available at the time services are performed.
- (b) CONTRACTOR will bill COUNTY the fee less a credit for anticipated payments due to CONTRACTOR as stated in Section 4.05 (a), provided that non-Drug Medi-Cal services are billed to COUNTY by unit of service at an amount not exceeding the total not-to-exceed amount specified in Section 4.03 of this Agreement.

**Section 4.06** Costs shall be reconciled annually in the cost report, as detailed in Article V of this Agreement. The cost report settlement is the process that determines whether billing rates were an accurate representation of actual costs.

**Section 4.07** Invoices shall be submitted to:

Health Services Department – Public Health Division Finance  
941 Spring Street, Suite 3  
Placerville, CA 95667

All invoices to COUNTY shall be accompanied by Exhibit F – Treatment Authorization Form demonstrating that services rendered for each client were approved by ADP, and shall include client name, date(s) of service, services rendered, and fee to COUNTY pursuant to Section 3.06(a). Invoices shall be supported at CONTRACTOR's facility by source documentation that substantiates the accuracy, appropriateness, and necessity of services billed. Such documentation may include, but is not limited to: ledgers, books, vouchers, journals, time sheets, payrolls, signed attendance rosters, appointment schedules, client data cards, client payment records, client charts documenting services rendered, client treatment plans, cost allocation schedules, invoices, bank statements, cancelled checks, receipts, and receiving records. COUNTY may require CONTRACTOR to submit back-up documentation that supports monthly invoices along with any or all invoices. Failure of CONTRACTOR to supply requested documentation in support of any invoice may result in denial of payment by COUNTY. COUNTY shall determine the format and content of monthly invoices and back-up documentation.

## **Article V. COST REPORT**

**Section 5.01** CONTRACTOR shall submit a Cost Report to COUNTY on or before September 15, 2010 and September 15, 2011. CONTRACTOR shall prepare the Cost Report in accordance with all federal, State and COUNTY requirements and generally accepted accounting principles. CONTRACTOR shall allocate direct and indirect costs to and between programs, cost centers, services, and funding sources in accordance with such requirements and consistent with prudent business practice. Such costs and allocations shall be supported by source documentation maintained by CONTRACTOR and available at any time to COUNTY upon forty-eight (48) hours notice.

**Section 5.02** CONTRACTOR shall document that costs are reasonable and allowable and directly or indirectly related to the services provided hereunder. The Cost Report shall be the final financial record of services rendered under this Agreement for subsequent audits, if any.

**Section 5.03** The following attestation shall be attached to the Cost Report:

“I, \_\_\_\_\_ (Agency Director or Board of Directors Chairman), hereby declare under penalty of perjury under the laws of the State of California that I have executed the accompanying Cost Report and supporting documentation prepared by \_\_\_\_\_ for the cost report period beginning \_\_\_\_\_ and ending \_\_\_\_\_ and that, to the best of my knowledge, cost reimbursed through this Agreement are reasonable and allowable, and directly or indirectly related to the services provided, and that this Cost Report is a true, correct, and complete statement from the books and records of \_\_\_\_\_ in accordance with applicable instructions, except as noted. Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, California.”

**Section 5.04** Final Settlement shall be based upon the actual and reimbursable costs for services hereunder, less applicable revenues, not to exceed COUNTY's Total Maximum Obligations as set forth in Section 3.03. CONTRACTOR shall not claim expenditures to COUNTY that are not reimbursable pursuant to applicable federal, State and COUNTY laws, regulations and requirements. Any payment made by COUNTY to CONTRACTOR, which is subsequently determined to have been for a non-reimbursable expenditure or service, shall be repaid by CONTRACTOR to COUNTY in cash within forty-five (45) days of submission of the Cost Report.

**Section 5.05** If the Cost Report shows the actual and reimbursable cost of services provided pursuant to this Agreement, less applicable revenues, is lower than the aggregate of monthly payments to CONTRACTOR, CONTRACTOR shall remit the difference to COUNTY. Such reimbursement shall be made, in cash, with the submission of the Cost Report.

**Section 5.06** When the State reconciliation of costs occurs, if the State settlement shows that the aggregate of monthly payments to CONTRACTOR for covered services provided under this agreement exceeds CONTRACTOR's allowable cost, in accordance with Title 22, California Code of Regulations (CCR) Section 51516.1, CONTRACTOR shall remit the difference to COUNTY. CONTRACTOR shall pay COUNTY the difference within forty-five (45) days after verification of amount owed or the completion of an Appeal Process through COUNTY, whichever comes first. In the event of a State Alcohol and Drug cost report audit and/or program audit, both State General Fund and Federal Medicaid portions of all CONTRACTOR disallowances shall be reimbursed to COUNTY within forty-five (45) days of completion of an appeal process following receipt of a final Audit Report or the completion of an Appeal Process through COUNTY, whichever comes first.

**Article VI. INSPECTIONS AND AUDITS**

**Section 6.01** COUNTY Contract Administrator, any authorized representative of COUNTY, any authorized representative of the State of California, the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States, or any of their authorized representatives, shall have access to any books, documents, and records, including but not limited to, medical and client records, of CONTRACTOR which such persons deem pertinent to this Agreement, for the purpose of conducting an audit, evaluation, or examination, or making transcripts during the periods of retention set forth in Article VII of this Agreement. Such persons may at all reasonable times inspect or otherwise evaluate the services provided pursuant to this Agreement, and the premises in which they are provided or administered.

**Section 6.02** CONTRACTOR shall actively participate and cooperate with any persons specified in Section 6.01 above in any evaluation or monitoring of services provided pursuant to this Agreement, and shall provide the above-mentioned persons adequate office space to conduct such evaluation or monitoring.

**Section 6.03** CONTRACTOR shall obtain an annual financial statement audit in accordance with Government Auditing Standards (GAS). The audit shall comply with Exhibit B, Part II, Chapter 19 - Audit Requirements, including but not limited to the requirement that (1) the audit package be submitted to COUNTY; (2) that an audit of the CONTRACTOR was conducted in accordance with OMB Circular A-133; and (3) shall include the period covered by the audit and the name, amount, and CFDA number of the "Federal award(s) provided by the pass-through entity" (i.e., COUNTY).

**Section 6.04** CONTRACTOR shall maintain client records, books, documents, records and other evidence, accounting procedures and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses, all of which will be deemed to constitute "records" for purposes of this section. Such records shall clearly reflect the cost and scope of the Services provided to each client.

**Section 6.05** CONTRACTOR's facility, office (or such parts thereof as may be engaged in the performance of this Agreement) and its records shall be subject at all reasonable times to inspection, audit, and reproduction by COUNTY.

**Section 6.06** Within fourteen (14) days after final audit is approved by CONTRACTOR's Board of Directors, CONTRACTOR shall forward to COUNTY a copy of any audit report. Such audit shall include, but not be limited to, management, financial, programmatic or any other type of audit of CONTRACTOR's operations, whether or not the cost of such operation or audit is reimbursed in whole or in part through this Agreement.

**Section 6.07** Following any audit report, in the event of non-compliance with applicable laws and regulations governing funds provided through this Agreement or serious deficiencies in CONTRACTOR's internal control structure, COUNTY may terminate this Agreement as provided for in Article XIV or direct CONTRACTOR to immediately implement appropriate corrective action. A plan of corrective action shall be submitted to COUNTY Contract Administrator in writing within fifteen (15) days after receiving notice from COUNTY.

**Section 6.08** CONTRACTOR will have two (2) months to implement a corrective action plan and to submit to COUNTY a written report of corrective action taken. Failure to implement said corrective action plan shall be cause for termination of this Agreement, pursuant to Section 14.01 – Default.

**Section 6.09** All CONTRACTOR's funding records related to this Agreement shall be subject to audit by COUNTY at any time during the term of this Agreement, and for a period that extends through any required records retention period, should it be requested by COUNTY's Auditor/Controller. In the event that CONTRACTOR has more than one funding contract with COUNTY, CONTRACTOR shall maintain an individual schedule of expenses for each COUNTY contract, such that can be reconciled to an audit of any individual contract.

#### **Article VII. RECORDS RETENTION**

**Section 7.01** Financial and client records shall be retained by CONTRACTOR for five (5) years from the date of submission of the Cost Report that pertains to this Agreement.

**Section 7.02** Records which relate to litigation or settlement of claims arising out of the performance of this Agreement, or cost and expenses of this Agreement as to which exception has been taken by federal, State or COUNTY governments, shall be retained by CONTRACTOR until disposition of such appeals, litigation, claims or exceptions is completed.

#### **Article VIII. GRANT-SPECIFIC PROVISIONS**

As sub-recipient of funds through the DOJ Grant #2009-DC-BX-0076, CONTRACTOR shall comply with the following as if it were a direct recipient of the grant funds:

**Section 8.01** CONTRACTOR agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Program (OJP) Financial Guide, attached hereto as Exhibit B, and incorporated as if fully set forth herein.

#### **Section 8.02 Civil Rights**

(a) *Ensuring Access to Federally Assisted Programs*

CONTRACTOR shall not unlawfully discriminate on the basis of race, color, national origin, religion, sex, age, or disability with regard to any participant in this PROGRAM, not only in respect to employment practices but also in the delivery of services or benefits.

(b) *Services for Limited English Proficiency (LEP) Individuals*

In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, CONTRACTOR as must take reasonable steps to provide meaningful access to its PROGRAM and activities for persons with limited English proficiency (LEP). Further information in this regard is available at <http://www.lep.gov>.

(c) *Equal Treatment for Faith-Based Organizations*

CONTRACTOR shall comply with the regulation known as "Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants" also known as the "Equal Treatment Regulation 28 C.F.R. Part 38." This regulation includes prohibition from faith-based organizations using financial assistance from the DOJ to fund inherently religious activities. Non-funded faith-based activities must be held separately from the PROGRAM and participants in the PROGRAM cannot be compelled to participate in them. The Equal Treatment Regulations also makes clear that organizations participating in the PROGRAM cannot discriminate in the provision of

services on the basis of an eligible client's religion. Further information is available at <http://www.ojp.usdoj.gov/ocr/etfbo.htm>.

### Section 8.03 Enforcing Civil Rights

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to the prohibitions against unlawful discrimination. Accordingly the Office of Civil Rights (OCR) investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal employment opportunity standards.

### Section 8.04 Complying with the Safe Streets Act or Program Requirements

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, 42 U.S.C. § 3789d(c), or other Federal grant program requirements, must meet two additional requirements (1) complying with Federal regulations pertaining to development of an Equal Employment Opportunity Plan (EEOP), 28 C.F.R. § 42.301-308, and (2) submitting to OCR Findings of Discrimination (28 C.F.R. §§ 42.205(5) or 31.202(5)).

- (a) In accordance with Federal regulations, Assurance No. 6 in the Standard Assurances, COPS Assurance No. 8,B, or certain Federal grant program requirements, CONTRACTOR shall comply with the following EEOP reporting requirements:
  - (i) If CONTRACTOR has received an award between \$25,000 and \$500,000 and has 50 or more employees, CONTRACTOR has to prepare an EEOP, but does not have to submit the EEOP to OCR for review. Instead CONTRACTOR shall maintain the EEOP on file and make it available for review upon request. In addition, CONTRACTOR has to complete Section B of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eeop.htm>.
  - (ii) If CONTRACTOR has received an award for less than \$25,000; or if CONTRACTOR has less than 50 employees, regardless of the amount of the award; or if CONTRACTOR is a medical institution, educational institution, nonprofit organization, or Indian tribe, then CONTRACTOR is exempt from the EEOP requirement. However, CONTRACTOR must complete Section A of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eeop.htm>.
- (b) Submitting Findings of Discrimination. In the event a Federal or State court or Federal or State administrative agency makes an adverse finding of discrimination against CONTRACTOR after a due process hearing, on the grounds of race, color, religion, national origin, or sex, CONTRACTOR must submit a copy of the finding to OCR and to COUNTY for review.

Section 8.05 CONTRACTOR must promptly refer to the DOJ Office of Inspector General (OIG) any credible evidence that a principal, employee, agent, contractor, sub grantee, subcontractor, or other person has either (1) submitted a false claim for grant funds under the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. Potential fraud, waste, abuse or misconduct should be reported to the OIG by:

Mail: Office of the Inspector General  
 U.S. Department of Justice  
 Investigations Division  
 950 Pennsylvania Avenue, N.W.  
 Room 4706  
 Washington, CA 20530

Email: [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov)

Hotline: 800-869-4499

Hotline fax: 202-616-9881

Additional Information is available from the DOJ OIG website at [www.usdoj.gov/oig](http://www.usdoj.gov/oig).

**Section 8.06** The Bureau of Justice Assistance (BJA) Drug Court Discretionary Grant Program provides funds to States, State courts, local courts, counties, other units of local government, and Indian tribal governments to establish drug courts. Drug courts integrate substance abuse treatment, sanctions and incentives with case management to place nonviolent drug involved offenders into judicially supervised habilitation program for a period of time sufficient to permit substance abuse treatment to occur.

None of the following activities will be conducted either under the OJP federal action or a related third party action:

- New construction;
- Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the national register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species;
- A renovation that will change the basic prior use of a facility or significantly change its size;
- Research and technology whose anticipated and future application could be expected to have an effect on the environment; and
- Implementation of a program involving the use of chemicals.

#### **Article IX. CHANGES TO AGREEMENT**

This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **Article X. CONTRACTOR TO COUNTY**

It is understood that the services provided under this Agreement shall be prepared in and with cooperation from COUNTY and its staff. It is further agreed that in all matters pertaining to this Agreement, CONTRACTOR shall act as Contractor only to COUNTY and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with CONTRACTOR's responsibilities to COUNTY during term hereof.



**Article XI. ASSIGNMENT AND DELEGATION**

CONTRACTOR is engaged by COUNTY for its unique qualifications and skills as well as those of its personnel. CONTRACTOR shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of COUNTY. In the event COUNTY agrees in writing that CONTRACTOR may subcontract for services under this Agreement, CONTRACTOR shall require that all subcontractors comply with all terms and conditions of this Agreement, and all pertinent federal and State statutes and regulations.

**Article XII. INDEPENDENT CONTRACTOR/LIABILITY**

CONTRACTOR is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. CONTRACTOR exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

CONTRACTOR shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. COUNTY shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to CONTRACTOR or its employees.

**Article XIII. FISCAL CONSIDERATIONS**

The parties to this Agreement recognize and acknowledge that COUNTY is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of COUNTY business, COUNTY will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, COUNTY shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and COUNTY released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any COUNTY department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the COUNTY, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

**Article XIV. DEFAULT, TERMINATION, AND CANCELLATION****Section 14.01 Default**

Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be

extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, COUNTY reserves the right to take over and complete the work by contract or by any other means.

#### **Section 14.02 Bankruptcy**

This Agreement, at the option of the COUNTY, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of CONTRACTOR.

#### **Section 14.03 Ceasing Performance**

COUNTY may terminate this Agreement in the event CONTRACTOR ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.

#### **Section 14.04 Termination or Cancellation without Cause**

COUNTY may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by COUNTY without cause. If such prior termination is effected, COUNTY will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to CONTRACTOR, and for such other services, which COUNTY may agree to in writing as necessary for contract resolution. In no event, however, shall COUNTY be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, CONTRACTOR shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

### **Article XV. NOTICE TO PARTIES**

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to COUNTY shall be addressed as follows:

COUNTY OF EL DORADO  
HEALTH SERVICES DEPARTMENT  
931 SPRING STREET  
PLACERVILLE, CA 95667  
ATTN: NEDA WEST, DIRECTOR

or to such other location as the COUNTY directs.

Notices to CONTRACTOR shall be addressed as follows:

PROGRESS HOUSE, INC.  
 2844 COLOMA STREET  
 PLACERVILLE, CA 95667  
 ATTN: TOM AVEY, EXECUTIVE DIRECTOR

or to such other location as the CONTRACTOR directs.

**Article XVI. INDEMNITY**

The CONTRACTOR shall defend, indemnify, and hold the COUNTY harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, COUNTY employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the CONTRACTOR's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the COUNTY, the CONTRACTOR, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the COUNTY, its officers and employees, or as expressly prescribed by statute. This duty of CONTRACTOR to indemnify and save COUNTY harmless includes the duties to defend set forth in California Civil Code Section 2778.

**Article XVII. INSURANCE**

**Section 17.01** CONTRACTOR shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that CONTRACTOR maintains insurance that meets the following requirements:

- (a) Full Workers' Compensation and Employers' Liability Insurance covering all employees of CONTRACTOR as required by law in the State of California.
- (b) Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- (c) Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the CONTRACTOR in the performance of the Agreement.

**Section 17.02** In the event CONTRACTOR is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence.

**Section 17.03** CONTRACTOR shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.

**Section 17.04** The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.

**Section 17.05** CONTRACTOR agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, CONTRACTOR agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and CONTRACTOR agrees that no

work or services shall be performed prior to the giving of such approval. In the event the CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, COUNTY may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

**Section 17.06** The certificate of insurance must include the following provisions stating that:

- (a) The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to COUNTY, and;
- (b) The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.

**Section 17.07** The CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

**Section 17.08** Any deductibles or self-insured retentions must be declared to and approved by the COUNTY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the COUNTY, its officers, officials, employees, and volunteers; or the CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**Section 17.09** Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or volunteers.

**Section 17.10** The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.

**Section 17.11** CONTRACTOR's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.

**Section 17.12** In the event CONTRACTOR cannot provide an occurrence policy, CONTRACTOR shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.

**Section 17.13** Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of the COUNTY.

#### **Article XVIII. INTEREST OF PUBLIC OFFICIAL**

No official or employee of COUNTY who exercises any functions or responsibilities in review or approval of services to be provided by CONTRACTOR under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of COUNTY have any interest, direct or indirect, in this Agreement or the proceeds thereof.

**Article XIX. INTEREST OF CONTRACTOR**

CONTRACTOR covenants that CONTRACTOR presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. CONTRACTOR further covenants that in the performance of this Agreement no person having any such interest shall be employed by CONTRACTOR.

**Article XX. CONFLICT OF INTEREST**

The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. CONTRACTOR attests that it has no current business or financial relationship with any COUNTY employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. COUNTY represents that it is unaware of any financial or economic interest of any public officer or employee of CONTRACTOR relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation".

**Article XXI. CALIFORNIA RESIDENCY (FORM 590)**

All independent Contractors providing services to the COUNTY must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. The Contractor will be required to submit a Form 590 prior to execution of an Agreement or COUNTY shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

**Article XXII. TAXPAYER IDENTIFICATION NUMBER (FORM W-9)**

All independent Contractors or corporations providing services to the COUNTY must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

**Article XXIII. COUNTY BUSINESS LICENSE**

It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

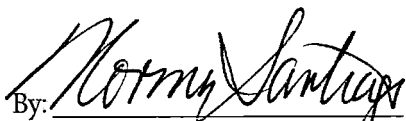
**Article XXIV. ADMINISTRATOR**

The County Officer or employee with responsibility for administering this Agreement is Shirley White, Alcohol and Drug Program Manager, or successor.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

--COUNTY OF EL DORADO--

By:   
Norma Santiago, Chair  
Board of Supervisors  
"COUNTY"

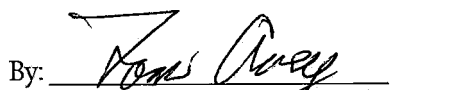
Dated: 7/20/10

*Attest: Suzanne Allen de Sanchez  
Clerk of the Board of Supervisors*

 7/20/10  
Deputy Date

-- CONTRACTOR --

PROGRESS HOUSE, INC.

By:   
Tom Avey, Executive Director  
"CONTRACTOR"

Dated: 06/30/2010

# ORIGINAL



Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

Grant

PAGE 1 OF 3

1. RECIPIENT NAME AND ADDRESS (Including Zip Code) El Dorado County 330 Fair Lane Placerville, CA 95667		4. AWARD NUMBER: 2009-DC-BX-0076					
		5. PROJECT PERIOD: FROM 09/01/2009 TO 08/31/2011 BUDGET PERIOD: FROM 09/01/2009 TO 08/31/2011					
		6. AWARD DATE 09/18/2009	7. ACTION Initial				
1A. GRANTEE IRS/VENDOR NO. 946000552		8. SUPPLEMENT NUMBER 00					
		9. PREVIOUS AWARD AMOUNT 50					
3. PROJECT TITLE El Dorado County DUI Treatment Court		10. AMOUNT OF THIS AWARD \$ 200,000					
		11. TOTAL AWARD \$ 200,000					
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).							
13. STATUTORY AUTHORITY FOR GRANT This project is supported under 42 U.S.C. 3797u (a) (BJA - Drug Courts)							
15. METHOD OF PAYMENT PAPRS							
AGENCY APPROVAL		GRANTEE ACCEPTANCE					
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Mary Lou Leary Acting Assistant Attorney General		18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Ron Briggs Chairman					
17. SIGNATURE OF APPROVING OFFICIAL <i>Mary Lou Leary</i>		19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL <i>Ron Briggs</i>	19A. DATE 11/10/09				
AGENCY USE ONLY							
20. ACCOUNTING CLASSIFICATION CODES		21. IDCUGT5565					
FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	DIV. REG.	SUB.	POMS	AMOUNT
X	B	DC	80	00	00		200000

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

ATTEST: SUZANNE ALLEN de SANCHEZ,  
Clerk of the Board of Supervisors

By *Marcie MacFarland*  
DEPUTY





Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**AWARD CONTINUATION  
SHEET  
Grant**

PAGE 2 OF 3

PROJECT NUMBER 2009-DC-BX-0076

AWARD DATE 09/18/2009

*SPECIAL CONDITIONS*

1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance.
3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from OMB Circular A-133 audits (and any other audits of OJP grant funds) are not satisfactorily and promptly addressed, as further described in the current edition of the OJP Financial Guide, Chapter 19.
4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.
5. The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by -

mail:

Office of the Inspector General  
U.S. Department of Justice  
Investigations Division  
950 Pennsylvania Avenue, N.W.  
Room 4706  
Washington, DC 20530

e-mail: [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov)

hotline: (contact information in English and Spanish): (800) 869-4499

or hotline fax: (202) 616-9881

Additional information is available from the DOJ OIG website at [www.usdoj.gov/oig](http://www.usdoj.gov/oig).

6. Recipient agrees to submit a written strategy describing the jurisdiction's plan for sustaining the drug court program after Federal financial assistance has ended. The sustainability plan must be submitted by the end of the first year of the grant period in order to be in compliance with this requirement.
7. Recipient agrees to develop and maintain a Drug Court Policies and Procedures manual for program operation. The Policies and Procedures manual must be submitted by the end of the first year of the grant period in order to be in compliance with this requirement.



Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**AWARD CONTINUATION  
SHEET  
Grant**

PAGE 3 OF 3

PROJECT NUMBER 2009-DC-BX-0076

AWARD DATE 09/18/2009

*SPECIAL CONDITIONS*

8. The recipient agrees expeditiously to obtain active registration with the Central Contractor Registration (CCR) database, and to notify the program office in writing of its registration. Following satisfaction of this requirement, a Grant Adjustment Notice will be issued to remove this special condition.

A handwritten signature in black ink, consisting of a stylized letter 'S' followed by a vertical line and a small circle.



Department of Justice  
Office of Justice Programs

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Office of the Assistant Attorney General

Washington, D.C. 20531

September 18, 2009

Chairman Ron Briggs  
El Dorado County  
330 Fair Lane  
Placerville, CA 95667

Dear Chairman Briggs:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 09 Drug Court Discretionary Grant Program: Enhancement in the amount of \$200,000 for El Dorado County.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Stefanie Harris, Program Manager at (202) 305-8069; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov).

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in cursive script that reads "Mary Lou Leary".

Mary Lou Leary  
Acting Assistant Attorney General

Enclosures



**Department of Justice**  
**Office of Justice Programs**  
**Office for Civil Rights**

*Washington, D.C. 20531*

September 18, 2009

Chairman Ron Briggs  
 El Dorado County  
 330 Fair Lane  
 Placerville, CA 95667

Dear Chairman Briggs:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of Federal funding to compliance with Federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice is responsible for ensuring that recipients of financial aid from OJP, its component offices and bureaus, the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS) comply with applicable Federal civil rights statutes and regulations. We at OCR are available to help you and your organization meet the civil rights requirements that come with Justice Department funding.

**Ensuring Access to Federally Assisted Programs**

As you know, Federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits.

**Providing Services to Limited English Proficiency (LEP) Individuals**

In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of Federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website at <http://www.lep.gov>.

**Ensuring Equal Treatment for Faith-Based Organizations**

The Department of Justice has published a regulation specifically pertaining to the funding of faith-based organizations. In general, the regulation, Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants, and known as the Equal Treatment Regulation 28 C.F.R. part 38, requires State Administering Agencies to treat these organizations the same as any other applicant or recipient. The regulation prohibits State Administering Agencies from making award or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the Department of Justice to fund inherently religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must be held separately from the Department of Justice funded program, and customers or beneficiaries cannot be compelled to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see OCR's website at <http://www.ojp.usdoj.gov/ocr/etfbo.htm>.

State Administering Agencies and faith-based organizations should also note that the Safe Streets Act, as amended; the Victims of Crime Act, as amended; and the Juvenile Justice and Delinquency Prevention Act, as amended, contain prohibitions against discrimination 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 faith-based organizations 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.

Questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment may be directed to this Office.

### Enforcing Civil Rights Laws

All recipients of Federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to the prohibitions against unlawful discrimination. Accordingly, OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal employment opportunity standards.

### Complying with the Safe Streets Act or Program Requirements

In addition to these general prohibitions, an organization which is a recipient of financial assistance subject to the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, 42 U.S.C. § 3789d(c), or other Federal grant program requirements, must meet two additional requirements: (1) complying with Federal regulations pertaining to the development of an Equal Employment Opportunity Plan (EEOP), 28 C.F.R. § 42.301-.308, and (2) submitting to OCR Findings of Discrimination (see 28 C.F.R. §§ 42.205(5) or 31.202(5)).

#### 1) Meeting the EEOP Requirement

In accordance with Federal regulations, Assurance No. 6 in the Standard Assurances, COPS Assurance No. 8.B, or certain Federal grant program requirements, your organization must comply with the following EEOP reporting requirements:

If your organization has received an award for \$500,000 or more and has 50 or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare an EEOP and submit it to OCR for review **within 60 days from the date of this letter**. For assistance in developing an EEOP, please consult OCR's website at <http://www.ojp.usdoj.gov/ocr/eeop.htm>. You may also request technical assistance from an EEOP specialist at OCR by dialing (202) 616-3208.

If your organization received an award between \$25,000 and \$500,000 and has 50 or more employees, your organization still has to prepare an EEOP, but it does not have to submit the EEOP to OCR for review. Instead, your organization has to maintain the EEOP on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eeop.htm>.

If your organization received an award for less than \$25,000; or if your organization has less than 50 employees, regardless of the amount of the award; or if your organization is a medical institution, educational institution, nonprofit organization or Indian tribe, then your organization is exempt from the EEOP requirement. However, your organization must complete Section A of the Certification Form and return it to OCR. The Certification Form can be found at <http://www.ojp.usdoj.gov/ocr/eeop.htm>.

#### 2) Submitting Findings of Discrimination

In the event a Federal or State court or Federal or State administrative agency makes an adverse finding of discrimination against your organization after a due process hearing, on the ground of race, color, religion, national origin, or sex, your organization must submit a copy of the finding to OCR for review.

### Ensuring the Compliance of Subrecipients

If your organization makes subawards to other agencies, you are responsible for assuring that subrecipients also comply with all of the applicable Federal civil rights laws, including the requirements pertaining to developing and submitting an EEOP, reporting Findings of Discrimination, and providing language services to LEP persons. State agencies that make subawards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

If we can assist you in any way in fulfilling your civil rights responsibilities as a recipient of Federal funding, please call OCR at (202) 307-0690 or visit our website at <http://www.ojp.usdoj.gov/ocr/>.

Sincerely,



Michael L. Alston  
Director

cc: Grant Manager  
Financial Analyst



**Department of Justice**  
Office of Justice Programs  
Office of the Chief Financial Officer

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Washington, D.C. 20531

September 18, 2009

Chairman Ron Briggs  
El Dorado County  
330 Fair Lane  
Placerville, CA 95667

Reference Grant Number: 2009-DC-BX-0076

Dear Chairman Briggs:

I am pleased to inform you that my office has approved the following budget categories for the aforementioned grant award in the cost categories identified below:

Category	Budget
Personnel	\$28,650
Fringe Benefits	\$15,150
Travel	\$0
Equipment	\$0
Supplies	\$0
Construction	\$0
Contractual	\$216,667
Other	\$0
Total Direct Cost	\$260,467
Indirect Cost	\$6,200
Total Project Cost	\$266,667
Federal Funds Approved:	\$200,000
Non-Federal Share:	\$66,667
Program Income:	\$0

Match is required at 25% for this grant program. The required match has been met. The non-federal share that has been incorporated in the approved budget is mandatory and subject to audit.

All individual consultant fees in excess of \$450 per 8 hour day require prior approval of OJP.

All Sole Source procurement in excess of \$100,000 requires written justification and the prior approval of OJP.

The applicant is a local government unit and is not required to submit an indirect cost rate agreement. The grantee must retain the cost allocation plans on file for audit purposes.

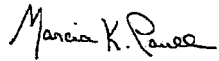
EXHIBIT A

If you have questions regarding this award, please contact:

- Program Questions, Stefanie Harris, Program Manager at (202) 305-8069
- Financial Questions, the Office of Chief Financial Officer, Customer Service Center(CSC) at (800) 458-0786, or you may contact the CSC at [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov).

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in black ink that reads "Marcia K. Paull". The signature is written in a cursive style with a large initial 'M' and a long, sweeping underline.

Marcia K. Paull  
Chief Financial Officer



**Department of Justice**  
**Office of Justice Programs**  
*Bureau of Justice Assistance*

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*Washington, D.C. 20531*

**Memorandum To:** Official Grant File

**From:** Maria Berry, Environmental Coordinator

**Subject:** Categorical Exclusion for El Dorado County

The Bureau of Justice Assistance (BJA) Drug Court Discretionary Grant Program provides funds to States, State courts, local courts, counties, other units of local government, and Indian tribal governments to establish drug courts. Drug courts integrate substance abuse treatment, sanctions and incentives with case management to place nonviolent drug involved offenders into a judicially supervised habilitation program for a period of time sufficient to permit substance abuse treatment to occur.


None of the following activities will be conducted either under the OJP federal action or a related third party action:

- (1) new construction;
- (2) any renovation or remodeling of a property located in an environmentally or historically sensitive area, including property (a) listed on or eligible for listing on the National Register of Historic Places, or (b) located within a 100-year flood plain, a wetland, or habitat for an endangered species;
- (3) a renovation that will change the basic prior use of a facility or significantly change its size;
- (4) research and technology whose anticipated and future application could be expected to have an effect on the environment; and
- (5) implementation of a program involving the use of chemicals.

Consequently, an agency-wide analysis has determined that the program meets the Office of Justice Programs' (OJP) criteria for a categorical exclusion under the provisions of 28 CFR, Part 61, Appendix D, paragraph 4(b).



EXHIBIT A

 <p>Department of Justice Office of Justice Programs Bureau of Justice Assistance</p>	<p><b>GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY</b></p> <p><b>Grant</b></p>	
	<p>PROJECT NUMBER 2009-DC-BX-0076</p>	<p>PAGE 1 OF 1</p>
<p>This project is supported under 42 U.S.C. 3797u (a) (BJA - Drug Courts)</p>		
<p>1. STAFF CONTACT (Name &amp; telephone number)</p> <p>Stefanie Harris (202) 305-8069</p>	<p>2. PROJECT DIRECTOR (Name, address &amp; telephone number)</p> <p>Shirley White Alcohol and Drug Program Administrator Alcohol and Drug Programs 415 Placerville Drive Ste R Placerville, CA 95667-4046 (530) 621-7571</p>	
<p>3a. TITLE OF THE PROGRAM</p> <p>BJA FY 09 Drug Court Discretionary Grant Program: Enhancement</p>	<p>3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)</p>	
<p>4. TITLE OF PROJECT</p> <p>El Dorado County DUI Treatment Court</p>		
<p>5. NAME &amp; ADDRESS OF GRANTEE</p> <p>El Dorado County 330 Fair Lane Placerville, CA 95667</p>	<p>6. NAME &amp; ADDRESS OF SUBGRANTEE</p>	
<p>7. PROGRAM PERIOD</p> <p>FROM: 09/01/2009 TO: 08/31/2011</p>	<p>8. BUDGET PERIOD</p> <p>FROM: 09/01/2009 TO: 08/31/2011</p>	
<p>9. AMOUNT OF AWARD</p> <p>\$ 200,000</p>	<p>10. DATE OF AWARD</p> <p>09/18/2009</p>	
<p>11. SECOND YEAR'S BUDGET</p>	<p>12. SECOND YEAR'S BUDGET AMOUNT</p>	
<p>13. THIRD YEAR'S BUDGET PERIOD</p>	<p>14. THIRD YEAR'S BUDGET AMOUNT</p>	
<p>15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)</p> <p>The Drug Court Discretionary Grant Program is designed to assist states, state courts, local courts, units of local government, and Indian tribal governments in developing and establishing drug courts for substance-abusing adult and juvenile offenders. Drug court programs funded by the Drug Court Discretionary Grant Program are required by law to target nonviolent offenders. The program supports the following activities: adult drug court implementation, single jurisdiction drug court enhancement, statewide drug court enhancement, and planning efforts.</p> <p>The County of El Dorado will use the drug court enhancement grant to enhance the current operation of the DUI Treatment Court. The DUI Treatment Court focuses on offenders with either two DUI convictions within a five year period or with three or more convictions within their lifetime. These funds will provide funding to increase participant access to longer stays in treatment, implement a comprehensive program evaluation to more accurately track program outcomes, increase supervision and monitoring, and provide increased access to sober living for participants.</p>		

OJP FORM 4000/2 (REV. 4-88)

EXHIBIT A

The County of El Dorado will procure treatment services for approximately 40-50 program participants over the course of the 24-month grant term; dedicate salary costs for one .25 FTE Probation Officer for supervision and court monitoring of DUI Court program clients; provide funding for UA drug testing and SCRAM monitoring program of DUI Court program clients.

CA/NCF

# HEALTH SERVICES DEPARTMENT

## PUBLIC HEALTH DIVISION

*Healthy People Living in Healthy Communities Throughout El Dorado County*

Neda West, Director / Dr. Jason Eberhart-Phillips, Health Officer  
931 Spring Street, Placerville, CA 95667 (530) 621-6156 / Fax (530) 626-4713



January 27, 2009

Mr. Tim Jeffries, BJA Policy Advisor  
US Department of Justice  
Bureau of Justice Programs  
Bureau of Justice Assistance

Dear Mr. Jeffries:

The El Dorado County Health Services Department – Alcohol and Drug Program is pleased to have the opportunity to be considered for participation in Adult Drug Court Discretionary Grant Program for an enhancement grant for our DUI Treatment Court. The deadline for submission of the application was too soon to allow for prior review of the application by the County's Board of Supervisors. The request to obtain approval from the Board to participate in the project will be heard in early February. Until that time, our application cannot be binding or obligate the County to action.

Shirley White will contact you via email to advise you of the Board's approval. Again, thank you for this opportunity to be considered for participation in in Adult Drug Court Discretionary Grant Program for an enhancement grant for our DUI Treatment Court.

Sincerely,

Neda West, Director  
El Dorado County Health Services Department



Opportunity Title:	BJA Drug Court Solicitation
Offering Agency:	Bureau of Justice Assistance
CFDA Number:	16.585
CFDA Description:	Drug Court Discretionary Grant Program
Opportunity Number:	BJA-2009-1979
Competition ID:	BJA-2009-1981
Opportunity Open Date:	11/24/2008
Opportunity Close Date:	01/29/2009
Agency Contact:	Tim Jeffries BJA Policy Advisor 202-616-7385 timothy.jeffries@usdoj.gov

This electronic grants application is intended to be used to apply for the specific federal funding opportunity referenced here.

If the Federal funding opportunity lists a hot link to the opportunity box which you want to apply, click on the application package by clicking on the "Cancel" button at the top of this screen. You will then be able to obtain a complete federal funding opportunity, download its application and then apply.

This opportunity is only open to organizations, applicants who are submitting grant applications on behalf of a company, state, local or tribal government, academia, or other type of organization.

\* Application Filing Name:

**Mandatory Documents**

Move Form to Complete

Move Form to Delete

**Mandatory Documents for Submission**

Application for Federal Assistance (SF-424)
Assurances for Non-Construction Programs (SF-424)
Project Narrative Attachment Form
Disclosure of Lobbying Activities (SF-LLL)
Budget Narrative Attachment Form
Other Attachments Form

**Optional Documents**

Faith Based EEO Survey
------------------------

Move Form to Submission List

Move Form to Delete

**Optional Documents for Submission**

**Instructions**

- 1** Enter a name for the application in the Application Filing Name field.

  - This application can be completed in its entirety offline; however, you will need to login to the Grants.gov website during the submission process.
  - You can save your application at any time by clicking the "Save" button at the top of your screen.
  - The "Save & Submit" button will not be functional until all required data fields in the application are completed and you clicked on the "Check Package for Errors" button and confirmed all data required data fields are completed.
- 2** Open and complete all of the documents listed in the "Mandatory Documents" box. Complete the SF-424 form first.

  - It is recommended that the SF-424 form be the first form completed for the application package. Data entered on the SF-424 will populate data fields in other mandatory and optional forms and the user cannot enter data in these fields.
  - The forms listed in the "Mandatory Documents" box and "Optional Documents" may be predefined forms, such as SF-424, forms where a document needs to be attached, such as the Project Narrative or a combination of both. "Mandatory Documents" are required for this application. "Optional Documents" can be used to provide additional support for this application or may be required for specific types of grant activity. Reference the application package instructions for more information regarding "Optional Documents".
  - To open and complete a form, simply click on the form's name to select the item and then click on the => button. This will move the document to the appropriate "Documents for Submission" box and the form will be automatically added to your application package. To view the form, scroll down the screen or select the form name and click on the "Open Form" button to begin completing the required data fields. To remove a form/document from the "Documents for Submission" box, click the document name to select it, and then click the <= button. This will return the form/document to the "Mandatory Documents" or "Optional Documents" box.
  - All documents listed in the "Mandatory Documents" box must be moved to the "Mandatory Documents for Submission" box. When you open a required form, the fields which must be completed are highlighted in yellow with a red border. Optional fields and completed fields are displayed in white. If you enter invalid or incomplete information in a field, you will receive an error message.
- 3** Click the "Save & Submit" button to submit your application to Grants.gov.

  - Once you have properly completed all required documents and attached any required or optional documentation, save the completed application by clicking on the "Save" button.
  - Click on the "Check Package for Errors" button to ensure that you have completed all required data fields. Correct any errors or if none are found, save the application package.
  - The "Save & Submit" button will become active; click on the "Save & Submit" button to begin the application submission process.
  - You will be taken to the applicant login page to enter your Grants.gov username and password. Follow all onscreen instructions for submission.

<b>Application for Federal Assistance SF-424</b>		Version 02																
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"> <b>* 1. Type of Submission:</b>  <input type="checkbox"/> Preapplication  <input checked="" type="checkbox"/> Application  <input type="checkbox"/> Changed/Corrected Application             </td> <td style="width:33%;"> <b>* 2. Type of Application:</b>  <input checked="" type="checkbox"/> New  <input type="checkbox"/> Continuation  <input type="checkbox"/> Revision             </td> <td style="width:33%;"> <b>* If Revision, select appropriate letter(s):</b>  <input type="text"/>  <b>* Other (Specify)</b>  <input type="text"/> </td> </tr> </table>			<b>* 1. Type of Submission:</b> <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	<b>* 2. Type of Application:</b> <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision	<b>* If Revision, select appropriate letter(s):</b> <input type="text"/> <b>* Other (Specify)</b> <input type="text"/>													
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<b>* 3. Date Received:</b> <input type="text" value="01/29/2009"/>		<b>4. Applicant Identifier:</b> <input type="text"/>																
<b>5a. Federal Entity Identifier:</b> <input type="text"/>		<b>* 5b. Federal Award Identifier:</b> <input type="text"/>																
<b>State Use Only:</b>																		
<b>6. Date Received by State:</b> <input type="text"/>		<b>7. State Application Identifier:</b> <input type="text"/>																
<b>8. APPLICANT INFORMATION:</b>																		
<b>* a. Legal Name:</b> <input type="text" value="Health Services Department, Alcohol and Drug Programs"/>																		
<b>* b. Employer/Taxpayer Identification Number (EIN/TIN):</b> <input type="text" value="946000511"/>		<b>* c. Organizational DUNS:</b> <input type="text" value="158218037"/>																
<b>d. Address:</b>																		
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"><b>* Street1:</b></td> <td><input type="text" value="415 Placerville Drive Suite R"/></td> </tr> <tr> <td><b>Street2:</b></td> <td><input type="text"/></td> </tr> <tr> <td><b>* City:</b></td> <td><input type="text" value="Placerville"/></td> </tr> <tr> <td><b>County:</b></td> <td><input type="text" value="El Dorado"/></td> </tr> <tr> <td><b>* State:</b></td> <td><input type="text" value="CA: California"/></td> </tr> <tr> <td><b>Province:</b></td> <td><input type="text"/></td> </tr> <tr> <td><b>* Country:</b></td> <td><input type="text" value="USA: UNITED STATES"/></td> </tr> <tr> <td><b>* Zip / Postal Code:</b></td> <td><input type="text" value="95667"/></td> </tr> </table>			<b>* Street1:</b>	<input type="text" value="415 Placerville Drive Suite R"/>	<b>Street2:</b>	<input type="text"/>	<b>* City:</b>	<input type="text" value="Placerville"/>	<b>County:</b>	<input type="text" value="El Dorado"/>	<b>* State:</b>	<input type="text" value="CA: California"/>	<b>Province:</b>	<input type="text"/>	<b>* Country:</b>	<input type="text" value="USA: UNITED STATES"/>	<b>* Zip / Postal Code:</b>	<input type="text" value="95667"/>
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<b>e. Organizational Unit:</b>																		
<b>Department Name:</b> <input type="text" value="Health Services Department"/>		<b>Division Name:</b> <input type="text" value="Public Health Division"/>																
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>																		
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"><b>Prefix:</b> <input type="text"/></td> <td style="width:30%;"><b>* First Name:</b> <input type="text" value="Shirley"/></td> </tr> <tr> <td><b>Middle Name:</b> <input type="text"/></td> <td></td> </tr> <tr> <td><b>* Last Name:</b> <input type="text" value="White"/></td> <td></td> </tr> <tr> <td><b>Suffix:</b> <input type="text"/></td> <td></td> </tr> </table>			<b>Prefix:</b> <input type="text"/>	<b>* First Name:</b> <input type="text" value="Shirley"/>	<b>Middle Name:</b> <input type="text"/>		<b>* Last Name:</b> <input type="text" value="White"/>		<b>Suffix:</b> <input type="text"/>									
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<b>* Last Name:</b> <input type="text" value="White"/>																		
<b>Suffix:</b> <input type="text"/>																		
<b>Title:</b> <input type="text" value="Alcohol and Drug Programs Manager"/>																		
<b>Organizational Affiliation:</b> <input type="text" value="El Dorado County Health Services Department"/>																		
<b>* Telephone Number:</b> <input type="text" value="530-621-7571"/>		<b>Fax Number:</b> <input type="text" value="530-295-2596"/>																
<b>* Email:</b> <input type="text" value="swhite@co.el-dorado.ca.us"/>																		

**Application for Federal Assistance SF-424**

Version 02

**9. Type of Applicant 1: Select Applicant Type:**

B: County Government

**Type of Applicant 2: Select Applicant Type:**

**Type of Applicant 3: Select Applicant Type:**

**\* Other (specify):**

**\* 10. Name of Federal Agency:**

Bureau of Justice Assistance

**11. Catalog of Federal Domestic Assistance Number:**

16.585

**CFDA Title:**

Drug Court Discretionary Grant Program

**\* 12. Funding Opportunity Number:**

BJA-2009-1979

**\* Title:**

BJA Drug Court Solicitation

**13. Competition Identification Number:**

BJA-2009-1981

**Title:**

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

**\* 15. Descriptive Title of Applicant's Project:**

El Dorado County DUI Treatment Court

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424

Version 02

16. Congressional Districts Of:

\* a. Applicant CA-004

\* b. Program/Project CA-004

Attach an additional list of Program/Project Congressional Districts if needed.

Buttons: Add Attachment, Delete Attachment, Cancel Attachment

17. Proposed Project:

\* a. Start Date: 07/01/2009

\* b. End Date: 06/30/2011

18. Estimated Funding (\$):

* a. Federal	200,000.00
* b. Applicant	66,667.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	266,667.00

\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- a. This application was made available to the State under the Executive Order 12372 Process for review on \_\_\_\_\_.
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- c. Program is not covered by E.O. 12372.

\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)

- Yes
- No
- 

21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

\*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix:  \* First Name: Shirley

Middle Name:

\* Last Name: White

Suffix:

\* Title: Alcohol and Drug Program Administrator

\* Telephone Number: 530-621-7571 Fax Number:

\* Email: swhite@co.el-dorado.ca.us

\* Signature of Authorized Representative: Name not found \* Date Signed: 01/29/2009

**Application for Federal Assistance SF-424**

**Version 02**

**\* Applicant Federal Debt Delinquency Explanation**

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.



**ASSURANCES - NON-CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

EXHIBIT A

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

<p>* SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL</p> <p>Name not found</p>	<p>* TITLE</p> <p>Alcohol and Drug Program Administrator</p>
<p>* APPLICANT ORGANIZATION</p> <p>Health Services Department, Alcohol and Drug Programs</p>	<p>* DATE SUBMITTED</p> <p>01/29/2009</p>

Standard Form 424B (Rev. 7-97) Back

**Budget Narrative File(s)**

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\* **Mandatory Budget Narrative Filename:**

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To add more Budget Narrative attachments, please use the attachment buttons below.

**DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

Approved by OMB  
0348-0046

<p><b>1. * Type of Federal Action:</b></p> <input type="checkbox"/> a. contract <input checked="" type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<p><b>2. * Status of Federal Action:</b></p> <input type="checkbox"/> a. bid/offer/application <input checked="" type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<p><b>3. * Report Type:</b></p> <input checked="" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
<p><b>4. Name and Address of Reporting Entity:</b></p> <input checked="" type="checkbox"/> Prime <input type="checkbox"/> SubAwardee * Name: <input type="text" value="This form is not applicable"/> * Street 1: <input type="text" value="not applicable"/> Street 2: <input type="text" value="not applicable"/> * City: <input type="text" value="not applicable"/> State: <input type="text" value="CA: California"/> Zip: <input type="text" value="95667"/> Congressional District, if known: <input type="text" value="04"/>		
<p><b>5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:</b></p>		
<p><b>6. * Federal Department/Agency:</b></p> <input type="text" value="Bureau of Justice Assistance"/>	<p><b>7. * Federal Program Name/Description:</b></p> <input type="text" value="Drug Court Discretionary Grant Program"/> CFDA Number, if applicable: <input type="text" value="16.585"/>	
<p><b>8. Federal Action Number, if known:</b></p> <input type="text"/>	<p><b>9. Award Amount, if known:</b></p> \$ <input type="text"/>	
<p><b>10. a. Name and Address of Lobbying Registrant:</b></p> Prefix: <input type="text"/> * First Name: <input type="text" value="not applicable"/> Middle Name: <input type="text"/> * Last Name: <input type="text" value="not applicable"/> Suffix: <input type="text"/> * Street 1: <input type="text"/> Street 2: <input type="text"/> * City: <input type="text"/> State: <input type="text"/> Zip: <input type="text"/>		
<p><b>b. Individual Performing Services (including address if different from No. 10a)</b></p> Prefix: <input type="text"/> * First Name: <input type="text" value="not applicable"/> Middle Name: <input type="text"/> * Last Name: <input type="text" value="not applicable"/> Suffix: <input type="text"/> * Street 1: <input type="text"/> Street 2: <input type="text"/> * City: <input type="text"/> State: <input type="text"/> Zip: <input type="text"/>		
<p><b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b></p> <p>* Signature: <input type="text" value="Name not found"/></p> <p>* Name: Prefix: <input type="text"/>    * First Name: <input type="text" value="Shirley"/>    Middle Name: <input type="text"/>                  * Last Name: <input type="text" value="white"/>    Suffix: <input type="text"/></p> <p>Title: <input type="text" value="Alcohol and Drug Program Administrator"/>    Telephone No.: <input type="text" value="(530) 621-7571"/>    Date: <input type="text" value="01/29/2009"/></p>		

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**Other Attachment File(s)**

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**Project Narrative File(s)**

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\* **Mandatory Project Narrative File Filename:**

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**Category II: Enhancement**  
**EI Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

**EI Dorado County DUI Court Expansion**  
**Application Budget Sheet**

**Program:** EI Dorado DUI Court (24-month term)

Item Category	Calculation & Specified Allowable Funding Limits	Requested Initial Funding Level	Brief Justification
<b>A. PERSONNEL COSTS</b> EL Dorado Co. Health Services- Public Health Division Alcohol and Drug Programs Salaries & Benefits for .25 FTE of Health Education Coordinator (HEC) classifications to be DUI Court Expansion Coordinator.	Salary HEC (\$4,775/mo x.25FTE x 24 months = \$28,650)  Total Salary \$28,650	\$28,650	This position provides program assessments and acts as the court coordinator and case manager.
<b>B. FRINGE BENEFITS</b> EL Dorado Co. Health Services- Public Health Division Alcohol and Drug Programs Fringe Benefits for .25 FTE of Health Education Coordinator (HEC) classifications to be DUI Court Expansion Coordinator.	Retirement (\$1,028.33/mo x.25FTE x 24 months = \$6,170) Medicare (\$69.33/mo x.25FTE x 24 months = \$416) Health Ins (\$997/mo x.25FTE x 24 months = \$5,982) Unemp Ins (\$16.67/mo x.25FTE x 24 months = \$100) Disability Ins (\$16.33/mo x.25FTE x 24 months = \$98) Retiree Hlth (\$303.33/mo x.25FTE x 24 months = \$1,820) Worker's Comp (\$94/mo x.25FTE x 24 months = \$564)  Total Benefits \$15,150	\$15,150	This position provides program assessments and acts as the court coordinator and case manager. The costs are the associated benefits based upon a 0.25FTE.

**Category II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

Item Category	Calculation & Specified Allowable Funding Limits	Requested Initial Funding Level	Brief Justification
<p style="text-align: center;"><b>(A) CONTRACTUAL SERVICES</b></p> <p>El Dorado Co -- ADPD Treatment Provider's Professional Services Contract/Sub-Contractor Sub-Contractor's Staff</p> <p><b>This contract has followed the El Dorado County's formal written Procurement Policy and Procedures.</b></p>	<p>With the enhanced services, A typical client may utilize \$2,760 for additional 30 days of residential treatment and \$525 for an additional 30 days of transitional housing. Clients may also receive up to 8 group sessions per month for an approximate cost of \$255 per month. In addition to group sessions, clients may also receive up to 2 individual sessions per month for an approximate cost of \$150 per month. Not all clients will receive the same amount of treatment. Treatment is dependent upon the client's case plan. The collaborative team will decide how much enhanced services will be needed for the client to be successful.</p> <p>The average total for a 24-month substance abuse treatment program for DUI client would be \$3,000.00. With 20-25 program participants projected per year, the total cost for enhanced treatment services is estimated at \$110,000.00.</p>	<p>\$110,000</p>	<p>The grant will service approximately 40-50 program participants over the course of the 24-month grant term. With 20-25 program participants projected per year, the total cost for enhanced treatment services is estimated at \$110,000.00.</p> <p>The contract will attach an Exhibit listing the Standardization Rate schedule and the types of services that are allowable under the contract.</p>
<p style="text-align: center;"><b>(A) CONTRACTUAL SERVICES (cont)</b></p> <p>El Dorado County -- Probation Officer .25 FTE Probation Officer</p> <p>Funding for UA drug testing</p> <p>Funding for SCRAM</p>	<p>Contractual Services by Memorandum of Understanding (MOU) with El Dorado County Probation Department to dedicate a Probation officer for supervision and court monitoring of DUI Court program clients.</p> <p>To provide random and frequent alcohol/drug testing is provided by the following methods of Breathalyzer, Oral Fluid, UA, and ETG Tests</p> <p>Total cost of both the dedicated probation officer and testing is \$30,000 for the 24-month period.</p>	<p>\$40,000</p>	<p>This position provides a dedicated probation officer for supervision and court monitoring of DUI Court program clients.</p> <p>For frequent and random Alcohol testing on clients including UA, ETG, Breathalyzer, saliva test strips</p>



**Category II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

<b>Item Category</b>	<b>Calculation &amp; Specified Allowable Funding Limits</b>	<b>Requested Initial Funding Level</b>	<b>Brief Justification</b>
<p>This contract has followed the El Dorado County's formal written Procurement Policy and Procedures.</p>	<p>\$10,000 is being dedicated for the SCRAM monitoring program of DUI Court program clients. The cost includes the equipment and monitoring services. The total cost for SCRAM over the 24-month period is \$10,000.</p>		<p>Utilizing the SCRAM monitoring program as part of the enhanced services.</p>
<p>El Dorado County – District Attorney's Office – In Kind Match Approx. 25 FTE Deputy District Attorney</p> <p>This contract has followed the El Dorado County's formal written Procurement Policy and Procedures.</p>	<p>Contractual Services by Memorandum of Understanding (MOU) with El Dorado County District Attorney's Office to dedicate a Deputy District Attorney for collaborative meetings, pre-court conferences, and DUI Court sessions for the DUI Court Program.</p>	<p>\$34,367 In kind services - match</p>	<p>This position provides a dedicated Deputy District Attorney for the DUI Court program and the caseloads of the clients.</p>

**Part II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

<p>El Dorado County – Public Defender’s Office– In Kind Match                  Approx .25 FTE Deputy Public Defender</p> <p>This contract has followed the El Dorado County’s formal written Procurement Policy and Procedures.</p>	<p>Contractual Services by Memorandum of Understanding (MOU) with El Dorado County Public Defender’s Office to dedicate a Deputy Public Defender for collaborative meetings, pre-court conferences, and DUI Court sessions for the DUI Court Program.</p>	<p>\$32,300                  In kind services - match</p>	<p>This position provides a dedicated Deputy Public Defender for the DUI Court program and the caseloads of the clients.</p>
<p><b>INDIRECT COSTS</b>                  EDC – HSD, Public Health Division Alcohol &amp; Drug Programs                  Indirect costs associated with the .25FTE HEC.</p>	<p>Insurance Premium (\$93.33/mo x .25FTE x 24 months = \$578)                  Cost Applieds (\$207/mo x .25FTE x 24 months = \$1,242)                  PH - Admin Indirect (S&amp;B total above \$43,800 x 10% = \$4,380)</p>	<p>\$6,200</p>	<p>Indirect costs charged appropriately based upon a .25 FTE of the HEC position working directly in the DUI Court expansion Program.</p>
<p><b>County Match</b> Requirement of 25% (\$266,667 x .25 = \$66,667)</p>		<p><b>TOTAL PROGRAM COSTS</b>                  \$266,667.00</p>	<p><b>Less the County Match required of in-kind services.</b></p>
<p>El Dorado County Request of the Federal Award</p>		<p><b>TOTAL Federal Award</b>                  \$200,000.00</p>	

**Category II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

**El Dorado County DUI Court Expansion**  
**Application Budget Sheet**

**Program: El Dorado DUI Court (24-month term) SUMMARY OF CATEGORIES**

Item Category	Requested Initial Funding Level
A. PERSONNEL COSTS	\$ 7,650
B. PRINCE BENEFITS	\$ 16,150
C. CONTRACTUAL SERVICES	\$ 216,667
TOTAL DIRECT COSTS	\$ 260,467
D. INDIRECT COSTS	\$ 6,200
TOTAL PROJECT COSTS	\$ 266,667
Federal Request	\$ 200,000
Non-Federal Amount	\$ 66,667

**Category II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

**A. Personnel Costs for staffing (\$28,650 for 24 month period)**

**Health Education Coordinator**

A Health Education Coordinator (.25 FTE) will provide the initial intake process and assessment (GUIDING PRINCIPLE #2: PERFORM A CLINICAL ASSESSMENT) from referrals received from community partners. Community partners will refer clients who meet the criteria. (GUIDING PRINCIPLE #1: TARGET THE POPULATION) This person will then make a recommendation for placement into a level of treatment.

The DUI Treatment Court coordinator will facilitate case management and supervision of DUI Court participants. Coordinator will keep records of all client information and represent clients at the monthly court sessions. (GUIDING PRINCIPLE #7: DEVELOP CASE MANAGEMENT STRATEGIES) This staff member will direct all collaborative meetings; act as the program contact for the court administrative purposes. El Dorado County DUI Court Team will include a representative at all court dates and collaborative meetings from the following agencies: the District Attorney's office, the Public Defender's office, Probation Department, Treatment, the Superior Court, and other ancillary agencies on a case-by-case need (e.g., Mental Health, CPS, Public Health).

DUI Treatment Court Coordinator will facilitate the implementation of a comprehensive program evaluation to track program outcomes including participant recidivism, successful treatment completion, vocational attainment, number of jail days avoided. (GUIDING PRINCIPLE #9: EVALUATE THE PROGRAM)

**Category II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

***B. Fringe Benefit Costs for staffing (\$15,150 for 24-month period)***

***Health Education Coordinator***

The Benefits costs associated are for a Health Education Coordinator (.25 FTE) will provide the initial intake process and assessment (GUIDING PRINCIPLE #2: PERFORM A CLINICAL ASSESSMENT) from referrals received from community partners. Community partners will refer clients who meet the criteria. (GUIDING PRINCIPLE #1: TARGET THE POPULATION) This person will then make a recommendation for placement into a level of treatment.

The DUI Treatment Court coordinator will facilitate case management and supervision of DUI Court participants. Coordinator will keep records of all client information and represent clients at the monthly court sessions. (GUIDING PRINCIPLE #7: DEVELOP CASE MANAGEMENT STRATEGIES) This staff member will direct all collaborative meetings; act as the program contact for the court administrative purposes. El Dorado County DUI Court Team will include a representative at all court dates and collaborative meetings from the following agencies: the District Attorney's office, the Public Defender's office, Probation Department, Treatment, the Superior Court, and other ancillary agencies on a case-by-case need (e.g., Mental Health, CPS, Public Health).

**Category II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

DUI Treatment Court Coordinator will facilitate the implementation of a comprehensive program evaluation to track program outcomes including participant recidivism, successful treatment completion, vocational attainment, number of jail days avoided. (GUIDING PRINCIPLE #9: EVALUATE THE PROGRAM)

**G. Contractual Services (\$110,000 for 24-month period)**  
**El Dorado County Treatment Providers – El Dorado County's Formal Written Procurement Policies and Procedures**

Grantee will contract with Progress House Inc. to provide a comprehensive continuum of substance abuse treatment and complete the following tasks and activities:

1. Recover and support sessions: Recovery and support sessions refer to an individual counseling session for DUI participants designed to address threats or perceived threats to a participants' recovery. These services shall be provided on an as needed basis and must be approved by the DUI Court Coordinator before they can be offered.
2. Residential treatment including Peri-natal, women, and men's facilities. Transitional living facilities for men and women. Intensive outpatient groups, outpatient groups, and Dual Diagnosis groups
3. Treatment plans, progress reports, noncompliance reports, treatment discharges, and other requested reports. (GUIDING

**PRINCIPAL #3: DEVELOP TREATMENT PLAN)**

**Category II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

4. Court related activities: Progress House shall attend pre-court and collaborative case management sessions, which take place twice monthly.

5. Ancillary Services: These are supplementary services available from existing community resources that promote successful rehabilitation of Program participants. Progress House shall determine the need for ancillary services, document the need in the treatment plan, request, and receive approval of Coordinator before providing or arranging for participants to receive ancillary services. Ancillary services consist of literacy training, vocational training, family counseling, detoxification and other miscellaneous items that support participants' successful completion of treatment. (GUIDING PRINCIPLE #5: FORGE AGENCY, ORGANIZATION AND COMMUNITY PARTNERSHIPS) and (GUIDING PRINCIPLE #8: ADDRESS TRANSPORTATION ISSUES)

6. Grantee will include in the contract an attachment listing the Standardization Rate schedule and the types of services that are allowable under the contract.

Category II: Enhancement  
El Dorado County DUI Treatment Court  
Budget Worksheet & Narrative

**G. Contractual Services (\$40,000 for 24-month period)**

**El Dorado County Probation Dept - El Dorado County's Formal Written Procurement Policies and Procedures**

Contractual Services by Memorandum of Understanding (MOU) with El Dorado County Probation Department to dedicate a probation officer that will serve the DUI Treatment Court participant caseload. This officer will provide collaborative case management, supervision and enforcement activities, monitoring of SCRAM devices, track and report the number of home visits home monitoring related activities, conduct frequent and random or targeted alcohol and /or other drug testing, and supply information requested by the Health Services Department for statistical purposes related to the Enhancement Grant. (GUIDING

**PRINCIPLE #4: SUPERVISE THE OFFENDER)**

**Contractual Services Match Requirement – (\$34,367 for 24-month period)**

**EDC District Attorney's Office - El Dorado County's Formal Written Procurement Policies and Procedures**

Contractual Services by Memorandum of Understanding (MOU) with El Dorado County District Attorney's Office to dedicate a Deputy District Attorney that will attend and participate in the drug court model of collaboration. The match requirement for this



**Category II: Enhancement**

**El Dorado County DUI Treatment Court**

**Budget Worksheet & Narrative**

grant will be an in-kind match of services for the collaborative partners. In-kind services will include salaries and benefits from El Dorado County District Attorney's office for attending court-sessions, pre-court collaborative meetings, county referral team meetings (CRT meetings) (GUIDING PRINCIPLE #5: FORGE AGENCY, ORGANIZATION AND COMMUNITY PARTNERS)

The El Dorado County District Attorney's office will be actively involved in case management strategies. (GUIDING PRINCIPLE #7: DEVELOP CASE MANAGEMENT STRATEGIES).

**Contractual Services Match Requirement – (\$32,300 for 24-month period)**

**EDC Public Defender's Office - El Dorado County's Formal Written Procurement Policies and Procedures**

Contractual Services by Memorandum of Understanding (MOU) with El Dorado County Public Defender's Office to dedicate a Deputy Public Defender that will attend and participate in the drug court model of collaboration. The match requirement for this grant will be an in-kind match of services for the collaborative partners. In-kind services will include salaries and benefits from El Dorado County Public Defender's office for attending court-sessions, pre-court collaborative meetings, county referral team meetings (CRT meetings) (GUIDING PRINCIPLE #5: FORGE AGENCY, ORGANIZATION AND COMMUNITY PARTNERS)

The El Dorado County Public Defender's office will be actively involved in case management strategies. (GUIDING PRINCIPLE #7: DEVELOP CASE MANAGEMENT STRATEGIES).

**Category II: Enhancement**  
**El Dorado County DUI Treatment Court**  
**Budget Worksheet & Narrative**

**Cultural Competency**

The Superior Court of El Dorado County has a cultural competency policy in place that ensures representation of diversity for all clients. Census data shows that nearly 10 percent of the population in El Dorado County identifies as Hispanic/Latino, creating a large need for culturally services for this segment of the population. Court interpreters and bilingual health services staff are available to aid the DUI Court to ensure cultural competency is maintained. Other race/ethnicities besides white/Anglo are infrequent to the court system. If special circumstances regarding race/ethnicity arise, appropriate services are provided to the best of the County's ability. Often times, neighboring counties are used to provide alcohol and drug services to races/ethnicities that are not well represented in El Dorado County, e.g., Hmong, Russian, and Chinese. Cultural competency training will also be provided by the Public Health Department on an as needed basis.

**U.S. Department of Justice**  
**Office of Justice Programs**  
810 Seventh Street, NW.  
Washington, DC 20531

**Eric H. Holder, Jr.**  
*Attorney General*  
U.S. Department of Justice

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**Office of Justice Programs**  
<http://www.ojp.usdoj.gov>

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**Office of the Chief Financial Officer**  
<http://www.ojp.usdoj.gov/ocfo>  
Customer Service Center  
1-800-458-0786

# Financial Guide

The United States Department of Justice  
Office of Justice Programs  
Office of the Chief Financial Officer

The *Financial Guide*: 2009 is the current edition.

# Foreword

The Office of Justice Programs (OJP) provides Federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist crime victims. The Office of the Chief Financial Officer (OCFO) provides policy guidance, control, and support services to OJP's Program Offices and Bureaus in the areas of grants, accounting, and financial management. OCFO also provides technical assistance and training to and financial monitoring of OJP grantees.

The OJP *Financial Guide* serves as a primary reference manual to assist award recipients in fulfilling their fiduciary responsibility to safeguard grant funds and ensure funds are used for the purposes for which they were awarded. The Guide should serve as a day-to-day management tool for OJP award recipients and may also be used by subrecipients in administering their grant programs. The provisions of the Guide apply to all grantor agency awards.

For additional information on grants management, please visit the Office of Management and Budget's (OMB) Web site at <http://www.whitehouse.gov/OMB/circulars/index.html> to obtain copies of current circulars.

We are pleased to respond to any questions not covered by this Guide and welcome suggestions to improve the utility of the Guide and its content. Please feel free to contact the OCFO's Customer Service Center at 1-800-458-0786 with any financial management questions or suggested revisions. In addition, questions and comments can also be directed to OCFO via e-mail at [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov).

Marcia K. Paull  
Chief Financial Officer

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# Part I: General Information

- CHAPTER 1: Users
- CHAPTER 2: Resources
- CHAPTER 3: Conflicts of Interest

# Chapter 1: Users

## HIGHLIGHTS OF CHAPTER:

- Direct Recipients
- Subrecipients
- Individuals
- Contractors

This document is provided for the use of all recipients and their subrecipients of Federal grant programs administered by OJP. This Guide is to serve as the primary reference for financial management and grants administration. Specific organizations and individuals that are to use this Guide include:

### **DIRECT RECIPIENTS**

Block, formula, and discretionary recipients shall adhere to the provisions of this Guide. Programmatic and technical requirements for block, formula, and discretionary recipients are contained in the program guidelines.

### **SUBRECIPIENTS**

Units of government and other organizations receiving Federal financial assistance from the State shall adhere to applicable State laws and procedures. The circulars and government-wide common rules specific to that organization type should also apply.

### **INDIVIDUALS**

Individuals from the above organizations who may use this Guide include administrators, financial management specialists, grants management specialists, accountants, and auditors. These individuals are to use the Guide as their financial policy reference in executing their duties under agency-funded programs and projects. Additionally, the document is structured to serve as a training manual for new employees.

### **CONTRACTORS**

This Guide is not for the direct use of contractors. However, direct recipients should ensure that monitoring of organizations under contract to them is performed in a manner that will ensure compliance with their overall financial management requirements.

**NOTES**

# Chapter 2: Resources

## HIGHLIGHTS OF CHAPTER:

- OMB Circulars
- Governmentwide Common Rules
- Office of the Inspector General Fraud Hotline
- Other Available Resources

This Guide incorporates by reference the provisions of OMB circulars/CFRs and government-wide common rules applicable to grants and cooperative agreements. These circulars and common rules include the following:

### OMB CIRCULARS/CODE OF FEDERAL REGULATIONS

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#### Administrative Requirements:

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OMB Circular A-102 “Grants and Cooperative Agreements With State and Local Governments.”

2 CFR Part 215 “Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations” (codified at 28 Code of Federal Regulations (CFR) Part 70) **(formerly known as OMB Circular A-110)**

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#### Cost Principles:

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2 CFR Part 220 “Cost Principles for Educational Institutions”(codified at 28 CFR Part 66, by reference) **(formerly known as OMB Circular A-21)**

2 CFR Part 225 “Cost Principles for State, Local, and Indian Tribal Governments” (codified at 28 CFR Part 66, by reference) **(formerly known as OMB Circular A-87)**

2 CFR Part 230 “Cost Principles for Non-Profit Organizations” **(formerly known as OMB Circular A-122)**

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#### Audit Requirements:

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OMB Circular A-133 “Audits of States, Local Governments, and Non-Profit Organizations” (codified at 28 CFR Parts 66 and 70).

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### GOVERNMENTWIDE COMMON RULES

**“Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Units of Governments,”** (codified at 28 CFR Part 66). (Grants Management Common Rule for State and Local Units of Governments.)

**“Government-wide Debarment and Suspension (Nonprocurement)”** (codified at 28 CFR Part 67) and **“Government-wide Requirements for Drug-Free Workplace (Grants)”** (codified at 28 CFR Part 83).

**“New Restrictions on Lobbying”** (codified at 28 CFR Part 69).

For additional information on grants management and to obtain copies of current circulars, please visit the OMB Web site at <http://www.whitehouse.gov/OMB/circulars/index.html>.



**OFFICE OF THE INSPECTOR GENERAL (OIG) FRAUD HOTLINE**

Grantees should report any allegations of fraud, waste, and abuse regarding grant funds to the OCFO Customer Service Branch (CSB) via e-mail [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov) and/or to the Office of the Inspector General (OIG) Fraud Hotline via e-mail [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov) or 1-800-869-4499.

**OTHER AVAILABLE RESOURCES**

Equal Treatment Regulation, codified 28 CFR Parts 38.1 and 38.2, addresses the principle that religious affiliation (faith-based) organizations should be able to compete on an equal footing with other organizations for funding.

“OJP Procurement Guide” is available at [http://www.ojp.usdoj.gov/funding/pdfs/procurement\\_procedures.pdf](http://www.ojp.usdoj.gov/funding/pdfs/procurement_procedures.pdf)

“Post Award Instructions” are available at [http://www.ojp.usdoj.gov/funding/pdfs/post\\_award\\_instructions.pdf](http://www.ojp.usdoj.gov/funding/pdfs/post_award_instructions.pdf)

“Grants.gov” is available at <http://www.grants.gov>.

“Regulations.gov” is available at <http://www.regulations.gov>.

NOTES

# Chapter 3: Conflicts of Interest

## HIGHLIGHTS OF CHAPTER:

- Advice
- Appearance

Personnel and other officials connected with agency-funded programs shall adhere to the following requirements:

#### ADVICE

No official or employee of a State or unit of local government or a nongovernmental recipient/subrecipient shall participate personally through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, award, cooperative agreement, claim, controversy, or other particular matter in which award funds (including program income or other funds generated by federally funded activities) are used, where to his/her knowledge, he/she or his/her immediate family, partners, organization other than a public agency in which he/she is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest, or has less than an arms-length transaction.

#### APPEARANCE

In the use of agency project funds, officials or employees of State or local units of government and nongovernmental recipient/subrecipient shall avoid any action, which might result in, or create the appearance of:

- Using his or her official position for private gain;
- Giving preferential treatment to any person;
- Losing complete independence or impartiality;
- Making an official decision outside official channels; or
- Affecting adversely the confidence of the public in the integrity of the Government or the program.

For example, where a recipient of Federal funds makes subawards under any competitive process and an actual conflict or an appearance of a conflict of interest exists, the person for whom the actual or apparent conflict of interest exists should recuse himself or herself not only from reviewing the application for which the conflict exists, but also from the evaluation of all competing applications.

Also, it is a conflict of interest for a board member of a nonprofit organization to receive consulting fees or contracts from Federal grants to organizations that he/she oversees as a member of the board, unless approved in advance by the awarding agency.

**NOTES**

# Part II: Preaward Requirements

- CHAPTER 1: Application Process
- CHAPTER 2: Conditions of Award and Acceptance
- CHAPTER 3: Standards for Financial Management Systems

# Chapter 1: Application Process

## HIGHLIGHTS OF CHAPTER:

- Eligible Recipients
- Program Announcements
- Certified Assurances (Nondiscrimination Requirements)
- Intergovernmental Review
- Application Review
- Federal Debt (OMB Circular A-129)
- Financial Analysis
- Debarment and Suspension Certification
- Drug-Free Workplace Certification
- Lobbying Certification
- Seat Belt Use by Government Contractors, Subcontractors, and Grantees
- Tribal Eligibility—Government Discount Airfare
- Policy on Making Awards

## ELIGIBLE RECIPIENTS

Block and formula grants may be awarded to States or units of local government and nonprofit organizations, based upon statutory authority. (See appropriate program guidelines for eligibility.) Discretionary awards may be awarded to States, units of local government, Indian tribes and tribal organizations, individuals, educational institutions, hospitals, and private nonprofit and private commercial organizations (if legislation allows) at the discretion of the awarding agency.

## PROGRAM ANNOUNCEMENTS

Programmatic and technical requirements relating to block and formula grant applications are contained in block and formula grant guidelines available from the awarding agency. The awarding agency announces the programs which it has developed for funding under its discretionary award program in the Federal Register. A compilation of available assistance programs may also be found in the Catalog of Federal Domestic Assistance published by the U.S. General Services Administration.

## CERTIFIED ASSURANCES (NONDISCRIMINATION REQUIREMENTS)

Applicants must assure and certify that they comply, and assure the compliance of their subrecipients, with all applicable civil rights nondiscrimination requirements as set forth on the OJP Assurances Form 4000/3 (Attachment to Standard Form [SF] 424).

In the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, national origin, sex, or disability against a recipient of Federal funds, or any subgrantee or contractor of that recipient, a copy of such findings must be forwarded to OJP, Office for Civil Rights (OCR).

All recipients and their subrecipients must also provide OCR with an Equal Employment Opportunity Plan, if required to maintain one, where the award is \$500,000 or more.

## INTERGOVERNMENTAL REVIEW

If the State has established a process for the review of Federal programs and activities eligible under Executive Order 12372 and a particular program has been selected for review by the State, applicants for the program must submit a copy of their application to the State "single point of contact" prior to or at the same time that the application is submitted to the awarding agency. Additional information concerning this requirement is contained in the individual program announcements.

**NOTE:** The awarding agency is required to assure that awards meet certain legislative, regulatory, and administrative requirements. This agency's policy is to provide assurance that awards are only for allowable, allocable, fair, and reasonable costs. Awards must be made only to eligible recipients. Applicants must possess the responsibility, financial management, fiscal integrity, and financial capability necessary to adequately and appropriately administer Federal funds. The awarding agency follows the requirements stipulated in the administrative requirements for grants and agreements that are codified at 28 Code of Federal Regulations (CFR) Parts 66 and 70. In complying with these requirements, the awarding agency will perform the following procedure:



## APPLICATION REVIEW

An examination of the Application for Federal Assistance (SF-424) is conducted to determine:

1. **Type of Applicant.** An example is a new applicant (an organization that has not had an active award within the last 3 fiscal years, individual, not-for-profit (NPO), for profit, State, or local unit of government, etc.).
2. **High-Risk Applicant.** When an applicant is considered high risk by one Bureau/Program Office, then all other OJP components must consider the applicant high risk. For example, if the Bureau of Justice Assistance were to consider an applicant as high risk, and require that progress reports be submitted more frequently, then other OJP components, such as the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime, must also consider the applicant as high risk. OJP will designate a grantee as high risk if the grantee: 1) has a history of unsatisfactory performance; 2) is not financially stable; 3) has an accounting system that does not meet the standards set forth in 28 C.F.R. § 66.20 (standards for financial management systems); 4) has not conformed to the terms and conditions of previous awards; 5) is otherwise not responsible; 6) has open single audit report or Office of the Inspector General (OIG) audit report recommendations that have been open for more than a year, whereby an adequate corrective action plan has not been submitted by the grantee to OJP; 7) is not responsive to requests from OJP to address open single audit or OIG grant audit report recommendations; 8) has significant noncompliance issues that were identified through the normal grant administration process (i.e., financial or programmatic monitoring); 9) is subject to an OIG investigation where grant noncompliance issues were noted that require corrective action; 10) is listed on the list of grantees that are currently barred from receiving funding from the Office of Community Oriented Policing Services; and/or 11) was referred to the Department of Treasury under the Treasury Offset Program, for collection of grant funds owed to OJP.

OJP may also impose additional restrictions on awards to grant recipients designated as high risk.

3. **Accuracy of Taxpayer Identification Number.** The employer identification number (EIN)<sup>1</sup> may be reassigned for individuals and/or business entities to track awards.
4. **Applicant Federal Debt.** The SF-424 includes a question about whether there is Federal debt. That question applies to the organization requesting the financial assistance, not the person who signs the application as the authorized representative of the organization. Categories of debt include delinquent audit disallowances, loans, and taxes.
5. **Financial Capability.** When the applicant is a nongovernmental entity and if there has been no history with OJP within 3 years, a financial capability questionnaire will be provided to the applicant. This questionnaire should be submitted to the awarding agency before the award is made.

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<sup>1</sup> *The awarding agency may assign a vendor number for administrative purpose only. In certain circumstances, an arbitrary vendor EIN will be assigned, for example, awards made directly to subunits of Government which need an identifier distinct from that of their parent agency.*

6. **Dun & Bradstreet Data Universal Numbering System.** All grant applicants must have a Data Universal Numbering System (DUNS) number when applying for Federal grants and cooperative agreements (initial or supplemental awards). Organizations may receive a DUNS number at no cost, by calling the toll-free DUNS number request line at 1-866-705-5711. Individuals who apply for grant awards or cooperative agreements from the Federal Government are exempt from this requirement.
7. **Central Contractor Registration.** Effective 2009, all current and potential grant recipients that apply for assistance from the Federal Government through Grants.gov must register with the Central Contractor Registration (CCR) database as well. The CCR is the primary registrant database for the U.S. Federal Government and registrants are required to complete a one-time registration. Registrants must update or renew their registration at least once per year to maintain an active status. The CCR collects, validates, stores, and disseminates data in support of agency acquisition missions, including Federal agency contract and assistance awards. The term "assistance awards" includes grants, cooperative agreements, and other forms of Federal assistance. Registrants can access the CCR homepage at <http://www.ccr.gov>.

#### **FEDERAL DEBT (OMB CIRCULAR A-129)**

The awarding agency holds recipients accountable for any overpayment, audit disallowances, or any other breach of award that results in a debt owed to the Federal Government. The Debt Collection Improvement Act of 1996 states that if, after written notification, grantee payments continue to be delinquent, the debt will be referred to a collection agency or Department of the Treasury for further action. The awarding agency shall apply interest, penalties, and administrative costs to a delinquent debt owed by a debtor pursuant to the Federal Claims Collection Standards and OMB Circular A-129, Policies for Federal Credit Programs and Non-Tax Receivables.

#### **FINANCIAL ANALYSIS**

The analysis of project applications includes:

1. Performing a cost analysis of each project application considered for funding by the awarding agency. Cost analysis includes obtaining cost breakdowns, verifying cost data, evaluating specific elements of cost, and examining data to determine the necessity, reasonableness, allowability, allocability, and appropriateness of the proposed cost. The form and extent of such an analysis will be determined by the awarding agency.
2. Accepting current indirect cost rates approved by the U.S. Department of Justice, or rates approved by other Federal agencies. If applicants do not have an approved rate, they must submit an indirect cost proposal to their cognizant Federal agency.
3. Determining the adequacy of the applicant's accounting system and operations to ensure that Federal funds, if awarded, will be expended in a judicious manner. Where a nongovernmental applicant (except public colleges, universities, and hospitals) has never received an award, the organization's accounting system should be reviewed prior to award or within a reasonable time thereafter to assure its adequacy and acceptability. This review should also apply where known financial or management deficiencies exist. The results of the review will determine

the action to be taken by the awarding agency with regard to the award. Where an applicant has had prior awards, outstanding audit issues and delinquent audit, financial, or progress reports must be resolved prior to awarding additional discretionary funds.

4. Reviewing credit reports, delinquency status of Federal debt, and other prescreening information. The awarding agency will consider such information when considering the application for award.

#### **DEBARMENT AND SUSPENSION CERTIFICATION**

This certification must be completed prior to recommendation for or against an award. The government-wide common rule for debarment and suspension, 28 CFR Part 67, provides guidance on requirements that recipients shall meet in order to receive Federal funds.

1. Title 28 of the CFR Part 67 provides that executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency has government-wide effect. It is the policy of the Federal Government to conduct business only with responsible persons, and these guidelines will assist agencies in carrying out this policy.
2. Certification Regarding Lobbying: Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (OJP Form 4061/6). Certifications must be completed and submitted by recipients of discretionary awards to the awarding agency's program offices during the application stage. Block/formula recipients are exempt from submission of this certification but are responsible for monitoring subrecipient submissions of the lower tier certification (OJP Form 4061/1) and for maintaining them at the State level.
3. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion — Lower Tier Covered Transactions (OJP Form 4061/1 or like form). This requirement includes persons, corporations, etc., that have critical influence on or substantive control over the award. The direct recipient will be responsible for monitoring the submission and maintaining the official subrecipient certifications.

In summary, the debarment and suspension common rule requires that both recipients and their subrecipients certify they will comply with the debarment and suspension common rule. Subcontractors are not required to certify if their subaward is less than \$100,000.

#### **DRUG-FREE WORKPLACE CERTIFICATION**

This certification must be submitted prior to recommendation for or against an award. The government-wide common rule for drug-free workplace, 28 CFR Part 83, provides guidance on requirements that recipients shall meet in order to receive Federal funds.

Subpart F of 28 CFR Part 83 implements the statutory requirements of the Drug-Free Workplace Act of 1988. All recipients receiving awards from any Federal agency shall certify to that agency that they will maintain a drug-free workplace. A recipient who is an individual shall certify to the agency that his or her conduct of award activity will be drug free. If a recipient makes a false certification, the recipient is subject to suspension, termination, and debarment.

1. The State agency responsible for administering the block/formula award shall submit a drug-free workplace certification to the awarding agency and shall be responsible for obtaining a drug-free workplace certification from each State agency that is subawarded funds. Subrecipients that are not State agencies are not required to submit a drug-free workplace certification.
2. A recipient is required to make the required certification for each award. The one exception to this rule is that a recipient which is a State, including a State agency, may elect to make a single annual certification to each awarding agency from which it obtains awards, rather than making a separate certification for each award or workplace. Only one such annual certification needs to be made to each Federal agency which will cover all of that State agency's workplaces.
3. There are two different certifications: one for individuals and one for organizations. The individual recipient certifies that he or she will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting any activity with the award. The organizational recipient certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
  - b. Establishing a drug-free awareness program to inform employees about:
    - (1) The dangers of drug abuse in the workplace;
    - (2) The recipient's policy of maintaining a drug-free workplace;
    - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
  - c. Making it a requirement that each employee to be engaged in the performance of the award be given a copy of the employer's statement about drugs in the workplace.
  - d. Notifying the employee that, as a condition of employment under the award, the employee will:
    - (1) Abide by the terms of the statement; and
    - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not later than 5 days after such conviction.
  - e. Notifying the awarding agency within 10 days after receiving notice from an employee or otherwise receiving actual notice of such conviction.

- f. Taking one of the following actions, within 30 days of receiving notice, with respect to any employee who is so convicted:
- (1) Taking appropriate personnel action against such an employee, up to and including termination; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- g. Making a good faith effort to continue to maintain a drug-free workplace.

In summary, the drug-free workplace common rule requires that ONLY direct recipients of Federal awards certify they will comply with the drug-free workplace common rule. There is no dollar threshold for certification.

### LOBBYING CERTIFICATION

This certification must be submitted prior to recommendation for or against an award. U.S. Department of Justice's (DOJ) codification of the government-wide common rule for restrictions on lobbying, 28 CFR Part 69, provides guidance on requirements that recipients shall meet in order to receive Federal funds. (See also discussion on Lobbying; Part III: Postaward Requirements, Chapter 16: Unallowable Costs).

The following restrictions on lobbying are applicable to all recipients and subrecipients (in addition to the restrictions imposed by recent revisions to 18 United States Code [U.S.C.] 1913). Interim Final Guidance for New Restrictions on Lobbying was published in the *Federal Register* in December 1989. The Lobbying Disclosure Act of 1995 included amendments that have an impact on the guidance provided in 1989. Per 31 U.S.C. 1352, the restrictions on lobbying are as follows:

1. No federally appropriated funds may be expended by the recipient of a Federal award, cooperative agreement, or contract to pay a person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, or cooperative agreement.
2. Each person who requests or receives from an agency an initial Federal contract, award, or cooperative agreement (including subcontracts, subawards, and contracts under cooperative agreements) exceeding \$100,000 shall file with that agency a certification regarding lobbying. The certification shall be submitted to the agency making the award. Each person is certifying that:
  - a. He/she has not made and will not make any payment for a lobbying activity.
  - b. If any non-Federal funds have been paid or will be paid to any person, he/she will complete and submit a "Disclosure of Lobbying Activities" form (Disclosure Form).

- c. The language of this certification will be included in his/her award documents for all subawards at all tiers (including subcontracts, subawards and contracts under awards, and cooperative agreements), and all subrecipients shall certify and disclose accordingly.
  - d. Each person, if applicable, shall submit the Disclosure Form to the agency making the award. The recipient or subrecipient is responsible for reporting lobbying activities of its employees if the employee's tenure is less than 130 working days within 1 year immediately preceding the date of the recipient's or subrecipient's application or proposal submission.
  - e. A subrecipient who requests or receives Federal funds exceeding \$100,000 shall be required to file with the agency making the award a certification and a Disclosure Form, if applicable. All certifications shall be maintained by the agency making the award and all Disclosure Forms shall be forwarded from tier to tier until received by the Federal agency making the award. That agency shall forward all Disclosure Forms to the awarding agency. The Disclosure Form shall contain the following information:
    - (1) Name and address of reporting entity;
    - (2) Federal program name;
    - (3) Federal award number;
    - (4) Federal award amount; and
    - (5) Name and address of lobbying registrant.
3. Each person shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any Disclosure Form previously filed by such persons. Examples of such events are:
    - a. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action;
    - b. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
    - c. A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
  4. Penalties and enforcement of lobbying restrictions shall be as follows:
    - a. Any person who makes an expenditure prohibited by the New Restrictions on Lobbying shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
    - b. Any person who fails to file or amend the Disclosure Form to be filed or amended, if required, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

In summary, the common rule for lobbying requires that recipients and their subrecipients certify they will comply with the lobbying common rule. This requirement is only for awards made exceeding \$100,000. (See Part III, Chapter 16: Unallowable Costs, for cost restrictions relating to lobbying).

In order to comply with the certification requirements provided in the common rules for lobbying, drug-free workplace, and suspension and debarment (so that recipients do not have to sign three certifications), we have combined them into OJP Form 4061/6, entitled "Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements".

#### **SEAT BELT USE BY GOVERNMENT CONTRACTORS, SUBCONTRACTORS, AND GRANTEES**

Pursuant to 23 U.S.C. 402 and 403, and 29 U.S.C. 668, each recipient agency of Federal contracts, subcontracts, and grants shall encourage adoption and enforcement of on-the-job seat belt policies and programs for its employees, contractors, and subrecipients when operating company-owned, rented, or personally owned vehicles.

#### **TRIBAL ELIGIBILITY—GOVERNMENT DISCOUNT AIRFARE**

Tribal organizations carrying out a contract, grant, or cooperative agreement are eligible to have access to Federal sources of supply, including lodging providers, airlines, and other transportation providers. Section 201(a) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 481(a), indicates that employees of tribal organizations are eligible to have access to sources of supply on the same basis as employees of an executive agency if a request is made by the tribal organization.

#### **POLICY ON MAKING AWARDS**

This agency may not make an award to any applicant who has an overdue audit report or an open audit report where the recipient has not attempted to respond or has taken no action to resolve findings. Every applicant for funding is on notice that unless they are in compliance with the audit requirements, their application may be rejected. Exceptions to this policy are by recommendation of the Chief Financial Officer, OJP, to the awarding agency.

**NOTES**



# Chapter 2: Conditions of Award and Acceptance

## HIGHLIGHTS OF CHAPTER:

- Award Document
- Award Notification and Acceptance Procedures
- Special Conditions
- Federal Obligation Process
- Automated Clearing House Enrollment

## AWARD DOCUMENT

After completion of the internal review process, the applications designated for approval are formally awarded through the issuance of an award. This document includes:

- Name of recipient;
- Project/Budget Period;
- Grant or Cooperative Agreement;
- Amount of Federal funds;
- Vendor number;
- Award number (also known as grant number); and
- Special conditions, as appropriate, that the recipient must meet if the award is accepted.

Correspondence concerning the award should refer to the designated award number shown on the award document.

## AWARD NOTIFICATION AND ACCEPTANCE PROCEDURES

Notification of award approval is sent by e-mail. The individuals identified in the application as the Point of Contact and the Authorizing Official will receive an e-mail through the OJP Grants Management System (GMS). GMS automatically issues the notifications at 9 p.m. eastern standard time on the award date. The notification provides information on how to access and view the award documents in GMS and provides instruction on how to accept the award.

The award document constitutes the operative document obligating and reserving Federal funds for use by the recipient in execution of the program or project covered by the award. Award recipient must formally accept the award. If the recipients fail to affirm their timely utilization of the award by accepting **WITHIN 45 DAYS** from the date of the award, the obligation may be terminated without further cause. Community Orientated Policing Services (COPS) awards have a 90-day acceptance timeframe.

To accept the award, the recipients must go into the GMS system and designate a Financial Point of Contact (FPOC). The FPOC will be responsible for the financial administration of the award. The FPOC may be the same as the Program Point of Contact (PPOC), or may be one or more separate individuals designated by the recipient. The designation of the FPOC must be completed in the GMS system before the award acceptance documents can be printed. Once the FPOC has been designated, grant recipients should:

1. Print and read the award document carefully.
2. Have the award document signed and dated by the Authorized Recipient Official designated in the application to indicate full acceptance of all terms, and conditions. The name of this person is preprinted on the award document. An electronic signature will not be accepted.

**NOTE:** If the name of the person accepting the award is not the name preprinted on the award document, a grant adjustment notice (GAN) must be submitted by the grant recipient to explain the reason for the change. The award acceptance document will be **REJECTED** if it is

signed by anyone other than the Authorizing Official named on the award document unless a GAN has been approved.

3. The Authorized Official should also initial the bottom right corner of each page of the special conditions to signify agreement.
  4. The signed award document and the special conditions should be submitted to the Office of the Chief Financial Officer, Control Desk, using any of the following methods:
    - by e-mail to [acceptance@usdoj.gov](mailto:acceptance@usdoj.gov);
    - by FAX to (toll free) 1-866-388-3055;
    - by FAX to (local Washington, DC) 202-354-4081;
    - by alternate FAX to 202-353-8475.
- Select **only one** of these submission options to avoid duplicate submissions. The original signed award document should be retained by the award recipient in their official file for the award.

**NOTE:** By signing the award acceptance, the recipient acknowledges that the Project Director must be an employee of the recipient's organization.

If a grant recipient does not accept the award and all the terms and special conditions, they should contact their OJP Program Manager to determine if modifications are needed, or if the award should be closed and funds deobligated. No Federal funds will be disbursed to the recipient until the signed acceptance and special conditions have been received by the awarding agency.

Questions concerning award notification and/or acceptance may be directed to the Office of the Chief Financial Officer, Customer Service Branch, at 1-800-458-0786. (Select option #2)

### SPECIAL CONDITIONS

These are incorporated as terms and conditions of the award. They may include special provisions for additional submissions, audit, conferences, and disposition of program income.

1. **All awards** will include special conditions concerning: (a) compliance with this Guide; (b) the submission of an Equal Employment Opportunity Plan if required; (c) compliance with the audit requirements; and (d) compliance with the Anti-Lobbying Act (page 123); and (e) comply with the False Claims Act or committing fraud with grant funds. Failure to comply with special conditions will result in withholding of funds.

Also, the recipient, upon accepting the award, agrees to complete and keep on file, as appropriate, the U.S. Citizenship and Immigration Services Employment Eligibility Verification form (I-9). This form is to be used by recipients of Federal funds to verify that persons are eligible to work in the United States.

2. **Commercial Award** recipients receiving grant funding from OJP should be aware of the additional special conditions placed on these awards. In addition to the (5) special conditions referenced in the "All Awards" section, 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 Federal Acquisition Regulations cost principles.

3. **Information Technology (IT) Award** recipients are prohibited from drawing funds against the award until the recipient notifies the State IT Point of Contact of the IT project by written correspondence. This correspondence should include a brief description of the project. A copy of the correspondence should be sent to the grant manager. Once the copy has been received, the grant manager will retire this condition and inform the recipient of this action. If there is no State IT Point of Contact, the recipient agrees to submit a letter to the grant manager stating that this condition is not applicable for that reason. The intent of this condition is to facilitate information system communication. This condition does not require that the point of contact concur with or approve the IT project. For a list of State Information Technology Points of Contact, go to <http://www.ojp.usdoj.gov/ec/states.htm>.
4. **Cooperative Agreement Award** recipients who hold or sponsor a conference, meeting, retreat, seminar, symposium, training activity, or similar event funded under a cooperative agreement, and the total cost of any one event exceeds \$20,000 in award funds, must report the following information through the GMS Event Planning and Reporting Link within 45 days after the end of the event: 1) name of event; 2) event dates; 3) location of event; 4) number of Federal attendees; 5) number of non-Federal attendees; 6) cost of event space, including rooms for break-out sessions; 7) cost of audio visual services; 8) other equipment costs (e.g., computer fees, telephone fees, etc.); 9) cost of printing and distribution; 10) cost of meals provided during the event; 11) cost of refreshments provided during the event; 12) cost of event planner; 13) cost of event facilitators; and 14) any other costs associated with the event.

Additionally, the recipient must itemize and report the following costs, which are paid for or reimbursed with cooperative agreement funds, for any attendee (including participants, presenters, and speakers): 1) meals and incidental expenses (M&IE portion of per diem); 2) lodging; 3) transportation to/from event location (e.g., common carrier, privately owned vehicle (POV)); and 4) local transportation (e.g., rental car, POV) at event location.

**NOTE:** Items paid for with registration fees, or other nonaward funding, do not need to be reported for these purposes.

5. **Cancellation for Block and Formula Subawards.** The State must condition each block and formula subaward to include the following cancellation procedures:
  - a. **Commencement Within 60 Days.** If a project is not operational within 60 days of the original start date of the award period, the subrecipient must report by letter to the State the steps taken to initiate the project, the reasons for delay, and the expected revised start date.
  - b. **Operational Within 90 Days.** If a project is not operational within 90 days of the original start date of the award period, the subrecipient must submit a second statement to the State explaining the implementation delay. Upon receipt of the 90-day letter, the State may cancel the project and request Federal agency approval to redistribute the funds to other project areas. The State may also, where extenuating circumstances warrant, extend

the implementation date of the project past the 90-day period. When this occurs, the appropriate subaward files and records must note the extension.

## **FEDERAL OBLIGATION PROCESS**

After an award has been signed by the Federal awarding agency, the amount of the award is considered an obligation of the Federal government and is recorded as such in its accounting system. Appropriated funds are thereby reserved against the award until all monies are expended by the recipient and subrecipient or, in the case of nonutilization of funds within statutory or other time limits, appropriated funds would revert to the awarding agency through deobligation of the unused balance.

On the award date, the recipient of the award is notified of award approval and obligation. Upon award acceptance, in order for a recipient to receive payment of funds obligated in OJP's accounting system, they must be in compliance with award conditions enumerated in the award document. In addition, they must be in compliance with all reporting requirements. All grantees are required to submit Financial Status Reports (SF-269A) for each grant on a quarterly basis for the life of the grant. Progress Reports are also required for discretionary grants, on a semi-annual basis. Funds will not be disbursed if reports are delinquent.

**NOTE:** If the award date is after the begin date of the award, the first SF-269A submitted to OJP should cover the period from the begin date of the grant period to the end of the calendar quarter in which the award was made.

## **AUTOMATED CLEARING HOUSE ENROLLMENT**

The ACH Vendor/Miscellaneous Enrollment Form provides OJP with banking information used to establish electronic funds transfer. Recipients are required to submit the completed ACH form which must bear the original signature of the authorized official of the recipient's financial institution. The ACH form may be found in Appendix I of this Guide, or you may download it from <http://www.ojp.usdoj.gov/funding/forms.htm> under "Standard Forms."

If the grant recipient has an active award, you do not have to submit a new ACH form for each new grant. However, if you would like to revise your current banking information, a new ACH form must be submitted.

The original signed ACH document must be submitted to the Office of Justice Programs, Control Desk at 810 Seventh Street, NW., Washington, DC 20531. The ACH information is used by the U.S. Department of the Treasury to transmit payment data, by electronic means, to the recipient's financial institution. Failure to provide the requested information will delay or prevent the receipt of payments.

**NOTES**

# Chapter 3: Standards for Financial Management Systems

## HIGHLIGHTS OF CHAPTER:

- Accounting System
- Total Cost Budgeting and Accounting
- Commingling of Funds
- Recipient and Subrecipient Accounting Responsibilities
- Cash Depositories
- Supplanting

All recipients are required to establish and maintain adequate accounting systems and financial records to accurately account for funds awarded to them. These records shall include both Federal funds and all matching funds of State, local, and private organizations, when applicable.

State recipients shall expend and account for grant funds in accordance with State laws and procedures for expending and accounting for their own funds. Subrecipients of States shall follow the financial management requirements imposed on them by States. (State and local procedures must ensure that subrecipients comply with the financial management standards found at 28 CFR Parts 66 and 70).

## ACCOUNTING SYSTEM

The recipient is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself, and for ensuring that an adequate system exists for each of its subrecipients. An acceptable and adequate accounting system:

1. Presents and classifies projected historical cost of the grant as required for budgetary and evaluation purposes;
2. Provides cost and property control to ensure optimal use of funds;
3. Controls funds and other resources to assure that the expenditure of funds and use of property conform to any general or special conditions that apply to the recipient;
4. Meets the prescribed requirements for periodic financial reporting of operations; and
5. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

Funds may be awarded as block/formula or discretionary awards. The various financial requirements and formulas of the awarding agency's programs, as well as the need for recipients to separately account for individual awards, require a special program account structure extending beyond normal classification by type of receipts, expenditures, assets, and liabilities.

1. **Block and Formula Awards.** To properly account for block and formula awards, the State should establish and maintain program accounts which will enable separate identification and accounting for:
  - a. Block and Formula grant funds expended through programs of local government; and
  - b. Formula funds utilized to develop a State plan and to pay that portion of expenditures necessary for administration.
2. **Discretionary Awards.** To properly account for discretionary awards, all recipients should establish and maintain program accounts which will enable, on an individual basis, separate identification and accounting for:
  - a. Receipt and disposition of all funds (including project income);
  - b. Funds applied to each budget category included within the approved award;



- c. Expenditures governed by any special and general provisions; and
- d. Non-Federal matching contribution, if required.

#### TOTAL COST BUDGETING AND ACCOUNTING

Accounting for all funds awarded by the Federal agency shall be structured and executed on a “total program cost” basis. That is, total program costs, including Federal funds, State and local matching shares, and any other fund sources included in the approved project budget or received as program income shall be the foundation for fiscal administration, accounting, and audit. Unless otherwise prohibited by statute, applications for funding and financial reports require budget and cost estimates based on total costs.

#### COMMINGLING OF FUNDS

Federal agencies shall not require physical segregation of cash deposits or the establishment of any eligibility requirements for funds which are provided to a recipient. However, the accounting systems of all recipients and subrecipients must ensure that agency funds are not commingled with funds from other Federal agencies. Each award must be accounted for separately. Recipients and subrecipients are prohibited from commingling funds on either a program-by-program or project-by-project basis.

Funds specifically budgeted and/or received for one project may not be used to support another. Where a recipient’s or subrecipient’s accounting system cannot comply with this requirement, the recipient or subrecipient shall establish a system to provide adequate fund accountability for each project it has been awarded.

#### RECIPIENT AND SUBRECIPIENT ACCOUNTING RESPONSIBILITIES

1. **Reviewing Financial Operations.** Direct recipients should be familiar with, and periodically monitor, their subrecipients’ financial operations, records, systems, and procedures. Particular attention should be directed to the maintenance of current financial data.
2. **Recording Financial Activities.** The subrecipient’s award or contract obligation, as well as cash advances and other financial activities, should be recorded in the books of the recipient in summary form. Subrecipient expenditures should be recorded on the books of the recipient or evidenced by report forms duly filed by the subrecipient. Non-Federal contributions applied to programs or projects by subrecipients should likewise be recorded, as should any program income resulting from program operations.
3. **Budgeting and Budget Review.** The recipient should ensure that each subrecipient prepares an adequate budget on which its award commitment will be based. The detail of each project budget should be maintained on file by the recipient.
4. **Accounting for Non-Federal Contributions.** Recipients will ensure that the requirements, limitations, and regulations pertinent to non-Federal contributions are applied.
5. **Audit Requirements.** Recipients must ensure that subrecipients have met the necessary audit requirements contained in this Guide (see Part III, Chapter 19: Audit Requirements).

6. **Reporting Irregularities.** Recipients and their subrecipients are responsible for promptly notifying the awarding agency and the Federal cognizant audit agency of any illegal acts, irregularities and/or proposed and actual actions. Please notify the OCFO Customer Service Center (CSC) at 1-800-458-0786 if any irregularities occur. Illegal acts and irregularities include conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.
7. **Debarred and Suspended Organizations.** Recipients and subrecipients must not award or permit any award at any level to any party which is debarred or suspended from participation in Federal assistance programs. For details regarding debarment procedures, see 28 CFR Part 67, Government-wide Debarment and Suspension (Nonprocurement) and 28 CFR Part 83 Government-wide Requirements for Drug-Free Workplace (Grants).
8. **Bonding.** The awarding agency may require adequate fidelity bond coverage where a recipient lacks sufficient coverage to protect the Federal Government interest (see 2 CFR Part 215, Subpart C, paragraph 21(c)).

Where the conduct of a program or one of its components is delegated to a subrecipient, the direct recipient is responsible for all aspects of the program including proper accounting and financial recordkeeping by the subrecipient. Responsibilities include the accounting of receipts and expenditures, cash management, the maintaining of adequate financial records, and the refunding of expenditures disallowed by audits.

#### CASH DEPOSITORIES

In accordance with the administrative requirements for Government and nongovernmental entities, recipients are encouraged to use minority banks (banks which are owned at least 50 percent by minority group members). A list of minority-owned banks may be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.

#### SUPLANTING

Federal funds must be used to supplement existing funds for program activities and must not replace those funds that have been appropriated for the same purpose. Supplanting will be the subject of application review, as well as preaward review, postaward monitoring, and audit. If there is a potential presence of supplanting, the applicant or grantee will be required to supply documentation demonstrating that the reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds. For certain programs, a written certification may be requested by the awarding agency or recipient agency stating that Federal funds will not be used to supplant State or local funds.

**NOTES**

# Chapter 1: Payments

## HIGHLIGHTS OF CHAPTER:

- Payment Method
- Withholding of Funds
- Minimum Cash on Hand
- Interest Earned
- Cash Management Improvement Act of 1990

## PAYMENT METHOD

The current method for requesting payment of grant funds is the Phone-Activated Paperless Request System (PAPRS). Recipients are required to submit the completed Automated Clearing House (ACH) electronic funds transfer form bearing the original signature of the authorized official of the recipient's financial institution. The Debt Collection Act of 1996 states that all eligible recipients of Federal payments must receive funds electronically. Recipients are reminded to coordinate with their respective financial institutions for an addendum record which contains payment-related information for their records. In order for a recipient to receive payments requested, a current Standard Form (SF-269A) for the grant on which payment is requested must be on file with OJP. If Progress Reports are required for the grant program, the reports must be current or requests for payment will be denied.

PAPRS allows grant recipients immediate access to OJP funds through the use of a touch-tone telephone. The use of electronic means to transfer money from the U.S. Department of the Treasury (Treasury) became law under the Debt Collection Improvement Act effective July 26, 1996. Grant recipients should complete and return the original ACH Vendor Miscellaneous Enrollment Form (Appendix I) included in the PAPRS information package and return it to the OJP Control Desk. Through the combined use of PAPRS and ACH, approved requests will be deposited into the grantee's financial institution within 3 business days of the request. Grantees will receive their password/personal identification number (PIN) and grant identification numbers by mail from the Office of the Chief Financial Officer (OCFO), Customer Service Center.

Instructions for using the PAPRS system will be included in the package. The information is usually mailed to the Financial Point of Contact (FPOC) designated by the recipient, within 1 week of the award date of a new grant award. The password is to be given only to authorized persons of the grantee organization and not given to subgrantees. The recipient is solely responsible for the security of this access code.

**NOTE:** In support of the continuing effort to meet the accelerated financial statement reporting requirements mandated by the U.S. Department of the Treasury, **the Office of the Chief Financial Officer will not process payment requests during the last 4 working days of each month.** For this reason, OJP strongly suggests that grantees make payment requests before 10 a.m. eastern standard time, prior to the last 4 working days of each month.

## WITHHOLDING OF FUNDS

The awarding agency **may** withhold draw downs to a recipient organization receiving grant funds by electronic transfer, if the recipient demonstrates any of the following:

1. Failure to attain program or project goals or to establish procedures that will minimize the time elapsing between the cash draw downs and expenditure;
2. Failure to adhere to guideline requirements or special conditions;
3. Improper engagement of awarding and administering subawards or contracts;
4. Failure to submit reliable and/or timely reports, including, but not limited to, Financial Status Reports and Progress Reports; and/or

5. Failure to achieve timely financial reconciliation and closeout at the end of the project period of any grant awarded to the recipient organization.

The recipient organization may be required to finance its operation with its own working funds until such time the recipient is in compliance with all award conditions.

#### **MINIMUM CASH ON HAND**

Grant recipient organizations should request funds based upon immediate disbursement/reimbursement requirements. Funds will not be paid in a lump sum, but rather disbursed over time as project costs are incurred or anticipated (with the exception of block grant program such as Justice Assistance Grant (JAG), Juvenile Accountability Block Grants [JABG], and State Criminal Alien Assistance Program Grants [SCAAP] which are paid in a lump sum). Recipients should time their drawdown requests to ensure that Federal cash on hand is the minimum needed for disbursements/reimbursements to be made immediately or within 10 days.

Fund requests from subrecipients create a continuing cash demand on award balances of the State. The State should keep in mind that idle funds in the hands of subrecipients will impair the goals of effective cash management. All recipients must develop procedures for the disbursement of funds to ensure that Federal cash on hand is kept at a minimal balance.

The Office of the Chief Financial Officer conducts financial reviews to ensure that this requirement is met and that excess cash is not improperly held by recipient organizations.

#### **INTEREST EARNED**

Recipients and subrecipients shall minimize the time elapsing between the transfer and disbursement of funds. Recipients and subrecipients that administer confidential funds may establish different procedures for administering confidential funds to provide quick access to funds to meet the needs of the project. Also, interest income on block grants such as JAG and JABG must be accounted for, reported as program income, and used in accordance with the provisions of Part III, Chapter 4: Program Income, of this Guide.

1. In accordance with Section 203 of the Intergovernmental Cooperation Act of 1968 (Pub L. 90-577; 31 United States Code [U.S.C.] 6503(a)), a State and its subrecipient and any agency or instrumentality of a State, including State institutions of higher education and State hospitals, but not political subdivisions of a State (cities, towns, counties, and special districts created by State law) SHALL NOT be held accountable for interest earned on grant money pending its disbursement for program purposes.

This refers to formula grant programs where subawards are made to local jurisdictions. Subrecipients under formula grant programs are held accountable for interest earned on advances.

2. In accordance with Sections 102, 103, and 104 of the Indian Self Determination Act (Pub. L. 93-638; U.S.C. 450(j)), tribal organizations SHALL NOT be held accountable for interest earned pending their disbursement by such organizations.
3. All local units of government (political subdivisions of a State, including cities, towns, counties and special districts created by State law) shall account for interest earned on Federal

funds. Local units of government may keep interest earned on Federal grant funds up to \$100 PER FEDERAL FISCAL YEAR. This maximum limit is not per award; it is inclusive of all interest earned as a result of all Federal grant program funds received per year. Interest earned in excess of \$100, excluding JAG and JABG, must be remitted to the U.S. Department of Health and Human Services, Division of Payment Management Services, P.O. Box 6021, Rockville, MD 20852.

4. Nonprofit organizations shall account for interest earned on Federal funds. Nonprofit organizations may keep interest earned on Federal grant funds up to \$250 PER FEDERAL FISCAL YEAR. This maximum limit is not per award; it is inclusive of all interest earned as a result of all Federal grant program funds received per year. Interest earned in excess of \$250 must be remitted to the U.S. Department of Health and Human Services, Division of Payment Management Services, P.O. Box 6021, Rockville, MD 20852.

**NOTE:** Interest earned on block grants such as JAG and JABG must be accounted for and reported as program income, and used in accordance with the provisions of Part III, Chapter 4: Program Income of this Guide. Any unexpended program income should be remitted to the Office of Justice Programs, Office of the Chief Financial Officer, ATTN: Accounting Control Branch, 810 Seventh Street, NW., Fifth Floor, Washington, DC 20531.

#### **CASH MANAGEMENT IMPROVEMENT ACT OF 1990**

The Cash Management Improvement Act of 1990 was an amendment to the Intergovernmental Cooperation Act of 1968, 31 U.S.C. 6503. Under this provision, 31 U.S.C. 5(b) of Public Law 101-453, States are no longer exempted from payment of interest to the Federal Government for drawing down funds prior to the need to pay off obligations incurred. The provisions of 31 U.S.C. 6503(c)(1) require that the States pay interest in the event that the States drawdown funds before the funds are needed to pay for program expenses.

**NOTES**



# Chapter 2: Period of Availability of Funds

## HIGHLIGHTS OF CHAPTER:

- Redesignation of Fund Year
- Availability of Awards
- Obligation of Funds
- Expenditure of Funds
- Award Extension Criteria

## REDESIGNATION OF FUND YEAR

States are prohibited from changing their block/formula awards and their related obligations and expenditures from one Federal fiscal year to another.

## AVAILABILITY OF AWARDS

Block/formula grants administered by the Bureau of Justice Assistance (BJA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) are awarded for the Federal fiscal year of the appropriation plus two additional Federal fiscal years.

Formula grants administered by the Office for Victims of Crime (OVC) are available for the fiscal year of the award plus three additional fiscal years.

Discretionary awards made by OJP offices and bureaus are awarded for a specified time, and a particular award period is established for each award (usually 12 or 18 months).

## OBLIGATION OF FUNDS

An obligation occurs when funds are encumbered, such as in a valid purchase order or requisition to cover the cost of purchasing an authorized item on or after the begin date and up to the last day of the grant period in the award. Any funds not properly obligated by the recipient within the grant award period will lapse and revert to the awarding agency. The obligation deadline is the last day of the grant award period unless otherwise stipulated. **(Example:** If the award period is 10/1/06 to 9/30/07, the obligation deadline is 9/30/07). Block/formula grantees and subgrantees must complete performance during the obligation period. Performance as a result of a contract under a block/formula grant may be completed during the expenditure period not to exceed **90** days after the end date of the grant.

No additional obligations can be incurred after the end of the grant.

## EXPENDITURE OF FUNDS

Block, formula, and discretionary funds which have been properly obligated by the end of the award period will have **90** days in which to be liquidated (expended). Any funds not liquidated at the end of the **90** day period will lapse and revert to the awarding agency, unless a grant adjustment notice extending the liquidation period has been approved. **(Example:** If the award period is October 1, 2006 to September 30, 2007, the expenditure deadline is December 29, 2007).

## AWARD EXTENSION CRITERIA

Requests for a no-cost extension of a grant period must be submitted through the Grants Management System (GMS). Grantees are to use the Grant Adjustment Notice (GAN) module in GMS to request the extension.

Block, formula, and discretionary awards (except for Victims Compensation and Assistance funds) may be awarded an extension of the obligation date in response to the GAN request. The request for extension must state the need for the extension and indicate the additional time required. The GAN should be submitted within the following time frame:

- **Block/Formula Awards:** A no cost extension may be requested at anytime after accepting the award, but no later than 30 days prior to the end of the award.

**NOTE:** Byrne Formula awards have new requirements for requesting no-cost extensions. The recipient should contact the BJA grant manager for the additional requirements.

- **Discretionary Awards:** A no cost extension may be requested at anytime after accepting the award, but no later than 30 days prior to the end of the award.

The maximum extension allowable for any project period is generally 12 months, and requests for retroactive extension of project periods will not be considered. Generally, only one extension per award will be permitted. A request for an extension of the obligation period of a program or set of programs beyond 12 months must be justified by extraordinary circumstances beyond the control of the recipient and subrecipient.

Extension requests will be considered only if the EXTENSION CRITERIAS established below are met by the recipient at the time of the request to the awarding agency. Modifications of the general extension policy stated above are at the discretion of the awarding agency. Extension of the expenditure deadline date is allowable for all awards (including Victims Compensation and Assistance) upon e-mail notification that the submission of the request through the GAN module in GMS was approved by the awarding agency.

The criteria for extending the obligation or expenditure deadline for a project, program, or set of programs include the following:

1. **Reports.** There must be on file with the awarding agency current and acceptable Progress Reports, if applicable to the grant, and current and acceptable Financial Status Reports, SF-269As, and all identified financial issues must be satisfactorily resolved.
2. **Special Conditions.** All special conditions attached to the award must be satisfied, except for those conditions that must be fulfilled in the remaining period of the award. This also includes the performance and resolution of audits in a timely manner.
3. **Extraordinary Circumstances Justification.** A narrative justification must be submitted with the project or program extension request. Complete details must be provided, including the justification and the extraordinary circumstances which require the proposed extension. Explain the effect of a denial of the request on the project or program.
4. **Approval.** The awarding agency is expected to take action on any proposed extension request within 15 working days after receipt of the request.
5. **Extension Avoidance.** To avoid the need to make a request to extend the obligation or expenditure deadline of a block/formula program, all subawards should be made at least 6 months prior to the end of the obligation deadline for the award.

NOTES

# Chapter 3: Matching or Cost Sharing

## HIGHLIGHTS OF CHAPTER:

- Match Requirements
- Types of Match
  - Cash Match
  - In-kind Match
- Source and Type of Funds
- Timing of Matching Contributions
- Records for Match
- Waiver of Match

## MATCH REQUIREMENTS

Match for the block/formula award program is to be provided for on a project-by-project basis, unless otherwise stated in the program guidelines. Any deviation from the program guidelines must receive the prior written approval of the awarding agency. Funds provided for a match must be used to support a federally funded project and must be in addition to, (and therefore supplement), funds that would otherwise be made available for the stated program purpose. In the case of Byrne Formula Grants, the program area would be law enforcement. Match is restricted to the same use of funds as allowed for the Federal funds.

## TYPES OF MATCH

1. **Cash Match** (hard) includes cash spent for project-related costs. Allowable cash match must include those costs which are allowable with Federal funds with the exception of the acquisition of land, when applicable.
2. **In-kind Match** (soft) includes, but is not limited to, the valuation of in-kind services. "In-kind" is the value of something received or provided that does not have a cost associated with it. For example, if in-kind match is permitted by law (other than cash payments), then the value of donated services could be used to comply with the match requirement. Also, third party in-kind contributions may count toward satisfying match requirements provided the grantee receiving the contributions expend them as allowable costs (see 28 CFR Part 66.24, Grants Management Common Rule for State and Local Units of Governments).

## SOURCE AND TYPE OF FUNDS

Cash match (hard) may be applied from the following sources:

1. Funds from States and local units of government that have a binding commitment of matching funds for programs or projects.
2. Funds from the following:
  - a. Housing and Community Development Act of 1974, 42 U.S.C 5301, et seq. (subject to the applicable policies and restrictions of the U.S. Department of Housing and Urban Development).
  - b. Appalachian Regional Development Act of 1965, 40 U.S.C. 214.
3. Equitable Sharing Program, 21 U.S.C §881(e) (current guidelines developed by the DOJ Asset Forfeiture Office apply). Forfeited assets used as match from the Equitable Sharing Program would be adjudicated by a Federal court.
4. Funds contributed from private sources.
5. Program income and the related interest earned on that program income generated from projects, provided they are identified and approved prior to making an award.

6. Program income funds earned from seized assets and forfeitures (adjudicated by a State court, as State law permits).
7. Funds appropriated by Congress for the activities of any agency of a tribal government or the Bureau of Indian Affairs performing law enforcement functions on tribal lands.
8. Sources otherwise authorized by law.

#### TIMING OF MATCHING CONTRIBUTIONS

Matching contributions need not be applied at the exact time or in proportion to the obligation of the Federal funds. However, the full matching share must be obligated by the end of the period for which the Federal funds have been made available for obligation under an approved program or project. Time-phased matching may be required by the awarding agency on awards to nongovernmental recipients.

**NOTE: The most common error found during the final financial reconciliation of a grant at closeout is the failure to properly report matching funds. The full matching share provided (both cash and in-kind) must be reported on the Financial Status Report submitted at the end of the grant period. If the matching share is not reported, the OCFO will assume that the grantee did not meet the required match and will initiate collection of a cash match from the grantee.**

#### RECORDS FOR MATCH

Recipients and their subrecipients must maintain records which clearly show the source, the amount, and the timing of all matching contributions. In addition, if a program or project has included within its approved budget contributions which exceed the required matching portion, the recipient must maintain records of them in the same manner as it does for the awarding agency funds and required matching shares. For all block/formula funds, the State has primary responsibility for subrecipient compliance with the requirements. For all discretionary funds, the recipient and the subrecipients or contractual recipient have shared (joint) responsibility for ensuring compliance with all the requirements regarding matching shares including proper reporting.

#### WAIVER OF MATCH

1. 42 U.S.C. §3754(a) of the Omnibus Crime Control Act provides that, in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in 42 U.S.C. §3752 of the Crime Control Act, the Federal portion shall be 100 percent of such cost.
2. 42 U.S.C. §5675(c)(1) of the Juvenile Justice Act provides that, in the case of an award under Title II to an Indian tribe, if the OJJDP Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the award, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary. This provision applies also to cooperative agreements.

3. In accordance with 48 U.S.C. §1469a, the awarding agency, in its discretion, may waive any requirement for matching funds under \$200,000 otherwise required by law to be provided by the certain insular areas. This waiver applies to ALL awards made to American Samoa, Guam, U.S. Virgin Islands, and Northern Mariana Islands.



**NOTES**

# Chapter 4: Program Income

## HIGHLIGHTS OF CHAPTER:

- Program Income
- Use of Program Income
- Accounting for Program Income
- Examples of Program Income
  - Sale of Property
  - Royalties
  - Attorney's Fees and Costs
  - Registration/Tuition Fees
  - Asset Seizures and Forfeitures
  - Interest Earned on JAG and JABG Funds
  - Membership Fees
- Procedures for Recovery of Costs Incurred

## PROGRAM INCOME

All income generated as a direct result of an agency-funded project shall be deemed program income (e.g., if the purpose of the grant is to conduct conferences, any training fees that are generated would be considered program income).

## USE OF PROGRAM INCOME

Program income may be used to further program objectives or may be refunded to the Federal Government. Program income may only be used for allowable program costs and must be expended prior to additional OJP draw downs. (The drawdown restriction does not apply to JABG and JAG).

## ACCOUNTING FOR PROGRAM INCOME

Program income must be used for the purposes of and under the conditions applicable to the award. Unless specified by the awarding agency, program income must be used as earned and expended as soon as possible. If the cost is allowable under the Federal grant program, then the cost would be allowable using program income. If program income earned on a discretionary grant during the grant period remains at the end of the grant period, the recipient should request a no-cost extension of the grant period to provide the recipient with ample time to expend the program income for allowable project purposes. If there is no special condition on the award concerning the accounting for program income earned after the funding period, then such program income can be used at the discretion of the recipient. The Federal portion of program income must be accounted for up to the same ratio of Federal participation as funded in the project or program. For example:

1. A discretionary project funded with 100 percent Federal funds must account for and report on 100 percent of the total program income earned. If the total program income earned was \$20,000, the recipient must account for and report the \$20,000 as program income on the Financial Status Report.
2. If a recipient was funded by block/formula funds at 75 percent Federal funds and 25 percent non-Federal funds and the total program income earned by the grant was \$100,000, \$75,000 must be accounted for and reported, by the recipient, as program income on the Financial Status Report.

## EXAMPLES OF PROGRAM INCOME

1. **Sale of Property.** In the case of real property purchased in part with Federal funds, the recipient and/or subrecipient may be permitted to retain title upon compensating the awarding agency for its fair share of the property. The Federal share of the property shall be computed by applying the percentage of the Federal participation in the total cost of the project for which the property was acquired to the current fair market value of the property.
2. **Royalties.** Recipient shall retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the project provide otherwise, or a specific agreement governing such royalties has been negotiated between the awarding agency and the recipient.

3. **Attorney's Fees and Costs.** Income received pursuant to a court-ordered award of attorney's fees or costs, which is received subsequent to completion of the project, is program income to the extent that it represents a reimbursement for attorney's fees and costs originally paid under the award. Disposition of such program income is subject to the restrictions on the use of program income set forth in the award.
4. **Registration/Tuition Fees.** These types of program income shall be treated in accordance with disposition instructions set forth in the project's terms and conditions.
5. **Asset Seizures and Forfeitures.** Program income from asset seizures and forfeitures is considered earned when the property has been adjudicated to the benefit of the plaintiff (i.e., law enforcement entity). Income received from the sale of seized and forfeited assets (personal or real property) or from seized and forfeited money shall follow the "Addition Method" of handling program income unless an alternate method is designated in the recipient's award document. The following policies apply to program income from asset seizures and forfeitures:
  - a. Subrecipient program income, with the approval of the recipient, may be retained by the entity earning the program income or used by the recipient for any purpose that furthers the objectives of the legislation under which the grant was made.
  - b. States or local units of government MAY USE PROGRAM INCOME FUNDS FROM SEIZED AND FORFEITURE ASSETS AS MATCH when assets are adjudicated by a State court, in accordance with the State law. In addition, State and local units of government MAY use cash received under the equitable sharing program for the non-Federal portion (match) of program costs, as provided for in the guidelines established by the DOJ Asset Forfeiture Office, when the assets are adjudicated by a Federal court.
6. **Interest Earned on JAG and JABG Funds.** Interest earned on JAG and JABG funds is considered program income and should be expended only on allowable purpose areas under these programs. Recipients are required to use all funds within the fixed expenditure period. No extension to the expenditure period will be approved. JAG and JABG recipients are not required to expend program income before applying Federal funds.
7. **Membership Fees.** When an organization receives membership fees and its only source of income is Federal grant funds, the membership fees will generally be considered program income. Where non-member income is received and used to provide services to members in addition to the federally funded services, membership income may be considered program income in proportion to the amount of Federal and non-Federal funds received. However, to the extent that membership fees were received by the organization prior to the receipt of Federal grant funds, or are used to provide services to members that are separate and distinct from grant-funded services, the membership fees need not be reported as program income.

**NOTE:** Fines as a result of law enforcement activities are not considered program income.

**PROCEDURES FOR RECOVERY OF COSTS INCURRED**

1. **Authorization of Reimbursement.** When a State or local law enforcement agency provides information to the Internal Revenue Service (IRS) that substantially contributes to the recovery of Federal taxes imposed with respect to illegal drug-related activities (or money laundering in connection with such activities), the agency may be reimbursed by the IRS for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed ten percent of the sum recovered.
2. **Records.** The IRS shall maintain records of the receipt of information from a contributing agency and shall notify the agency when monies have been recovered as the result of such information. Following such notification, the agency shall submit a statement detailing the investigative costs it incurred. Where more than one State or local agency has given information, the IRS shall equitably allocate investigative costs among the agencies not to exceed an aggregate amount of ten percent of the taxes recovered.
3. **No Duplicative Reimbursement.** No State or local agency may receive reimbursement under Section 7624 if reimbursement has been received by the agency under a Federal or State forfeiture program or under State revenue laws.
4. **Awarding Agency Funds.** If the information/investigation is performed with awarding agency funds, the reimbursement received from the IRS is considered to be program income and subject to the guidelines discussed above.

**NOTES**

# Chapter 5: Adjustments to Awards

## HIGHLIGHTS OF CHAPTER:

- Grant Adjustment Notice
- Notification
- Reprogramming of Funds

## GRANT ADJUSTMENT NOTICE

A Grant Adjustment Notice (GAN) is used to request project changes and/or correction for any programmatic, administrative, or financial change associated with a grant award. All GANS **must be requested electronically by the grant recipient** through the GAN module in the Grants Management System (GMS). For further assistance, visit the GMS Training Web site: <http://www.ojp.gov/gmscbt>.

The GAN module in GMS will give grant recipients the ability to initiate requests for grant adjustments electronically. The request is reviewed by the awarding agency. Once a decision has been made on the proposed adjustment, the grant recipient will be notified by e-mail. The e-mail notification will become a permanent part of the grant file and the record will be updated, as appropriate.

Grant recipients will be limited to specific grant adjustment(s). Grantees can initiate the GAN adjustments for the following situations:

- **Budget Modifications.** Grantees may request modification to the approved budget in order to reallocate dollar amounts among budget categories within the existing award amount. The original award amount may not be increased by this procedure; however, it can be decreased. Movement of dollars between approved budget categories without a GAN is allowable up to ten percent of the total award amount (the ten percent rule), provided there is no change in project scope. (This ten percent rule applies to awards over \$100,000 only; however, if the total award is less than \$100,000 and the scope of the project doesn't change, PRIOR APPROVAL IS NOT REQUIRED). A formal request from the grantee for a GAN is required when:
  - 1) The proposed cumulative change is ten percent of the total award amount;
  - 2) The budget modification also changes the scope of the project. Examples include altering the purpose of the project, authorizing use of a subcontractor or other organization that was not identified in the original approved budget, or contracting for or transferring of grant-supported efforts; and
  - 3) If a budget adjustment affects a Standard 424 cost category that was not included in the original budget, a grant adjustment is required. For example, if the direct cost category, "Travel" did not exist in the original budget, the adjustment to transfer funds from the Equipment to Travel requires a grant adjustment notice.

**NOTE:** The ten percent rule applies to the cumulative total.

- **Changes to the Grantee's Authorized Signing Official and/or Official's Contact Information.** A grantee may make changes to the person who is responsible for authorizing and signing official documents, (such as award documents, Progress Reports, Standard 424 documents, etc). These changes include name, address, phone number, e-mail address, FAX number, cell phone number, title, etc.



- **Changes to the Grantee's Contact Name or Key Staff and/or Contact Information.** A grantee may make changes to the information for main contacts or key staff. These changes specifically include name, address, phone number, e-mail address, FAX number, cell phone number, title, etc. Some reasons for changes to key staff may be:
  - 1) Permanent withdrawal or changes to the main contact (ex: Project Director); and
  - 2) Temporary absence (3 months) of the Project Director (Discretionary & Cooperative Agreements Only)
  
- **Changes to the Scope of the Grant.** A grantee may make minor changes in methodology approach, or other aspects of the grant to expedite achievement of the grant's objectives, without initiating a GAN. However, changes in scope, duration, activities, or other significant areas are changes that require prior approval from the bureau or program office through a grant adjustment notice. These changes specifically include:
  - 1) Altering programmatic activities;
  - 2) Affecting the purpose of the project;
  - 3) Changing the project site;
  - 4) Changes to the organization with primary responsibility for implementation of the grant, contracting out, sub-granting, (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purpose of the award; and
  - 5) Changes in scopes that affect a grantee's budget, which must follow the budget modifications GAN procedures.
  
- **Date Changes.** A grant adjustment notice is required for a change to the grant period, such as an extension of the project period end date and/or an extension of the expenditure deadline (no cost extension). A grantee may request a no cost extension anytime after accepting the award, but no later than 30 days prior to the award end date. The grantee may request an extension no more than 12 months beyond the original end date. Request for extensions beyond the 12 month end date requires justification of extraordinary circumstances.

**NOTE:** After an award is made, the grantee may not request a change to the project period start date.

- **Mailing Address Change.** A grantee may request a change to the organization's mailing address.
  
- **Organization Name Change.** A grantee may request a change to the organization's name. A grantee cannot request a change to the vendor number and the type of organization, (i.e. profit vs. nonprofit).

- **Program Office Approvals.** Written approval is required for those costs specified in Code of Federal Regulations (CFRs) (2 CFR Part 215, 220, and 225) as “Costs Allowable with Approval of Awarding Agency” or costs which contain special limitation. The following is a list of specific activities that requires a Grant Adjustment Notice:
  - 1) Compensation for individual consultant services in excess of \$450 per 8-hour day, or \$56.25 per hour;
  - 2) Publication Plans;
  - 3) Purchase of Automatic Data Processing (ADP) Equipment and Software;
  - 4) Costs incurred prior to the date of the sub-award period; and
  - 5) Foreign Travel.

Grant recipients will not be allowed to make adjustments to Grant Manager Assignment and Program Office approval. Grant recipients will not have access to remove any Special Conditions. All Special Conditions must be removed by the Grant Manager or the Grants Financial Management Division.

For general information concerning the online processing of GANs, GMS staff will be available by e-mail at [GMS.helpdesk@usdoj.gov](mailto:GMS.helpdesk@usdoj.gov) or contact OJP, OCIO, by phone at 1-800-549-9901.

#### **NOTIFICATION**

Recipients must give prompt notification through the GAN module to the awarding agency of events or proposed changes which may require an adjustment/notification. In requesting an adjustment, the recipient must set forth the reasons and basis for the proposed change and any other data deemed helpful for the awarding agency to review.

#### **REPROGRAMMING OF FUNDS**

The movement of funds awarded under Crime Control programs from one program to another contained in an approved State block or formula award which results in deletion or addition of a program or change in the subrecipient must be approved by the awarding agency prior to the expenditure of funds. The awarding agency will consider retroactive approval only in extremely unusual circumstances. When such retroactive approval is not considered warranted, the awarding agency will exercise its option to reduce the award by the amount of the unauthorized-reprogrammed funds.

**NOTES**

# Chapter 6: Property and Equipment

## HIGHLIGHTS OF CHAPTER:

- Acquisition of Property and Equipment
- Screening
- Loss, Damage, or Theft of Equipment
- Equipment Acquired With Crime Control Act Block/Formula Funds (BJA)
- Equipment Acquired With Juvenile Justice Act (OJJDP) Formula and Victims of Crime Act (OVC) Assistance (Formula) Funds
- Equipment and Nonexpendable Personal Property Acquired With Discretionary Funds
- Real Property Acquired With Formula Funds
- Real Property Acquired With Discretionary Funds
- Federal Equipment
- Replacement of Property (Equipment and Nonexpendable Personal Property)
- Retention of Property Records
- Supplies
- Copyrights
- Patents, Patent Rights, and Inventions

## ACQUISITION OF PROPERTY AND EQUIPMENT

Recipients/subrecipients are required to be prudent in the acquisition and management of property with Federal funds. Expenditure of funds for the acquisition of new property, when suitable property required for the successful execution of projects is already available within the recipient or subrecipient organization will be considered an unnecessary expenditure.

## SCREENING

Careful screening should take place before acquiring property in order to ensure that it is needed, with particular consideration given to whether equipment already in the possession of the recipient/subrecipient organization can meet identified needs. While there is no prescribed standard for such review, recipient/subrecipient procedures may establish levels of review dependent on factors such as the cost of the proposed equipment and the size of the recipient or subrecipient organization.

The establishment of a screening committee may facilitate the process; however, a recipient or subrecipient may utilize other management techniques which it finds effective as a basis for determining that the property is needed and that it is not already available within the recipient's organization.

The awarding agency's program monitors must ensure that the screening referenced above takes place and that the recipient/subrecipient has an effective system for property management.

Recipients/subrecipients are hereby informed that if the awarding agency is made aware that the recipient/subrecipient does not employ an adequate property management system, project costs associated with the acquisition of the property may be disallowed.

## LOSS, DAMAGE, OR THEFT OF EQUIPMENT

Recipients/subrecipients are responsible for replacing or repairing property which is willfully or negligently lost, stolen, damaged, or destroyed. Any loss, damage, or theft of the property must be investigated and fully documented and made part of the official project records.

## EQUIPMENT ACQUIRED WITH CRIME CONTROL ACT BLOCK/FORMULA FUNDS (BJA)

Equipment acquired shall be managed to ensure that the equipment is used for criminal justice purposes. Standards and procedures governing ownership, use, management, and disposition are as follows.

1. **Title.** The Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. §3789, *et seq.*, Section 808, requires that the title to all equipment and supplies purchased with funds made available under the Crime Control Act shall vest in the criminal justice agency or nonprofit organization that purchased the property, if it provides written certification to the State office that it will use the property for criminal justice purposes. If such written certification is not made, title to the property shall vest in the State office, which shall seek to have the equipment and supplies used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.

2. **Use and Management.** A subrecipient or State shall use and manage equipment in accordance with its procedures as long as the equipment is used for criminal justice purposes.
3. **Disposition.** When equipment is no longer needed for criminal justice purposes, a State shall dispose of equipment (for both the State and subrecipients), in accordance with State procedures, with no further obligation to the awarding agency.

#### **EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT (OJJDP) FORMULA AND VICTIMS OF CRIME ACT (OVC) ASSISTANCE (FORMULA) FUNDS**

Equipment acquired under an award shall be managed to ensure that the equipment is used for criminal justice purposes. Standards and procedures governing ownership, use, management, and disposition are as follows.

1. **Title.** Title to equipment acquired under an award or subaward will vest upon acquisition in the recipient or subrecipient subject to the obligations and conditions set forth in 2 CFR Part 215.
2. **Use.** A State shall use equipment acquired under an award in accordance with State laws and procedures. The awarding agency encourages the States to follow the procedures set forth in this Guide.

Other recipients and subrecipients shall use equipment in accordance with the following requirements:

- a. Equipment must be used by the recipient or subrecipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.
- b. The recipient or subrecipient shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided such use does not interfere with the work on the projects or programs for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered and treated as program income to the project, if appropriate.
- c. Notwithstanding program income, the recipient or subrecipient shall not use equipment acquired with funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted, or contemplated by Federal statute.
- d. When acquiring replacement equipment, recipients or subrecipients may use the equipment to be replaced as a trade-in or may sell the equipment and use the proceeds to offset the cost of the replacement equipment, subject to the written approval of the awarding agency.

### 3. Management.

- a. A State shall ensure equipment acquired under an award to the State conforms to State laws and procedures over property.
- b. Other recipient and subrecipient procedures for maintaining equipment (including replacement), whether acquired in whole or in part with project funds, will, at a minimum, meet the following requirements:

(1) Property records must be maintained which include:

- (a) Description of the property;
- (b) Serial number or other identification number;
- (c) Source of the property;
- (d) Identification of title holder;
- (e) Acquisition date;
- (f) Cost of the property;
- (g) Percentage of Federal participation in the cost of the property;
- (h) Location of the property;
- (i) Use and condition of the property; and
- (j) Disposition data, including the date of disposal and sale price.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every 2 years.

(3) A control system must exist to ensure adequate safeguards to prevent:

- (a) Loss;
- (b) Damage; or
- (c) Theft of the property.

Any loss, damage, or theft shall be promptly and properly investigated by the recipient and subrecipient, as appropriate.

(4) Adequate maintenance procedures must exist to keep the property in good condition.

(5) If the recipient or subrecipient is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

#### 4. Disposition.

- a. A State recipient shall dispose of its equipment acquired under an award to the State in accordance with State laws and procedures.
- b. Other recipients and subrecipients shall dispose of the equipment when original or replacement equipment acquired under the award or subaward is no longer needed for the original project or program, or for other activities currently or previously supported by a Federal agency. Disposition of the equipment will be made as follows:
  - (1) Items with a current per unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to the awarding agency.
  - (2) Items with a current per unit fair market value of \$5,000 or more may be retained or sold, and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment. Seller is also eligible for sale costs.
  - (3) In cases where a recipient or subrecipient fails to take appropriate disposition actions, the awarding agency may direct the recipient or subrecipient to take other disposition actions.

#### EQUIPMENT AND NONEXPENDABLE PERSONAL PROPERTY ACQUIRED WITH DISCRETIONARY FUNDS

1. **Title.** Title to equipment acquired with Federal funds will vest upon acquisition in the recipient subject to the obligations and conditions set forth in 28 CFR Part 66 for State and local units of government, and in 28 CFR Part 70 for other recipients.
2. **Use.** A State shall use equipment acquired under an award by the State in accordance with State laws and procedures.

Local government recipients shall use equipment in accordance with the requirements contained in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT (OJJDP) FORMULA AND VICTIMS OF CRIME ACT (OVC) ASSISTANCE (FORMULA) FUNDS."

Other recipients shall use nonexpendable personal property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program,



recipients shall use the nonexpendable personal property in connection with its other federally sponsored activities in the following order of priority:

- a. Other projects of the awarding agency needing the property.
- b. Grants of a State needing the property.
- c. Projects of other Federal agencies needing the property.

**3. Management.**

- a. A State shall ensure its equipment acquired under an award is in accordance with State laws and procedures over property.
- b. Local recipients and subrecipients shall ensure equipment acquired under an award is in accordance with requirements stated in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT (OJJDP) FORMULA AND VICTIMS OF CRIME ACT (OVC) ASSISTANCE (FORMULA) FUNDS."
- c. Other recipients' property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and include:

- (a) A description of the property;
- (b) Manufacturer's serial number, model number, Federal stock number, or other identification number;
- (c) Source of the property, including the award number;
- (d) Whether title vests in the recipient or the Federal Government;
- (e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost;
- (f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired (not applicable to property furnished by the Federal Government);
- (g) Location, use, and condition of the property at the date the information was reported;
- (h) Unit acquisition cost; and
- (i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal-sponsoring agency for its share.

- (2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.
- (3) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. If the property was owned by the Federal Government, the recipient shall promptly notify the Federal agency.
- (4) Adequate maintenance procedures shall be implemented to keep the property in good condition.
- (5) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

#### 4. Disposition.

- a. A State shall dispose of its equipment acquired under the award by the State in accordance with State laws and procedures.
- b. Local recipients and subrecipients shall follow the disposition requirements in the section "EQUIPMENT ACQUIRED WITH JUVENILE JUSTICE ACT (OJJDP) FORMULA AND VICTIMS OF CRIME ACT (OVC) ASSISTANCE (FORMULA) FUNDS."
- c. Other recipients shall adhere to the following disposition requirements for nonexpendable personal property:
  - (1) A recipient may use nonexpendable personal property with a fair market value of less than \$5,000 for other activities without reimbursement to the Federal Government, or may sell the property and retain the proceeds.
  - (2) A recipient may retain nonexpendable personal property with a fair market value of \$5,000 or more for other uses provided that compensation is made to the awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the recipient has no need for the property and the property has further use value, the recipient shall request disposition instructions from the awarding agency. The awarding agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration (GSA) by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The awarding agency shall issue instructions to the recipient no later than 120 days after the recipient's request, and the following procedures shall govern:

- (a) If so instructed, or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the property and reimburse the awarding agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the grant. However, the recipient shall be permitted to deduct and retain from the Federal share \$100 or 10 percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.
  - (b) If the recipient is instructed to ship the property to other agencies needing the property, the recipient shall be reimbursed by the benefiting Federal agency with an amount computed by applying the percentage of the recipient's participation in the cost of the project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.
  - (c) If the recipient is instructed to otherwise dispose of the property, the recipient shall be reimbursed by the awarding agency for such costs incurred in its disposition.
5. **Transfer of Title.** The awarding agency may reserve the right to transfer title to property acquired with Federal funds that have a fair market value of \$5,000 or more to the Federal Government or a third party named by the awarding agency, when such a third party is otherwise eligible under existing statutes. Such transfers are subject to the following standards:
  - a. The property must be identified in the award or otherwise made known to the recipient in writing.
  - b. The awarding agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the awarding agency fails to issue disposition instructions within the 120-calendar day period, the recipient shall follow standards set in 28 CFR Parts 66 and 70.
  - c. When title to property is transferred, the recipient shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

#### REAL PROPERTY ACQUIRED WITH FORMULA FUNDS

1. **Land Acquisition.** Block/formula funds CANNOT be used for land acquisition.
2. **Title.** Subject to the obligations and conditions set forth in the award, title to real property acquired under an award or subaward vests, upon acquisition, in the recipient or subrecipient.
3. **Use of Real Property.** The recipient and its subrecipients may use real property acquired, in whole or in part, with Federal funds for the authorized purposes of the original grant or subaward as long as needed for that purpose. Subrecipients shall maintain an inventory report which identifies real property acquired, in whole or in part, with block or formula funds. The recipient or subrecipient shall not dispose of or encumber its title or other interests.
4. **Disposition.** The subrecipient shall obtain approval for the use of the real property in other projects when the subrecipient determines that the real property is no longer needed for the

original grant purposes. Use in other projects shall be limited to those under other federally sponsored projects or programs that have purposes consistent with those authorized for support by the State. When the real property is no longer needed as provided above, the subrecipient shall request disposition instructions from the State. The State shall exercise one of the following:

- a. Direct the real property to be transferred to another subrecipient or a criminal justice activity needing the property, provided that use of such real property is consistent with those objectives authorized for support by the State.
- b. Return all real property furnished or purchased wholly with Federal funds to the control of the awarding agency. In the case of real property purchased in part with Federal funds, the subrecipient may be permitted to retain title upon compensating the awarding agency for its fair share of the property. The Federal share of the property shall be computed by applying the percentage of the Federal participation in the total cost of the project for which the property was acquired to the current fair market value of the property. In those instances where the subrecipient does not wish to purchase real property originally purchased in part with Federal funds, disposition instructions shall be obtained from the awarding agency.

#### **REAL PROPERTY ACQUIRED WITH DISCRETIONARY FUNDS**

1. **Land Acquisition.** Discretionary funds CANNOT be used for land acquisition.
2. **Title.** Subject to obligations and conditions set forth in 28 CFR Parts 66 and 70, title to real property acquired under an award vests upon acquisition with the recipient.
3. **Use of Property.** The use of property by the recipient is subject to the same principles and standards as outlined for property acquired with formula funds.
4. **Disposition.** The recipient shall follow the same principles and standards as outlined for subrecipients, except the recipient shall request disposition instructions from the Federal agency, not the State.
5. **Transfer of Title.** With regard to the transfer of title to the awarding agency or to a third party designated/approved by the awarding agency, the recipient or subrecipient shall be paid an amount calculated by applying the recipient's or subrecipient's percentage of participation in the purchase of the real property to the current fair market value of the property.

#### **FEDERAL EQUIPMENT**

In the event a recipient or subrecipient is provided federally owned equipment, the following requirements apply:

1. **Title** remains vested in the Federal Government.
2. **Recipients or subrecipients shall manage the equipment** in accordance with the awarding agency's rules and procedures and submit an annual inventory listing.

3. **When the equipment is no longer needed**, the recipient or subrecipient shall request disposition instructions from the awarding agency.

### REPLACEMENT OF PROPERTY (EQUIPMENT AND NONEXPENDABLE PERSONAL PROPERTY)

When an item of property is no longer efficient or serviceable but the recipient/subrecipient continues to need the property in its criminal justice system, the recipient/subrecipient may replace the property through trade-in or sale and subsequent purchase of new property, provided the following conditions are met:

1. **Similar Function.** Replacement property must serve the same function as the original property and must be of the same nature or character, although not necessarily of the same grade or quality.
2. **Credits.** Value credited for the property, if the property is traded in, it must be related to its fair market value.
3. **Time.** Purchase of replacement property must take place soon enough after the sale of the property to show that the sale and the purchase are related.
4. **Compensation.** When acquiring replacement property, the recipient/subrecipient may use the property to be replaced as a trade-in or the proceeds from the sale of the property to offset the cost of the new property.
5. **Prior Approval.** State subrecipients shall obtain the written permission of the State to use the provisions of this section prior to entering into negotiation for the replacement or trade-in of property.

### RETENTION OF PROPERTY RECORDS

Records for equipment, nonexpendable personal property, and real property shall be retained for a period of 3 years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

### SUPPLIES

1. **Title.** Title to supplies acquired under an award or subaward vests, upon acquisition, in the recipient or subrecipient, respectively.
2. **Disposition.** If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the funding support and the supplies are not needed for any other federally sponsored programs or projects, the recipient or subrecipient shall compensate the awarding agency for its share. The amount of compensation shall be computed in the same manner as for nonexpendable personal property or equipment.

## **COPYRIGHTS**

The awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal Government purposes:

1. The copyright in any work developed under an award or subaward; and
2. Any rights of copyright to which a recipient or subrecipient purchases ownership with support.

## **PATENTS, PATENT RIGHTS, AND INVENTIONS**

If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal award or subaward funds, such facts must be promptly and fully reported to the awarding agency. Unless there is a prior agreement between the recipient and the awarding agency on disposition of such items, the awarding agency shall determine whether protection on the invention or discovery shall be sought. The awarding agency will also determine how rights in the invention or discovery (including rights under any patents issued thereon) shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, dated August 23, 1971, and statement of Government Patent Policy, as printed in 36 FR 16839). Government-wide regulations have been issued at 37 CFR Part 401 by the U.S. Department of Commerce.

**NOTES**

# Chapter 7: Allowable Costs

## HIGHLIGHTS OF CHAPTER:

- Background
- Compensation for Personal Services
- Conferences and Workshops
- Food and Beverages
- Minimizing Costs of Meals and Refreshments
- Travel
- Space
- Printing
- Publication
- Duplication
- Production
- Other Allowable Costs



## BACKGROUND

Allowable costs are those costs identified in the circulars and in the grant program's authorizing legislation. In addition, costs must be reasonable, allocable, necessary to the project, and comply with the funding statute requirements. A discussion of certain elements of cost follows.

## COMPENSATION FOR PERSONAL SERVICES

1. **Limit on use of Grant Funds for Grantees' Employees Salaries.** No portion of Federal grant funds shall be used towards any part of the annual cash compensation of any employee of the grantee whose total annual cash compensation exceeds 110 percent of the maximum salary payable to a member of the Federal Government's Senior Executive Service at an agency with a Certified SES Performance Appraisal System for that year.
2. **Support of Salaries, Wages, and Fringe Benefits.** Charges made to Federal awards for personal services (including, but not limited to salaries, wages, and fringe benefits), whether treated as direct or indirect costs, will be based on payrolls documented in accordance with the generally accepted practice of the organization and be approved by a responsible official(s) of the organization. When recipient employees work solely on a specific grant award, no other documentation is required. However, after-the-fact certifications that the employee is working 100 percent of their time on the grant award must be prepared no less frequently than every 6 months, and must be signed by the employee and supervisory official having first-hand knowledge of the work performed.
3. **Two or More Federal Grant Programs.** Where salaries apply to the execution of two or more grant programs, cost activities, project periods, and/or overlapping periods, proration of costs to each activity must be made based on time and/or effort reports. These reports should: reflect an after-the-fact distribution of the actual activity of each employee; account for the total activity of each employee; be prepared at least monthly; coincide with one or more pay periods; and be signed by the employee. These reports should also be reviewed and approved on a regular basis by a supervisory official having first-hand knowledge of the work performed. The approving official should document the review and approval by signing or initialing each employee's time and/or effort report.

In cases where two or more grants constitute one identified activity or program, salary charges to one grant may be allowable after written permission is obtained from the awarding agency. Salary supplements, including severance provisions and other benefits with non-Federal funds, are prohibited without approval of the awarding agency. (Refer to 2 CFR Part 220, 2 CFR Part 225, Attachment B, and 2 CFR Part 230).

4. **Extra Work.** A State or local government employee may be employed by a recipient or subrecipient, in addition to his or her full-time job, provided the work is performed on the employee's own time and:
  - a. The compensation is reasonable and consistent with that paid for similar work in other activities of State or local government;
  - b. The employment arrangement is approved and proper under State or local regulations (e.g., no conflict of interest); and

- c. The time and/or services provided are supported by adequate documentation.

To avoid problems arising from overtime, holiday pay, night differential, or related payroll regulations, such employment arrangements should normally be made directly by the recipient or subrecipient with the individual, unless there has been a transfer or loan of the employee for which his/her regular and overtime services provided are to be charged to or reimbursed by the recipient or subrecipient. Overtime and night differential payments are allowed only to the extent that payment for such services is in accordance with the policies of the State or unit(s) of local government and has the approval of the State or the awarding agency, whichever is applicable.

**NOTE:** The overtime premium should be prorated among the jobs and not charged exclusively to the awarding agency funds.

Payment of these premiums will be for work performed by award or subaward employees in excess of the established work week (usually 40 hours). Executives, such as the President or Executive Director of an organization, may not be reimbursed for overtime or compensatory time under grants and cooperative agreements. Payment of more than occasional overtime is subject to periodic review by the awarding agency.

5. **Award Purposes and Dual Compensation.** Charges for time of State and local government employees assigned to assistance programs may be reimbursed to the extent they are directly and exclusively related to the award or proper for inclusion in the indirect cost base.

**NOTE:** In no case is dual compensation allowable. That is, an employee of a unit of Government may not receive compensation from his/her unit or agency of Government AND from an award for a single period of time (e.g., 1 to 5 p.m.), even though such work may benefit both activities.

## CONFERENCES AND WORKSHOPS

Allowable costs may include:

- Conference or meeting arrangements;
- Publicity;
- Registration;
- Salaries of personnel;
- Rental of staff offices;
- Conference space;
- Recording or translation services;
- Postage;
- Telephone charges;
- Travel expenses (this includes transportation and subsistence for speakers or participants); and
- Lodging.

All OJP-funded contracts for events that include 30 or more participants (both Federal and non-Federal) lodging costs for any number of attendees requiring lodging must not exceed the Federal

per diem rate for lodging. In the event the lodging rate is not the Federal per diem rate or less, none of the lodging costs associated with the event would be allowable costs to the award. As a result, the recipient would be required to pay for all lodging costs for the event, not just the amount in excess of the Federal per diem. For example, if the Federal per diem for lodging is \$78 per night, and the event lodging rate is \$100 per night, the recipient must pay the full \$100 per night with nongrant funds, not just the difference of \$22 per night.

## FOOD AND BEVERAGES

Food and/or beverage expenses provided by recipients are allowable subject to conditions stated below:

- Food and/or beverages are provided to participants at training sessions, meetings, or conferences that are allowable activities under the particular OJP program guidelines.
- Expenses incurred for food and/or beverages provided at training sessions, meetings, or conferences must satisfy the following three tests:

Test 1—The cost of the food and/or beverages provided is considered to be reasonable.

Test 2—The food and/or beverages provided are incidental to a work-related event.

Test 3—The food and/or beverages provided are not related directly to amusement and/or social events. (Any event where alcohol is being served is considered a social event and, therefore, costs associated with that event are not allowable).

- The recipient adheres to the applicable definitions for food and beverages contained in the Financial Guide Glossary.

Each recipient that desires to purchase food and/or beverages under a grant, or contract under a grant, should follow the food and beverage policy guidelines. Guidance should be applied within the context of each individual situation. While food and/or beverages are allowable, recipients are not required to provide them at training sessions, meetings, or conferences.

**NOTE:** The presence of Federal employees does not prevent the recipient from providing food and beverages under its three tests.

To determine whether costs associated with food and/or beverages are allowable, the recipient or subrecipient providing the food and/or beverages must consider:

1. To whom the food and/or beverages will be provided;
2. Under what conditions the food and/or beverages will be provided; and
3. That the appropriate three tests have been satisfied.

For example:

**Example a.** A recipient-sponsored event is held at the L'Enfant Plaza Hotel to discuss policy topics. The event includes a working lunch with a speaker and breaks at which food

and beverages are offered. Federal agency employees, as well as employees of the recipient and nonagency persons, are invited.

This scenario meets all components of the three tests; therefore, food and beverages may be provided with grant funds.

**Example b.** A recipient offers a “hospitality suite” the night before its conference at the L’Enfant Plaza Hotel. Federal agency employees, as well as employees of the recipient and nonagency persons, are invited.

This scenario fails the three tests because food and beverages must not be directly related to amusement or social events. Although the conference is work related, the hospitality suite is purely a “social event.” Therefore, food and beverages **may not** be provided with grant funds.

**NOTE:** Food and beverage costs for events within events may be unallowable. For example:

**Unallowable**—Event A includes 200 participants. Food and beverages are requested for event B, which directly **relates** to event A, but includes only a small percentage of the 200 participants from event A. Thus, food and beverage costs at event B are unallowable since attendance at the event is not mandatory for all participants from event A.

**Allowable**—If the purpose of event B is to discuss or work on topics **unrelated** to event A, food and beverage costs may be allowable for event B.

Federal funds are governed by the “cost principles” of OMB. Cost principles are the Federal rules that determine the extent of reimbursement of grant expenses. Generally, allowable costs include costs that are reasonable and necessary for the successful completion of the project. **Unallowable costs include, but are not limited to, costs directly related to entertainment or to the purchase of alcohol.** The cost principles are outlined in Part I, Chapter 2 of this Guide.

**NOTE:** Anyone covered by per diem meal and incidental expense (M&IE) allowances or reimbursements who attends any events at which food and beverages are provided must deduct the allowance for such meals (i.e., lunch, dinner) provided from his/her per diem allowance in accordance with the schedule listed in Chapter 302 of the Federal Travel Regulations (FTR).

The top 10 tips for provisions of food and beverages under OJP grants are as follows:

1. Provide a speaker/program at a lunch or dinner.
2. Support the event with a formal agenda.
3. The event must be mandatory for all participants.
4. Do not pay for bar charges using registration fees (i.e., program income).
5. Do not make alcohol available at the event.
6. Provide appropriate break foods. (Refer to the Glossary for definition of break foods.)

7. Surrounding events (both before and after food/beverages are served) must provide several hours of substantive information.
8. Do not end events with a meal and/or break.
9. Costs must be reasonable.
10. As a participant, reduce per diem appropriately.

**NOTE:** Exhibits are not deemed substantive information.

#### MINIMIZING COSTS OF MEALS AND REFRESHMENTS

All OJP-funded contracts must adhere to the following thresholds for the costs of meals and refreshments provided at the conferences.

1. **Refreshments.** Refreshments include light food and drink served during break time, such as coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. The cost of these items, plus any hotel service costs, cannot exceed 23 percent of the locality meals and incidental expenses (M&IE) rate per attendee per day. For example, if the M&IE rate for a particular location is \$54 per person per day, then the total refreshments costs cannot exceed \$12.42 ( $\$54 \times 23\%$ ) per attendee per day.
2. **Meals.** The cost of any meal provided, plus any hotel service costs, cannot exceed 150 percent of the locality M&IE rate per meal per attendee. For example, if lunch will be provided in a locality with a \$49/day M&IE rate, the lunch rate will be \$13. Therefore, the cost of the lunch provided at the conference cannot exceed \$19.50 ( $\$13 \times 150\%$ ) per attendee. All conference attendees must ensure that the provided meal is deducted from their claimed M&IE; in this example, the recipient would deduct \$13 from the amount of M&IE claimed for the lunch provided.

#### TRAVEL

Travel costs are allowable as expenses by employees who are in travel status on official business. These costs must be in accordance with Federal or an organizationally approved travel policy.

1. **Domestic Travel.** Recipients may follow their own established travel rates. However, the OCFO reserves the right to determine the reasonableness of those rates. If a recipient does not have a written travel policy, the recipient must abide by the Federal travel policy. Subrecipients of States must follow their State's established travel policies. If a State does not have established travel policy, the subrecipient must abide by the Federal travel policy including per diem rates. The current travel policy and per diem rate information is available at the GSA Web site <http://www.gsa.gov>.
2. **Foreign Travel.** This includes any travel outside of Canada and the United States and its territories and possessions; however, for a recipient or subrecipient located outside Canada and the United States and its territories and possessions, foreign travel means travel outside that country. Prior approval is required for all foreign travel (see Part III, Chapter 15: Costs Requiring Prior Approval).

## SPACE

The cost of space in privately or publicly owned buildings used for the benefit of the program is allowable subject to the conditions stated below:

- The total cost of space may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality.
  - The cost of space procured for program usage may not be charged to the program for periods of nonoccupancy without authorization of the Federal awarding agency.
1. **Rental Cost.** The rental cost of space in a privately owned building is allowable. Rent cannot be paid if the building is owned by the grantee or if the grantee has a financial interest in the property. However, the cost of ownership is an allowable expense. Similar costs for a publicly owned building are allowable where “rental rate” systems, or equivalent systems that adequately reflect actual costs, are employed.  
  
Such charges must be determined on the basis of actual cost (including depreciation based on the useful life of the building, operation and maintenance, and other allowable costs). Where these costs are included in rental charges, they may not be charged elsewhere. No costs will be included for purchases or construction that was originally financed by the Federal Government.
  2. **Maintenance and Operation.** The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and maintenance, and the like are allowable to the extent they are not otherwise included in rental or other charges for space.
  3. **Rearrangements and Alterations.** Costs incurred for rearrangement and alteration of facilities required specifically for the award program, or those that materially increase the value or useful life of the facility, are allowable when specifically approved by the awarding agency.
  4. **Depreciation and Use Allowances on Publicly Owned Buildings.** Depreciation or a use allowance on idle or excess facilities is NOT ALLOWABLE, except when specifically authorized by the Federal awarding agency.
  5. **Occupancy of Space Under Rental-Purchase or a Lease with Option-to-Purchase Agreement.** The cost of space procured under such arrangements is allowable when specifically approved by the awarding agency. This type of arrangement may require application of special matching share requirements under construction programs.

## PRINTING

Printing shall be construed to include and apply to the process of composition, platemaking, presswork, binding, and microfilm; the equipment, as classified in the tables in Title II of the Government Printing and Binding Regulations, published by the Joint Committee on Printing, Congress of the United States, and as used in such processes; or the end items produced by such processes and equipment. Pursuant to the Government Printing and Binding Regulations, no project may be awarded primarily or substantially for the purpose of having material printed for the awarding agency. The Government Printing and Binding Regulations allow:

1. **Issuance.** The issuance of a project for the support of non-Government publications, provided such projects were issued pursuant to an authorization of law, and were not made primarily or substantially for the purpose of having material printed for the awarding agency.
2. **Publications by Recipients/Subrecipients.** The publication of findings by recipients/subrecipients within the terms of their project provided such publication is not primarily or substantially for the purpose of having such findings printed for the awarding agency.

## PUBLICATION

Publication shall be construed as the initiation of the procurement of writing, editing, preparation of related illustration material, including videos, from recipients/subrecipients, or the internal printing requirements of the recipient/subrecipient necessary for compliance with the terms of the project. However, individuals are authorized to make or have made by any means available to them, without regard to the copyright of the journal and without royalty, a single copy of any such article for their own use.

Project Directors are encouraged to make the results and accomplishments of their activities available to the public. A recipient/subrecipient who publicizes project activities and results shall adhere to the following:

1. Responsibility for the direction of the project activity should not be ascribed to the awarding agency. The publication shall include the following statement: The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice.” The receipt of awarding agency funding does not constitute official recognition or endorsement of any project. A separate application for Official Recognition may be filed with the awarding agency.
2. All materials publicizing or resulting from award activities shall contain an acknowledgement of the awarding agency assistance. An acknowledgement of support shall be made through use of the following or comparable footnote: “This project was supported by Award No. \_\_\_\_\_ awarded by the (**name of specific office/bureau**), Office of Justice Programs.”

If the awarding agency is not OJP, language should reflect the proper agency name. The Americans with Disabilities Act Technical Assistance Grant Program and the Office of Special Counsel for Immigration Related Unfair Employment Practices grant program are awarded through the DOJ Civil Rights Division.

3. A recipient/subrecipient is expected to publish or otherwise make widely available to the public, as requested by the awarding agency, the results of work conducted or produced under an award.
4. All publication and distribution agreements with a publisher shall include provisions giving the Federal Government a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use the publication for Federal Government purposes (see Part III, Chapter 6: Copyrights). The agreements with a publisher should contain information on the awarding agency requirements.

5. Unless otherwise specified in the award, the recipient/subrecipient may copyright any books, publications, films, or other copyrightable material developed or purchased as a result of award activities. Copyrighted material shall be subject to the same provisions of the Federal Government.
6. The recipient/subrecipient shall be permitted to display the official awarding agency logo in connection with the activities supported by the award. In this respect, the logo shall appear in a separate space, apart from any other symbol or credit.

The words "Funded/Funded in part by OJP" shall be printed as a legend, either below or beside the logo, each time it is displayed. Use of the logo must be approved by the awarding agency.

7. The recipient/subrecipient shall submit a publication and distribution plan to the awarding agency before materials developed under an award are commercially published or distributed. The plan shall include a description of the materials, the rationale for commercial publication and distribution, the criteria to be used in the selection of a publisher, and, to assure reasonable competition, the identification of firms that will be approached. Prior agency approval of this plan is required for publishing project activities and results when Federal funds are used to pay for the publication.

#### DUPLICATION

A requirement for a recipient/subrecipient to duplicate less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, of its findings for the awarding agency will not be deemed to be printing primarily or substantially for the awarding agency (e.g., 5,000 copies of 5 pages, etc). For the purpose of this paragraph, such pages may not exceed a maximum image size of 10¾ by 14¾ inches.

#### PRODUCTION

A requirement for a recipient/subrecipient to produce less than 250 duplicates from original microfilm will not be deemed to be printing primarily or substantially for the awarding agency. Microfilm is defined as one roll of microfilm 100 feet in length or one microfiche.

#### OTHER ALLOWABLE COSTS

1. **Software development.** This is an allowable cost and may be expensed in the period incurred with no dollar limitation.
2. **Depreciation.** This is an allowable cost and an accelerated method should not be used.
3. **Postemployment benefits.** These are allowable costs if funded in accordance with actuarial requirements. Funds must be paid within 6 months of recordation.
4. **Technology awards.** These are allowable costs and the drawdown of funds may be prohibited until the State Information Technology Point of Contact person has received written notification of the project and a GAN has been issued by the awarding agency.



5. **Contingency Fee Contracts for Recovery of Improper Payments.** In accordance with 2 CFR Part 225, costs of contingency fee contracts incurred by State and local governments for recovery of erroneous and improper payments charged against Federal programs are allowable costs. State and local governments may use a portion of the recovered erroneous or fraudulent payments from Federal programs to pay for recovery contracts. The portion used to pay for such contingency fees should be claimed as administrative costs.

**NOTES**

# Chapter 8: Confidential Funds

## HIGHLIGHTS OF CHAPTER:

- Approval Authority
- Confidential Funds Certification
- Written Procedures
- Informant Files
- Regional Information Sharing System Program
- Accounting and Control Procedures

These provisions apply to all awarding agency professional personnel, recipients, and subrecipients involved in the administration of grants containing confidential funds. Confidential funds are those monies allocated to:

- **Purchase of Services (P/S).** This category includes travel or transportation of a non-Federal officer or an informant; the lease of an apartment, business front, luxury-type automobiles, aircraft or boat, or similar effects to create or establish the appearance of affluence; and/or meals, beverages, entertainment, and similar expenses (including buy money and flash rolls, etc.) for undercover purposes, within reasonable limits.
- **Purchase of Evidence (P/E).** This category is for P/E and/or contraband, such as narcotics and dangerous drugs, firearms, stolen property, counterfeit tax stamps, and so forth, required to determine the existence of a crime or to establish the identity of a participant in a crime.
- **Purchase of Specific Information (P/I).** This category includes the payment of monies to an informant for specific information. All other informant expenses would be classified under P/S and charged accordingly.

These funds should only be allocated when:

1. The particular merits of a program/investigation warrant the expenditure of these funds.
2. Requesting agencies are unable to obtain these funds from other sources.

Confidential funds are subject to prior approval. Such approval will be based on a finding that they are a reasonable and necessary element of project operations. In this regard, the approving agency must also ensure that the controls over disbursement of confidential funds are adequate to safeguard against the misuse of such funds.

#### APPROVAL AUTHORITY

The APPROVING AUTHORITY for the ALLOCATION of confidential funds is:

1. The awarding agency for block/formula grantees and categorical grantees (including Regional Information Sharing Systems [RISS] program projects).
2. The recipient agency for block/formula subrecipients.

#### CONFIDENTIAL FUNDS CERTIFICATION

A signed certification that the Project Director has read, understands, and agrees to abide by these provisions is required from all projects that are involved with confidential funds from either Federal or matching funds. The signed certification must be submitted at the time of grant application.

**SAMPLE****CONFIDENTIAL FUNDS CERTIFICATION**

This is to certify that I have read, understand, and agree to abide by all of the conditions for confidential funds as set forth in the effective edition of OJP's Financial Guide.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Project Director

Grant No. \_\_\_\_\_

**WRITTEN PROCEDURES**

Each Project Director and RISS member agency authorized to disburse confidential funds must develop and follow internal procedures which incorporate the following elements listed below. Deviations from these elements must receive prior approval of the awarding agency.

1. **Imprest Fund.** The funds authorized will be established in an imprest fund which is controlled by a bonded cashier.
2. **Advance of Funds.** The supervisor of the unit to which the imprest fund is assigned must authorize all advances of funds for the purchase of information. Such authorization must specify the information to be received, the amount of expenditures, and the assumed name of the informant.
3. **Informant Files.** Informant files are confidential files of the true names, assumed names, and signatures of all informants to whom payments of confidential expenditures have been made. To the extent possible, pictures and/or fingerprints of the informant payee should also be maintained. In the RISS program, the informant files are to be maintained at the member agencies only. Project Headquarters may maintain case files.
4. **Cash Receipts.**
  - a. The cashier shall receive from the agent or officer authorized to make a confidential payment, a receipt for cash advanced to him/her for such purposes.
  - b. The agent or officer shall receive from the informant payee a receipt for cash paid to him/her.

## SAMPLE

## INFORMANT PAYEE RECEIPT

For and in consideration of the sale and delivery to the State, County, or City of \_\_\_\_\_ information or evidence identified as follows: \_\_\_\_\_

I hereby acknowledge receipt of \$ (numerical and word amount entered by payee) paid to me by the State, County, or City of \_\_\_\_\_.

Date: \_\_\_\_\_ Payee: \_\_\_\_\_

(Signature)

Case Agent/Officer: \_\_\_\_\_

(Signature)

Witness: \_\_\_\_\_

(Signature)

Case or Reference No.: \_\_\_\_\_

5. **Receipt for P/I.** An informant payee receipt shall identify the exact amount paid to and received by the informant payee on the date executed. Cumulative or anticipatory receipts are not permitted. Once the receipt has been completed, **no alteration is allowed.** The agent shall prepare an informant payee receipt containing the following information:
- a. The jurisdiction initiating the payment;
  - b. A description of the information/evidence received;
  - c. The amount of payment, both in numerical and word format;
  - d. The date on which the payment was made;
  - e. The signature of the informant payee;
  - f. The signature of the case agent or officer making payment;
  - g. The signature of at least one other officer witnessing the payment; and
  - h. The signature of the first-line supervisor authorizing and certifying the payment.
6. **Review and Certification.** The signed receipt from the informant payee with a memorandum detailing the information received shall be forwarded to the agent or officer in charge. The agent or officer in charge shall compare the signatures. He/she shall also evaluate the information received in relation to the expense incurred and enter his/her evaluation remarks in the report of the agent or officer who made the expenditure from the imprest fund. The

certification will be witnessed by the agent or officer in charge on the basis of the report and informant payee's receipt.

7. **Reporting of Funds.** Each Project Director shall prepare a reconciliation report on the imprest fund on a quarterly basis. Information to be included in the reconciliation report will be the assumed name of the informant given and to what extent this informant contributed to the investigation. Grantees shall retain the reconciliation report in their files and have it available for review. Subrecipients shall retain the reconciliation report in their files and have it available for review unless the State agency requests that the report be submitted to them on a quarterly basis.
8. **Record and Audit Provisions.** Each Project Director and member agency must maintain specific records of each confidential fund transaction. At a minimum, these records must consist of all documentation concerning the request for funds, processing (should include the review and approval/disapproval), modifications, closure or impact material, and receipts and/or other documentation necessary to justify and track all expenditures. Refer to the documentation under "Informant Files" below for a list of documents which should be included in the informant files. In projects where grant funds are used for confidential expenditures, it will be understood that all of the above records are subject to the record retention requirements and audit provisions of the awarding agency and program legislation. However, only under extraordinary and rare circumstances would such access include a review of the true name of confidential informants. When access to the true name of confidential informants is necessary, appropriate steps to protect this sensitive information must and will be taken by the recipient, awarding agency, and auditing agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by both the OJP Program Office Head and the Chief Financial Officer.

#### INFORMANT FILES

1. **Security.** A separate file should be established for each informant for accounting purposes. Informant files should be kept in a separate and secure storage facility, segregated from any other files, and under the exclusive control of the office head or an employee designated by him/her. The facility should be locked at all times when unattended. Access to these files should be limited to those employees who have a necessary legitimate need. An informant file should not leave the immediate area, except for review by a management official or the handling agent, and should be returned prior to the close of business hours. Signout logs should be kept indicating the date, informant number, time in and out, and the signature of the person reviewing the file.
2. **Documentation.** Each file should include the following information:
  - a. Informant Payment Record kept on top of the file. This record provides a summary of informant payments.
  - b. Informant Establishment Record, including complete identifying and locating data, plus any other documents connected with the informant's establishment.

- c. Current photograph and fingerprint card (or Federal Bureau of Investigation [FBI]/State Criminal Identification Number).
- d. Agreement with cooperating individual.
- e. Receipt for P/I.
- f. Copies of all debriefing reports (except for the Headquarters case file).
- g. Copies of case initiation reports bearing on the utilization of the informant (except for the Headquarters case file).
- h. Copies of statements signed by the informant (unsigned copies will be placed in appropriate investigative files).
- i. Any administrative correspondence pertaining to the informant, including documentation of any representations made on his behalf or any other nonmonetary considerations furnished.
- j. Any deactivation report or declaration of an unsatisfactory informant.

## RISS PROGRAM

### 1. Processing Procedures.

- a. **Authorization of Disbursement.** The project policy board establishes the maximum level the Project Director may authorize in disbursements to member agencies. The Project Director, or his/her designee, may authorize payment of funds to member agencies and their officers for P/I and evidence up to this maximum level. The Project Director must refer all requests for amounts in excess of the maximum level to the Project Policy Board for review and approval.
- b. **Request of Funds.** Any member agency requesting funds from the project will do so in writing. The request must contain the amount needed, the purpose of the funds, and a statement that the funds requested are to be used in furtherance of the project's objectives. Additionally, the agency must provide a statement agreeing to establish control, accounting, and reporting procedures consistent with the procedures outlined in this chapter.
- c. **Processing the Request.** The Project Director, or his/her designee when appropriate, will approve or disapprove the request. If approved, the request will be forwarded to the project cashier who will record the request and transmit the monies, along with a receipt form, to the member agency. Upon receipt of the monies, the member agency will immediately sign and return the receipt form to the cashier.
- d. **Records.** For all transactions involving P/I each Project Director must maintain on file the assumed name and signature of all informants to whom member agencies make payments from project funds.



- e. **Processing the Informant Payee Receipt.** The original signed informant payee receipt, with a summary of the information received, will be forwarded to the Project Director by the member agency. The Project Director will then authenticate the receipt by comparing the signature of the informant payee on the receipt with the signature maintained by the project in a confidential file. If discrepancies exist, the Project Director, or his/her designee, will take immediate steps to notify the member agency and ascertain the reason(s) for the discrepancies. The member agency must forward written justification to address the discrepancies of the Project Director. If satisfactory, the justification will be attached to the informant payee receipt.
2. **Informant Management and Utilization.** All persons who will be utilized as informants should be established as such. The specific procedures required in establishing a person as an informant may vary from jurisdiction to jurisdiction but, at a minimum, should include the following:
    - a. Assignment of an informant code name to protect the informant's identity.
    - b. Creation of an informant code book controlled by the office head or his/her designee containing:
      - (1) Informant's code name;
      - (2) Type of informant (i.e., informant, defendant/informant, restricted-use informant);
      - (3) Informant's true name;
      - (4) Name of establishing law enforcement officer;
      - (5) Date the establishment is approved; and
      - (6) Date of deactivation.
    - c. Establishment of each informant's files in accordance with Documentation, Item 2, under Informant Files.
    - d. Review of all active status informant files on a quarterly basis to assure they contain all relevant and current information. Where a MATERIAL fact that was earlier reported on the Establishment Record is no longer correct (e.g., a change in criminal status, means of locating him/her, etc.), a supplemental establishing report should be submitted with the correct entry.
    - e. A search of all available criminal indices for informants being established. If a verified FBI number is available, request a copy of the criminal records from the FBI. Where a verified FBI number is not available, the informant should be fingerprinted, with a copy sent to the FBI and appropriate State authorities for analysis. The informant may be utilized on a provisional basis while awaiting a response from the FBI.

### 3. Payment to Informants.

- a. Any person who is to receive payments charged against P/E or P/I funds should be established as an informant. This includes persons who may otherwise be categorized as sources of information or informants under the control of another agency. The amount of payment should commensurate with the value of services and/or information provided and should be based on the following factors:
  - (1) The level of the targeted individual, organization, or operation;
  - (2) The amount of the actual or potential seizure; and
  - (3) The significance of the contribution made by the informant to the desired objectives.
- b. There are various circumstances in which payments to informants may be made:
  - (1) **Payments for Information and/or Active Participation.** When an informant assists in developing an investigation, either through supplying information or actively participating in it, he/she may be paid for his/her service either in a lump sum or in staggered payments. Payments for information leading to a seizure, with no defendants, should be held to a minimum.
  - (2) **Payment for Informant Protection.** When an informant needs protection, law enforcement agencies may absorb the expenses of relocation. These expenses may include travel for the informant and his/her immediate family, movement and/or storage of household goods, and living expenses at the new location for a specific period of time (not to exceed 6 months). Payments for these expenses may be either lump sum or as they occur and should not exceed the amounts authorized by law enforcement employees for these activities.
  - (3) **Payments to Informants of Another Agency.** To use or pay another agency's informant, he/she should be established as an informant. These payments should not be a duplication of a payment from another agency; however, sharing a payment is acceptable.
- c. Documentation of payments to informants is critical and should be accomplished on a receipt for P/I. Payment should be made and witnessed by two law enforcement officers and authorized payment amounts should be established and reviewed by at least the first-line supervisory level. In unusual circumstances, a non-officer employee or an officer of another law enforcement agency may serve as a witness. In all instances, the original signed receipt must be submitted to the Project Director for review and recordkeeping.

### ACCOUNTING AND CONTROL PROCEDURES

Special accounting and control procedures should govern the use and handling of confidential expenditures as described below:

1. It is important that expenditures identified as P/E, P/I, and P/S expenses are in fact allocated and charged to the proper category. It is only in this manner that these funds may be properly managed at all levels and accurate forecasts of projected needs be made.

2. Each law enforcement entity should apportion its P/E, P/I, or P/S allowance throughout its jurisdiction and delegate authority to approve P/E, P/I, and P/S expenditures to those offices, as it deems appropriate.
3. Headquarters management should establish guidelines authorizing offices to spend up to a predetermined limit of their total allowance on any one investigation.
4. In exercising his/her authority to approve these expenditures, the supervisor should consider:
  - a. The significance of the investigation;
  - b. The need for this expenditure to further that investigation; and
  - c. Anticipated expenditures in other investigations. Funds for P/E, P/I, and P/S expenditures should be advanced to the officer for a specific purpose. If they are not expended for that purpose, they should be returned to the cashier. They should not be used for another purpose (including another category) without first returning them and repeating the authorization and advance process based on the new purpose.
5. Funds for P/E, P/I, or P/S expenditure should be advanced to the officer on a suitable receipt form. A receipt for P/I or a voucher for P/E should be completed to document funds used in P/E or funds paid or advanced to an informant.
6. For security purposes, there should be a 48-hour limit on the amount of time funds advanced for P/E, P/I, or P/S expenditure may be held outstanding. If it becomes apparent at any point within the 48-hour period that the expenditure will not materialize, then the funds should be returned to the advancing cashier as soon as possible. An extension to the 48-hour limit may be granted by the level of management that approved the advance. Factors to consider in granting such an extension are: the amount of funds involved, the degree of security under which the funds are being held, the length of extension required, and the significance of the expenditure. Such extensions are generally limited to 48 hours.

Recipients should consult with the program office prior to determining the final course of action. Beyond this time period, the funds should be returned and re-advanced, if necessary. Regardless of circumstances, within 48 hours of the advance, the fund cashier should be presented with either the unexpended funds, an executed voucher for P/I or P/E, or written notification by management that an extension has been granted.

7. P/S expenditures, when not endangering the safety of the officer or informant, need to be supported by cancelled tickets, receipts, lease agreements, and so forth. If not available, the office head, or his/her immediate subordinate, must certify that the expenditures were necessary and justify why supporting documents were not obtained.

NOTES

## Chapter 9: Subawards of Discretionary Project-Supported Effort

None of the principal activities of the project-supported effort shall be subawarded to another organization without specific prior approval by the awarding agency. Where the intention to make subawards is made known at the time of application, the approval may be considered given, if these activities are funded as proposed.

All such arrangements must be formalized in a contract or other written agreement between the parties involved. The contract or agreement must, at a minimum, include:

- Activities to be performed;
- Time schedule;
- Project policies;
- Flowthrough requirements that are applicable to the subrecipient;
- Other policies and procedures to be followed;
- Dollar limitation of the agreement; and
- Cost principles to be used in determining allowable costs.

The contract or other written agreement must not affect the primary recipient's overall responsibility for the duration of the project and accountability to the Federal Government. The primary recipient is responsible for monitoring the subrecipient and ascertaining that all fiscal and programmatic responsibilities are fulfilled.

**NOTES**

# Chapter 10: Procurement Under Awards of Federal Assistance

## HIGHLIGHTS OF CHAPTER:

- Procurement Standards
- Construction Requirements
- Professional Services

## PROCUREMENT STANDARDS

1. **General.** A State shall follow the same policies and procedures it uses for procurement from its non-Federal funds. The State shall ensure that every purchase order or other contract includes any clauses required by Federal statutes, executive orders and their implementing regulations. Subrecipients of States shall follow the procurement requirements imposed upon them by the States. Other recipients and subrecipients will follow OMB Circular A-102 and 2 CFR 215 as applicable.
2. **Standards.** Recipients and subrecipients shall use their own procurement procedures and regulations, provided that the procurement conforms to applicable Federal law and the standards identified in the Procurement Standards Sections of 28 CFR Parts 66 and 70. Any recipient/subrecipient whose procurement system has been certified by a Federal agency is not subject to prior approval requirements of 28 CFR Parts 66 and 70. The awarding agency's prior approval will be required only for areas beyond limits of the recipient/subrecipient certification.
3. **Adequate Competition.** All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free, and fair competition. All sole-source procurements in excess of \$100,000 must receive prior approval from the awarding agency. Interagency agreements between units of Government are excluded from this provision.

A commercial organization that is ineligible to receive a direct award under a specific appropriation or program cannot be named as a sole source contractor in a grant application by an eligible applicant. The eligible applicant should indicate that a competitive process will occur in which a contractor will be selected, but a specific contractor cannot be named without competition. Under certain circumstances, however, this sole source rule can be waived when the applicant can document that there is only one contractor qualified or available to perform the function. These circumstances should be discussed with a program manager's direct supervisor and an Office of General Counsel representative.

4. **Noncompetitive Practices.** The recipient/subrecipient shall be alert to actual or potential organizational conflicts of interest or noncompetitive practices among contractors must restrict or eliminate competition or otherwise restrain trade. Contractors involved in developing or drafting specifications, requirements, statements of work, and/or requests for proposals for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption from this rule must be submitted in writing to the awarding agency and will not be effective unless the awarding agency approves the request.

## CONSTRUCTION REQUIREMENTS

The following policies and procedures relevant to construction are applicable to recipients/subrecipients. For the purpose of determining the appropriate fund ratios for construction projects, refer to the legislation which authorizes the construction.



1. **Under the Juvenile Justice Act (OJJDP).** Construction means the acquisition, expansion, remodeling, and alteration of existing buildings and initial equipment of any such buildings or any combination of such activities (including architects' fees, but not the cost of acquisition of land for buildings).
2. **Under the Boot Camp Initiative.** Construction means the erection, acquisition, renovation, repair, remodeling or expansion of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment.

Initial equipment includes heating, plumbing, air conditioning, and electrical services and similar fixed equipment items, but does not include equipment not inherently a part of the facility, such as office equipment and furniture.

3. **Qualifications.** When considering the use of agency funds for construction, recipients/subrecipients must be cognizant of the following qualifications:
  - a. Costs which are incurred as an incidental and necessary part of a program and which are for renovation, remodeling, maintenance, and repair costs which do not constitute capital expenditures ARE generally allowable, subject to provisions of authority legislation.
  - b. The total cost of a construction project includes the cost of site preparation, including demolition of existing structures. Any proceeds realized for site preparation activities (e.g., salvage value of structures demolished or proceeds from the sale of timber) shall be applied to the project (program income) and used to reduce the total cost of the construction project.
  - c. Payment of relocation costs shall be in accordance with the "Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970," 42 U.S.C. §4601, et seq.
  - d. Funds will not be obligated by recipients/subrecipients until recipients/subrecipients have contacted OJP and assisted OJP in satisfactorily completing any applicable OJP procedures by complying with the National Historic Preservation Act, the National Environmental Policy Act, and other related Federal environmental impact analyses requirements.
4. **Special Fiscal Conditions for Construction Projects.** The awarding agency may accept the bonding policy and requirement of the subrecipients provided those policies adequately protect Federal dollars. When the awarding agency determines that recipients of funds have policies in place that do not protect the Federal dollars, the awarding agency shall require:
  - a. A bid guarantee equivalent to 5 percent of the bid price. The bid guarantee must consist of a firm commitment, such as bid bond, certified check, or negotiable instrument accompanying a bid, as assurance that the bidder will, upon acceptance of its bid, execute such contractual documents as may be required within the time specified after the forms are presented.
  - b. A performance bond on the part of the contractor for 100 percent of the contract price. "Performance bond" means a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

- c. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to ensure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
5. **Payment of Money Guaranteed by Federal Government.** Where the Federal Government guarantees the payment of money borrowed by a recipient or subrecipient, the State may, at its discretion, require adequate bonding and insurance if the bonding or insurance requirements of the recipient or subrecipient are not deemed sufficient to adequately protect the interest of the Federal Government. In those instances where construction of facility improvements for less than \$100,000 are contemplated and the subrecipient does not have any requirements for bid guarantees, performance bonds, and payments bonds, the State will impose State requirements on the subrecipients.
6. **Special Requirements for Juvenile Justice Act Construction Projects.**
    - a. **Matching Requirement.** Juvenile Justice Act funds awarded under Title II are limited to 50 percent of the cost of construction.
    - b. **Source and Types of Funds.** Match for construction programs and/or projects awarded to public agencies must consist of cash appropriated for the use of the recipient public agency by the awarding agency or contributed by a private agency or individual.
7. **Use of Funds.**
    - a. Construction programs and projects funded with the Juvenile Justice Act Title II funds are limited to construction of innovative community-based facilities for less than 20 people which, in the judgment of the Administrator, are necessary to carry out Part B purposes. Consequently, advance approval for all formula grant construction expenditures is required either in the approved plan or through subsequent correspondence. Facilities include both buildings and parts of sections of a building to be used for a particular program or project.
    - b. Erection of new buildings is not permitted with Juvenile Justice Act Title II funds.
    - c. Use of Juvenile Justice Act Title II funds for construction is equally applicable to programs or projects using Formula or Special Emphasis funds.

**8. Executive Requirements 13202—Preservation of Open Competition and Government Contractors' Labor Relations on Federal and Federally Funded Construction Contracts.**

Recipients and subrecipients of grants or cooperative agreements, or any manager of construction projects acting on their behalf, shall ensure that neither the bid specifications, project agreements, nor other controlling documents:

- a. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or
- b. Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories, or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

Contractors or subcontractors are not prohibited from voluntarily entering into agreements described in (8.a.) above.

**PROFESSIONAL SERVICES**

The customary fixed fee or profit allowance in cost-type contracts may not exceed 10 percent of the total estimated costs. This is applicable to contracts under grants.

**NOTES**

# Chapter 11: Reporting Requirements

## HIGHLIGHTS OF CHAPTER:

- Background
- Financial Status Reports
- Program Reports
- Progress Reports/American Recovery and Reinvestment Act of 2009 (Recovery Act)
- Government Performance and Results Act

## BACKGROUND

The Office of Justice Programs (OJP) requires award recipients to submit both financial and program reports. These reports describe the status of the funds, the status of the project, comparison of actual accomplishments to the objectives, or other pertinent information. The specific requirements, reporting periods, and submission deadlines are identified below.

Financial Status Reports (also known as the “SF-269A” form or “FSRs”) are due every calendar quarter. All reports should be submitted online through the FSR 269 module in the Grants Management System (GMS) unless otherwise specified. Program (Progress) Reports are generally due semiannually for discretionary awards and annually for block/formula awards. Final Reports (financial and program reports) are due at the time of grant closeout, which should be completed not later than 90 days after the end of the award.

When Financial Status Reports and Progress Reports are delinquent, funds will be withheld from those grants and requests for drawdown will be denied. In addition, any new awards for all OJP programs will be prohibited or restricted. Also, any Grant Adjustment Notices that releases funds to retire special conditions will not be approved until the grantee is in administrative/financial compliance (e.g., until financial and progress reports are current).

## FINANCIAL STATUS REPORTS

Quarterly Financial Status Reports (SF-269A) should be submitted online through the Grants Management System (GMS) in the FSR 269 module. A copy of the SF-269A report is available in Appendix II of this guide. The use of the FSR 269 module in GMS enables authorized users to view current and past SF-269As, and allows them to file or amend the SF-269A for the current quarter. Once you have submitted the SF-269A online, do not submit additional paper copies to OJP unless asked to do so by OJP staff.

The SF-269A contains the actual expenditures and unliquidated obligations incurred (at the lowest funding level) for the reporting period (calendar quarter) and cumulative for the award. The award recipients will report program outlays and revenue on a cash or accrual basis in accordance with their accounting system.

**Effective for the quarter beginning October 1, 2009, grant recipients must report expenditures online using the Federal Financial Report (FFR-425) Form no later than 30 days after the end of each calendar quarter. The final report must be submitted no later than 90 days following the end of the grant period.**

The quarterly SF-269As should be submitted online no later than 45 days after the last day of each quarter. The due dates for submission of Financial Status Reports are:

<u>Reporting Period:</u>	<u>Due not later than:</u>
First Quarter - January 1 thru March 31	May 15
Second Quarter - April 1 thru June 30	August 14
Third Quarter - July 1 thru September 30	November 14
Fourth Quarter - October 1 thru December 31	February 14

The final SF-269A report is due within 90 days after the end date of the award however, a final report may be submitted as soon as all of the expenditures are completed.

An e-mail confirmation of OJP's receipt of the SF-269A will be sent to the grantee at the e-mail address listed by the grantee's registered user. Once the SF-269A is submitted online, it is not necessary for grantees to mail or fax a paper SF-269A to OJP unless requested to do so.

Grant recipients who do not submit SF-269As by the due date will not be permitted to drawdown funds. The payment system contains an edit that checks for SF-269A delinquency and will reject a drawdown attempt if the SF-269A is not up to date. If SF-269As are delinquent, an e-mail notification will be sent to the grantee.

For general information concerning online filing of SF-269A reports, go to <https://grants.ojp.usdoj.gov> or contact OJP, Office of the Chief Financial Officer, Customer Service Center, by phone at 1-800-458-0786 (option 2) or by e-mail at [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov).

1. **Penalty for Noncompliance.** Future awards, fund draw downs, and grant adjustments will be withheld if the SF-269A information is delinquent.
2. **Subawards.** The State must report to the awarding agency the cumulative total Federal funds subawarded for the award being reported. This information is required on all block and formula awards and shall be reported in item 12 of the SF-269A.

**NOTE:** Financial Status Reports are not applicable to SCAAP awards, Southwest Border and Bulletproof Vest Partnership Program. All other grant programs are required to submit this report quarterly to remain in financial compliance.

## PROGRAM REPORTS

These reports present information relevant to the performance of a plan, program, or project, and are due at the intervals noted below. Unless otherwise noted, the final report is due within 90 days after the end date of the award.

Program reports must be submitted online through the Grants Management System (GMS) using the "Application" module. Questions concerning GMS may be addressed to the GMS Helpdesk at 1-888-549-9901.

**Penalty for Noncompliance.** Future awards, fund draw downs, and grant adjustments will be withheld if progress reports are delinquent.

1. **Crime Control Act Block and Formula Funds—Annual Performance Reports.** The States shall submit annually to BJA a report which contains information as required by the legislation and the Director. This report must be submitted to BJA no later than December 31 for the activities undertaken and results achieved during the prior Federal fiscal year.
2. **Narrative Report for Juvenile Justice Act (JJA) Formula Funds.** The reporting requirement of Sections 223(2) and 223(a)(22) may be met through the submission of the Annual Plan and its updates. The Annual Plan may provide a performance report on the previously planned activities utilizing JJA formula funds. Instructions for the preparation of the SF-424 by the State are contained in 28 CFR Part 31 and in the JUVENILE JUSTICE AND DELINQUENCY PREVENTION AWARD APPLICATION KIT. These documents are available from OJJDP.
3. **Crime Victims Compensation Program.** A State receiving fund for a crime victims compensation program will be required to submit an annual performance report on the effect the Federal funds had on the program. The report will be due by November 30 each year and must report on activities for the prior Federal fiscal year (October 1 through September 30). Please see the Crime Victims Compensation Guidelines for specific reporting instructions.
4. **Crime Victims Assistance Program.** Crime victims assistance program reporting requirements are set forth in the Victims Assistance Award Program Guidelines. The State crime victims assistance agency receiving Federal victims assistance award funds is required to submit a performance report 90 days after the end of each award. The performance report will provide information on the effect the Federal funds have had on services to crime victims in the State and serve as a basis for information prepared for the Report to Congress on the Victims of Crime Act.
5. **Categorical Assistance Progress Report, OJP Form 4587/1.** This report is prepared twice a year and is used to describe the performance of activities or the accomplishment of objectives as set forth in the approved award application.

Reporting Period: Progress reports must be submitted within 30 days after the end of the reporting periods, which are June 30, and December 31, for the life of the award. The awarding agency may opt, by special condition to the award, to combine the first report into the subsequent reporting period. For example, if the begin date on the award is June 1, the awarding agency may opt to receive the first report 30 days after the December 31 reporting period.

6. **Special Reports.** In the review and approval process for plans and applications, it is sometimes necessary for the awarding agency to require that special or unique conditions be met in order to make an award. These special conditions will vary from award to award; however, acceptance of the award by the recipient/subrecipient constitutes an agreement that the conditions will be met either prior to the project or during the course of the award period. When this is the case, special reports on the meeting of these conditions are required for submittal to the awarding agency. They are prepared free form; however, the timing, content, and process for their submittal are detailed in the award package.

**NOTE:** Progress Reports are not applicable to Bulletproof Vest Partnership Program, State Criminal Alien Assistance Programs and Southwest Border Prosecution Initiative.



## PROGRESS REPORTS/AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (RECOVERY ACT)

In addition to the normal reporting requirements, grantees receiving Recovery Act funding must submit quarterly reports, which require both financial and programmatic data. Reports are **due within 10 calendar days after the end of each calendar quarter, beginning with the July to September 2009 reporting period. Please note the October 10, 2009 report must also include the cumulative activities and projects funded since the enactment of the Act, or February 17, 2009.** For additional information about the Recovery Act reporting requirements, refer to Chapter 20 of this Guide or go to <http://FederalReporting.gov>.

Reporting Periods	Due Dates
July – September	October 10
October – December	January 10
January – March	April 10
April – June	July 10

## GOVERNMENT PERFORMANCE AND RESULTS ACT

The funding recipient agrees to collect data appropriate for facilitating reporting requirements established by Public Law 103-62 for the Government Performance and Results Act. The funding recipient will ensure that valid and auditable source documentation is available to support all data collected for each performance measure specified in the program solicitation.

**NOTES**

# Chapter 12: Retention and Access Requirements for Records

## HIGHLIGHTS OF CHAPTER:

- Retention of Records
- Maintenance of Records
- Access to Records

## RETENTION OF RECORDS

All financial records, supporting documents, statistical records, and all other records pertinent to the award shall be retained by each organization for AT LEAST 3 YEARS following notification by the awarding agency that the grant has been programmatically and fiscally closed OR at least 3 years following the closure of its audit report covering the entire award period, whichever is later. Retention is required for purposes of Federal examination and audit. Records may be retained in an automated format. **State or local governments may impose record retention and maintenance requirements in addition to those prescribed.**

1. **Coverage.** The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of all awards, applications, and required recipient financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the award, whether they are employed full time or part time. Time and effort reports are also required for consultants.
2. **Retention Period.** The 3-year retention period starts from the date of notification by the awarding agency that the grant has been programmatically and fiscally closed OR the submission of the closure of the single audit report which covers the entire award period, whichever event occurs later. If any litigation, claim, negotiation, audit, or other action involving the records have started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it or until the end of the regular 3-year period, whichever is later.

## MAINTENANCE OF RECORDS

Recipients of funds are expected to see that records of different Federal fiscal periods are separately identified and maintained so that information desired may be readily located. Recipients are also obligated to protect records adequately against fire or other damage. When records are stored away from the recipient's principal office, a written index of the location of records stored should be on hand and ready access should be assured.

## ACCESS TO RECORDS

The awarding agency includes the funding agency, the Federal agency, the DOJ Office of the Inspector General, the Comptroller General of the United States, or any of their authorized representatives, who shall have the right of access to any pertinent books, documents, papers, or other records of recipients which are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts. The right of access must not be limited to the required retention period but shall last as long as the records are retained.

However, only under extraordinary and rare circumstances would such access include review of the true name of confidential informants or victims of crime. When access to the true name of confidential informants or victims of crime is necessary, appropriate steps to protect this sensitive information must and will be taken by the recipient and awarding agency. Any such access, other

than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by both the OJP Program Office Head and the Chief Financial Officer.

NOTES

# Chapter 13: Sanctions

If a recipient materially fails to comply with the terms and conditions of an award, including civil rights requirements, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the awarding agency may take one or more actions, as appropriate in the circumstances. This authority also extends to the recipient agency.

1. Temporarily withhold cash payments pending correction of the deficiency by the recipient;
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the current award;
4. Withhold further awards for the project, program or organization; and
5. Take other remedies that may be legally available.

**NOTES**



## Chapter 14: Termination for Convenience

The awarding agency may terminate any project, in whole or in part, when a recipient materially fails to comply with the terms and conditions of an award, which includes the unauthorized use of payment access codes by someone other than the grantee of record, or when the recipient and the awarding agency agree to do so. In the event that a project is terminated, the awarding agency will:

1. Notify the recipient in writing of its decision;
2. Specify the reason;
3. Afford the recipient/subrecipient a reasonable time to terminate project operations; and
4. Request the recipient seek support from other sources.

A project which is prematurely terminated will be subject to the same requirements regarding audit, recordkeeping, and submission of reports as a project which runs for the duration of the project period. Refer to 28 CFR Part 18 for appeal rights in event of termination.

**NOTES**

# Chapter 15: Costs Requiring Prior Approval

## HIGHLIGHTS OF CHAPTER:

- Background
- Responsibility for Prior Approval
- Procedures for Requesting Prior Approval
- Costs Requiring Prior Approval
  - Automatic Data Processing Equipment and Software
  - Criminal Justice Information and Communication Systems
  - Equipment and Other Capital Expenditures
  - Preagreement Costs
  - Proposal Costs
  - Consultant Rates
  - Interest Expense
  - Foreign Travel
  - Indirect Costs

## BACKGROUND

Written approval is required for those costs specified in 2 CFR 220, 2 CFR 225 and 2 CFR 230 as “Costs Allowable with Approval of Awarding Agency” or costs which contain special limitations.

Where prior approval is required in this section, the awarding agency will be the approval authority for all discretionary recipients and for the State when it is the implementing recipient. Where prior approval authority for subrecipients is required, it will be vested in the State unless specified as being “RETAINED BY THE FEDERAL AWARDED AGENCY,” as identified below. Subrecipient requests for awarding agency approval should be submitted through the State for a block or formula award.

The intention of the awarding agency is not to require approval of all changes within the listed cost categories, but only for those aspects or elements which specifically require prior approval. Also, the establishment of dollar expenditure levels in this chapter is intended to furnish blanket approval for modest project-related outlays. Costs above such levels may also require approval upon submission of appropriate data and justification, but may not be incurred until such approval has been obtained.

## RESPONSIBILITY FOR PRIOR APPROVAL

1. **Discretionary Awards.** The awarding agency reviews for approval all costs identified in this section when the recipient is the direct beneficiary of the goods or services to be purchased or supplied.
2. **Block/Formula Awards.** The State reviews for approval all costs identified in this section for subrecipients of block/formula funds where the State is the recipient but not the implementing agency.

## PROCEDURES FOR REQUESTING PRIOR APPROVAL

Requests must be in writing and justified with an explanation to permit review of the allowability. They may be submitted:

1. Through inclusion in the budget or other components of an award or subaward application; or
2. As a separate written request to the appropriate authority as described above.

## COSTS REQUIRING PRIOR APPROVAL

1. **Automatic Data Processing Equipment and Software.** Awards may include provisions for procurement of ADP equipment. The application will be written in a manner consistent with maximum, open, free, and fair competition in the procurement of hardware and services. Brand names will not normally be specified when such ADP equipment includes the following types and requirements:
  - a. Digital, analog, or hybrid computer equipment and automated fingerprint equipment.

- b. Auxiliary or accessorial equipment, such as data communications terminals, source data automation recording equipment (e.g., optical character recognition equipment and other data acquisition devices) and data output equipment (e.g., digital plotters, computer output microfilms, etc.), to be used in support of digital, analog, or hybrid computer equipment, whether cable connected, wire connected, radio connected, or self-standing, and whether selected or acquired with a computer or separately.
  - c. Data transmission or communications equipment that is selected and acquired solely or primarily for use with a configuration of ADP equipment which includes an electronic computer.
  - d. Qualification and Exclusions.
    - (1) Analog computers are covered only when being used as equipment peripheral to a digital computer.
    - (2) Items of ADP equipment that are (a) physically incorporated in a weapon or (b) manufactured under a development contract ARE EXCLUDED from the above definition.
    - (3) Accessories, such as tape cleaners, tape testers, magnetic tapes, paper tapes, disk packs, and the like ARE EXCLUDED.
2. **Criminal Justice Information and Communication Systems** that are to be funded shall be designed and programmed to maximize the use of standard and readily available computer equipment and programs. (Identification of such systems will be made on a case-by-case basis.) Applicants involved in the development of criminal justice information systems should utilize the past experience of those agencies which have successfully implemented such systems. A detailed requirements analysis should be performed and a search for existing software that could meet the identified requirements should be made before new software is developed. If new software is developed, it shall be designed and documented so that other criminal justice agencies will be able to use it with minor modifications and at minimum cost. A recipient or subrecipient shall request approval prior to arranging for patent of computer software and programs.
- a. Prior approval is NOT REQUIRED for the LEASE or RENTAL of such equipment; nevertheless, assurance must be provided that leases or rentals greater than \$100,000 are obtained in accordance with Federal procurement standards.
  - b. Where the amount of the acquisition exceeds \$100,000, prior approval from the awarding agency is REQUIRED for the acquisition of equipment (outright purchase, lease-purchase agreement, or other method of purchase).
  - c. A review of ADP equipment procurement shall be REQUIRED and should include a review of the description of the equipment to be purchased. This review shall be documented in writing for the file and shall require the awarding agency to certify that the procurement is consistent with the following requirements:

- (1) The ADP equipment of the type to be purchased was identified within the award applications, and is necessary and sufficient to meet the project goals.
  - (2) The ADP equipment procurement is in compliance with existing Federal agency, State, and local laws and regulations.
  - (3) A purchase/lease comparison has been conducted demonstrating that it is more advantageous to purchase rather than lease the ADP equipment under consideration.
  - (4) If software development is involved, it has been demonstrated that computer software already produced and available will not meet the needs of the award.
  - (5) If the ADP equipment procurement is to be sole source and that procurement is more than \$100,000, then documentation must have been submitted to justify the action.
3. **Equipment and Other Capital Expenditures.** Equipment and other capital assets, including repairs which materially increase their useful life, are allowable if the recipient/subrecipient has received prior approval.
- a. Where expenditures for equipment are not fully justified by the budget and budget narrative, the awarding agency may require that the type, quantity estimated, unit, or other information be provided through the issuance of special conditions to the award.
  - b. In reviewing equipment acquisition budgets and proposals, the following principles should be adhered to:
    - (1) No other equipment owned by the recipient/subrecipient is suitable for the effort.
    - (2) No requests for luxury vehicles will be approved. Vehicle requests should be reasonable, and recipients shall usually follow IRS guidelines for vehicles for business use. Vehicles purchased via State or local central procurement activities as part of a unit of Government fleet are generally accepted as reasonable.
    - (3) Federal funds are not used to provide reimbursement for the purchase of equipment already owned by the recipient/subrecipient.

**Exception:** Equipment that has been purchased for a common pool and will be charged to the award at cost value is ALLOWABLE. Equipment that has already been purchased and charged to other activities of the organization would NOT be an ALLOWABLE expense to the award.
    - (4) Equipment purchased and used commonly for two or more programs should be appropriately prorated to each activity.

4. **Preagreement Costs.** Prior approval is required for preagreement costs.
  - a. **Block/Formula Funds.** Costs incurred prior to the date of the subaward period may be charged to the project when the award or subaward recipient specifically requests support for preagreement costs. States may approve preagreement costs for subrecipients if incurred subsequent to the beginning of the Federal fiscal year of award.
  - b. **Discretionary Awards.** Costs incurred prior to the start date of the award may be charged to the project only if the award recipient receives prior approval from the awarding agency. Generally, costs will not be approved for any period prior to the date of application, and may not be incurred until written approval in the form of a letter signed by the OJP/OVW Bureau or Office Head (or designee) is received.
5. **Proposal Costs.** Costs to projects for preparing proposals for potential Federal awards require PRIOR APPROVAL for:
  - a. The obligation or expenditure of funds; or
  - b. The performance or modification of an activity under an award/subaward project, where such approval is required.
6. **Consultant Rates.** Compensation for individual consultant services is to be reasonable and consistent with that paid for similar services in the marketplace. Consideration will be given to compensation including fringe benefits for those individuals whose employers do not provide such benefits. In addition, when the rate exceeds \$450 for an 8-hour day, or \$56.25 per hour (excluding travel and subsistence costs), a written PRIOR APPROVAL is required from the awarding agency. Prior approval requests require additional justification. An 8-hour day may include preparation, evaluation, and travel time in addition to the time required for actual performance. Please note, however, that this does not mean that the rate can or should be \$450 for all consultants. Rates should be developed and reviewed on a case-by-case basis and must be reasonable and allowable in accordance with OMB cost principles. Approval of consultant rates, in excess of \$450 a day, that are part of the original application with appropriate justification and supporting data will be approved on a case-by-case basis. The following is the policy in regard to compensation of various classifications of consultants who perform like-type services. If consultants are hired through a competitive bidding process (not sole source), the \$450 threshold does not apply.
  - a. **Consultants Associated with Educational Institutions.** The maximum rate of compensation that will be allowed is the consultant's academic salary projected for 12 months, divided by 260. These individuals normally receive fringe benefits which include sick leave for a full 12-month period even though they normally only work 9 months per year in their academic positions.
  - b. **Consultants Employed by State and Local Government.** Compensation for these consultants will only be allowed when the unit of government will not provide these services without cost. If a State or local government employee is providing services under a Federal grant and is representing its agency without pay from its respective unit of government, the rate of compensation is not to exceed the daily salary rate for the employee paid by the unit of government. If the State or local government employee is

providing services under a Federal grant and is not representing its agency, the rate of compensation is based on the necessary and reasonable cost principles.

- c. **Consultants Employed by Commercial and Not-For-Profit Organizations.** These organizations are subject to competitive bidding procedures. Thus, they are not subject to the \$450 per day maximum compensation threshold before requesting prior approval. In those cases where an individual has authority to consult without employer involvement, the rate of compensation should not exceed the individual's daily salary rate paid by his/her employer, subject to the \$450 limitation.
  - d. **Independent Consultants.** The rate of compensation for these individuals must be reasonable and consistent with that paid for similar services in the marketplace. Compensation may include fringe benefits. In summary, consultants obtained through competitive bidding do not require prior approval, including individual consultants.
7. **Interest Expense.** Interest on debt, incurred for: (a) acquisition of equipment and buildings; (b) building construction; (c) fabrication; (d) reconstruction; and (e) remodeling, is an allowable cost with prior approval. This interest applies only to buildings completed on or after October 1, 1980 for State and local units of government and September 29, 1995 for nonprofit organizations.
  8. **Foreign Travel.** Direct charges for foreign travel costs are allowable only when the travel has prior approval from the awarding agency. (Indirect charges for foreign travel are allowable without prior approval from the awarding agency when: (a) included as part of a federally approved indirect cost rate; and (b) such costs have a beneficial relationship to the project. Each separate foreign trip must be approved.) Foreign travel is defined as any travel outside of Canada and the United States and its territories and possessions. However, for organizations located in foreign countries, the term "foreign travel" means travel outside that country.
  9. **Indirect Cost.** Transferring funds in or out of the indirect cost category is not allowable without OJP prior approval. A budget modification is required as indicated in *Part III, Chapter 5, Adjustments to Awards*.



# Chapter 16: Unallowable Costs

## HIGHLIGHTS OF CHAPTER:

- Land Acquisition
- Compensation of Federal Employees
- Travel of Federal Employees
- Bonuses or Commissions
- Military-Type Equipment
- Lobbying
- Fundraising
- Corporate Formation
- State and Local Sales Taxes
- Other Unallowable Costs
- Costs Incurred Outside the Project Period

1. Attempting to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity.
2. Establishing, administering, contributing to, or paying for the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcome of elections.
3. Attempting to influence: (a) the introduction of Federal or State legislation; or (b) the enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any Government official or employee in connection with a decision to sign or veto enrolled legislation.
4. Publicity or propaganda purposes designed to support or defeat legislation pending before legislative bodies.
5. Paying, directly or indirectly, for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a member of Congress or of a State legislature, to favor or oppose, by vote or otherwise, any legislation or appropriation by either Congress or a State legislature, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.
6. Engaging in legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried out in support of or in knowing preparation for an effort to engage in unallowable lobbying.
7. Paying a publicity expert.
8. 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.

All grantees must understand that no federally appropriated funding made available under the 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 of 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.

Any question(s) relating to this statute should be submitted in writing to the Office of General Counsel through your program manager.

## FUNDRAISING

Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, may not be charged either as direct or indirect costs against the award. Neither the salary of persons engaged in such activities nor indirect costs associated with those salaries may be charged to the award, except insofar as such persons perform other funding-related activities.

An organization may accept donations (i.e., goods, space, services) as long as the value of the donations is not charged as a direct or indirect cost to the award.

A recipient may also expend funds, in accordance with approved award terms, to seek future funding sources to “institutionalize” the project as stipulated in the terms and conditions of an OJP grant award, but not for the purpose of raising funds to finance related or complementary project activities.

Nothing in this section should be read to prohibit a recipient from engaging in fundraising activities as long as such activities are not financed by Federal or non-Federal award funds.

**NOTE:** OJP occasionally issues awards which include the purpose of assisting an entity to become self-sufficient in operating a particular project to preserve its longevity and sustenance. In those cases, certain fundraising expenditures may be allowable and may be unique to OJP awards as disclosed in the terms and conditions of the awards.

## CORPORATE FORMATION

The cost for corporate formation may not be charged either as direct or indirect costs against the award.

## STATE AND LOCAL SALES TAXES

These are unallowable when the Government assesses taxes upon itself or, disproportionately, to Federal programs. An example of an unallowable tax would be if the Government levied taxes as a result of Federal funding. An example of an allowable tax would be user taxes, such as gasoline tax. These provisions became effective as of the Government’s fiscal year beginning on or after January 1, 1998.

## OTHER UNALLOWABLE COSTS

Unallowable costs include:

- Entertainment;
- Sporting events;
- Fines & penalties (except when incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding agency);
- Visa fees;
- Passport charges;
- Tips;

- Bar charges/alcoholic beverages;
- Conferences and workshops. Lodging costs in excess of Federal per diem. For events of 30 or more participants that are funded with an OJP award, if lodging costs exceed the Federal per diem rate, none of the lodging costs are allowable. (When Federal grant funds are expended for grant conferences for more than 30 attendees and zero hotel rooms are being billed to Federal grants, the award recipients must still ensure that lodging rates are within Federal per diem rates).
- Membership fees to organizations whose primary activity is lobbying; and
- Premium pay. Grantees should not pay premium cost solely because they are using Federal funds. Any premium pay must be authorized in advance through written approval from the awarding agency.

#### **COSTS INCURRED OUTSIDE THE PROJECT PERIOD**

Any costs that are incurred either before the start of the project period or after the expiration of the project period are not allowable, unless written approval is granted by the awarding agency (preagreement costs or no cost extension).

**NOTES**

# Chapter 17: Indirect Costs

## HIGHLIGHTS OF CHAPTER:

- Approved Plan Available
- No Approved Plan
- Establishment of Indirect Cost Rates
- Distribution Bases
- Cost Allocation Plans—Central Support Services
- Lobbying Costs and the Indirect Cost Pool
- Approving Rates for Subrecipients

Indirect costs are costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect.

#### **APPROVED PLAN AVAILABLE**

1. The awarding agency may accept any current indirect cost rate or allocation plan previously approved for a recipient by any Federal awarding agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars.
2. Where the approved final indirect cost rate is lower than the actual indirect cost rate incurred, recipients may not charge expenses included in overhead pools (e.g., accounting services, legal services, building occupancy and maintenance, etc.) as direct costs.
3. Organizations with an approved indirect cost rate, utilizing total direct costs as the base, usually exclude contracts under awards or corporation agreements from any overhead recovery. The negotiation agreement will stipulate that major subcontracts are excluded from the base for overhead recovery. The term subcontract means any contract awarded under the award or corporation agreement.

#### **NO APPROVED PLAN**

If a recipient does not have an approved Federal indirect cost rate, funds budgeted for indirect costs will not be recoverable until a rate is approved. A special condition will be added to the award prohibiting drawdown for indirect cost reimbursement until an indirect cost rate has been approved and a GAN has been issued retiring the special condition.

**Exception:** If OMB has not assigned a Federal agency with cognizance for a local jurisdiction, then the unit of government is not required to submit its indirect cost proposal, unless the new cognizant agency (based on preponderance of Federal dollars) requires a copy of the proposal.

#### **ESTABLISHMENT OF INDIRECT COST RATES**

1. In order to be reimbursed for indirect costs, a recipient must first establish an appropriate indirect cost rate. To do this, the recipient must prepare an indirect cost rate proposal and submit it to the cognizant Federal agency. The cognizant Federal agency is generally determined based on the preponderance of Federal dollars received by the recipient. Instructions on how to negotiate an indirect cost rate are available at [http://www.ojp.usdoj.gov/funding/pdfs/indirect\\_costs.pdf](http://www.ojp.usdoj.gov/funding/pdfs/indirect_costs.pdf).
2. Local units of government need only submit their cost allocation plans and indirect cost proposals, if specifically requested by their cognizant Federal agency assigned by OMB.
3. The proposal must be submitted in a timely manner (within 6 months after the end of the fiscal year) to assure recovery of the full amount of allowable indirect costs. The proposal must be developed in accordance with principles and procedures appropriate to the type of institution involved.

4. To support the indirect cost proposal, Federal recipients are responsible for ensuring that independent audits of their organizations are conducted in accordance with existing Federal auditing and reporting standards set forth in OMB Circular A-133. This audit report must be submitted to the cognizant agency to support the indirect cost proposal. After negotiations, the cognizant agency will establish either a provisional, final, or fixed-with-carry-forward indirect cost rate.
5. A signed certification from the grantee organization requesting an indirect cost rate must accompany the indirect cost allocation plan. This organization must certify that the indirect cost allocation plan only includes allowable costs.
6. Copies of brochures of indirect cost rates describing the procedures that may be involved in the computation may be obtained from the U.S. Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402-9328. Some of the most commonly requested brochures are:
  - **OASC-1 (Rev)**—A Guide for Colleges and Universities, Cost Principles and Procedures for Establishing Indirect Cost Rates for Research Awards with the Department of Health, Education and Welfare.
  - **OASMB-5 (Rev)**—A Guide for Non-Profit Institutions, Cost Principles and Procedures for Establishing Indirect Cost and Other Rates for Awards with the Department of Health, Education, and Welfare.
  - **ASMB C-10**—A Guide for State, Local, and Indian Tribal Governments, Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government.

#### DISTRIBUTION BASES

Irrespective of the allocation method used by the organization the following three distribution bases will only be allowed by OJP:

1. **Modified Total Direct Cost (MTDC).** This base includes all direct costs incurred by the organization with the exception of distorting items such as equipment, capital expenditures, pass-through funds, and each major subcontract or subgrant over \$25,000.
2. **Direct Salaries and Wages.** This base includes only the direct salaries and wages incurred by the organization.
3. **Direct Salaries and Wages plus Fringe Benefits.** This base includes only the direct salary and wages and the direct fringe benefits incurred by the organization.

#### COST ALLOCATION PLANS—CENTRAL SUPPORT SERVICES

State agencies and local units of government may not charge to an award, the cost of central support services supplied by the State or local units of government except pursuant to a cost allocation plan approved by the cognizant Federal agency. The rate which is to be applied may be on a fixed-with-carry-forward provision.



**LOBBYING COSTS AND THE INDIRECT COST POOL**

When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal and thereafter treated as other unallowable activity costs in accordance with the above procedures and Attachment A of 2 CFR Part 230.

1. Organizations shall submit, as part of their annual indirect cost rate proposal, a certification that they are in compliance with all the requirements and standards have been complied with.
2. Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to Attachment B of 2 CFR Part 230 complies with the requirements.
3. Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this section during any particular calendar month when:
  - a. The employee engages in lobbying, as defined above;
  - b. Twenty-five percent or less of the employee's compensated hours of employment during that calendar month constitutes lobbying as defined above; and
  - c. Within the preceding 5-year period, the organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs.
4. When conditions (a) and (b) above are met, organizations are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions (a) and (b) above are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

**APPROVING RATES FOR SUBRECIPIENTS**

This is the responsibility of the direct recipient. The Federal awarding agency will not approve indirect cost rates beyond the direct recipient level.

**NOTES**

# Chapter 18: Closeout

## HIGHLIGHTS OF CHAPTER:

- Background
- Closeout of Discretionary/Categorical Awards
- Closeout of Block/Formula Awards
- Refund of Federal Grant Monies and/or Program Income at Closeout
- Initiation of the Closeout Process
- Failure to Remit Funds Owed

## BACKGROUND

It is the responsibility of the recipient to initiate the closeout process of his/her awards by using the Closeout Module in the Grants Management System (GMS). All discretionary/categorical and block/formula award recipients have 90 days after the end date of the award to close out the award. However, recipients should start the closeout process as soon as the program is completed and all monies have been spent. This will enable accurate reporting of financial information on the financial statements.

## CLOSEOUT OF DISCRETIONARY/CATEGORICAL AWARDS

1. **Cash Reconciliation.** The recipient must perform a financial reconciliation at closeout. The total cost of the project must be determined. If there was a requirement for the recipient to provide a share of the project costs, match must be calculated based on the actual total cost of the project. Any match must be reported on the SF-269A (Financial Status Report). The recipient should request reimbursement for any funds due to cover expenditures and obligations (incurred prior to the grant expiration date and liquidated no more than 90 days after the grant expiration date) at award closeout. The recipient's Federal expenditures (outlays) must be equal to or greater than the cash disbursements from the awarding agency.
2. **Drawdown of Funds.** Recipients should request final drawdown for reimbursement of Federal expenditures made within the approved period in conjunction with the final Financial Status Report.
3. **Recipient Closeout Requirements.** Within 90 days after the end date of the award or any approved extension thereof (revised end date), the following must be submitted by the recipient to the awarding agency:
  - a. **Final Financial Status Report.** This FINAL report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award amount by the awarding agency. Any match requirement must be met by the end of the grant period. Matching contribution must be reported on the final SF-269A. Recipients, who have drawn down funds in excess of their Federal expenditures, shall return unused funds to the awarding agency at the same time they submit the final report. (Recipients must report obligations and expenditures at the recipient/subrecipient level.)
  - b. **Final Progress Report.** This report should be prepared in accordance with instructions provided by the awarding agency.
  - c. **Invention Report.** All inventions that were conceived or first actually reduced to practice during the course of work under the award project must be listed on this report before closeout.

## CLOSEOUT OF BLOCK/FORMULA AWARDS

The timeframe for closeout of block/formula awards is also 90 days from the end date of the award. Cash disbursements and recipient expenditures must be reconciled before closeout.

**REFUND OF FEDERAL GRANT MONIES AND/OR PROGRAM INCOME AT CLOSEOUT**

If funds must be returned at award closeout, award recipients should remit:

- a check made payable to DOJ/Office of Justice Programs;
- a cover letter or voucher containing the grant award number for the refund, the unobligated balance, and an itemization of funds (e.g., the amount to be applied to excess payments, interest income, program income, questioned costs and so forth); and
- a print out of the final SF-269A report which reconciles the amount of the refund.

The final SF-269A should report the amount of Federal funds returned on line 10(i) (unobligated balance of Federal funds) and any unexpended program income returned on line 12(f).

**INITIATION OF THE CLOSEOUT PROCESS**

The recipient must complete the financial reconciliation and ensure that all programmatic conditions and requirements have been met, and then the recipient can initiate the closeout process in GMS. The closeout package is reviewed in GMS by the OJP Program Office. Once approved, the closeout package is submitted to OCFO for financial reconciliation.

If the financial reconciliation process reveals that refunds are due to OJP, the OCFO Customer Service Branch will contact the award recipient to request the funds owed. All refunds must be submitted to OJP by check. All checks will be converted into an electronic funds transfer (EFT). The account information from the checks will be scanned and stored. OJP will debit the account for the amount specified on the check within 24 hours. The drawdown will be reflected on the remitter's regular account statement.

The remitter will not receive a return check from the bank. OJP will destroy all checks; however, the information on the checks will be stored electronically.

Electronic funds transfer from the remitter's account is faster than normal check processing. If the EFT is returned for insufficient funds, OJP will process the transfer two more times. OJP may charge a processing fee for insufficient funds.

All refund checks and letters should be submitted to: Office of Justice Programs, Office of the Chief Financial Officer, ATTN: Accounting Control Branch, 810 Seventh Street, NW., Washington, DC 20531.

**NOTE:** Furnishing your check information is voluntary, but a decision not to do so may require remitters to make payment by some other method.

**FAILURE TO REMIT FUNDS OWED**

If the award recipient fails to remit funds owed to OJP, OCFO will refer the debt to the U.S. Department of the Treasury for collection as provided by Federal laws. Treasury may add fees, fines, and penalties to the original amount of the debt owed to the Federal agency.

Failure to remit funds due to OJP may result in withholding or freezing of funds on all other grants awarded to the grantee organization, and may impact future financial integrity reviews affecting future grant applications.

**NOTES**

# Chapter 19: Audit Requirements

## HIGHLIGHTS OF CHAPTER:

- Audit Objectives
- Audit Reporting Requirements
- Audit Submission Requirements
- Failure To Comply
- Audit Threshold
- Audit Confirmation Requests
- Due Dates for Audit Reports
- Audit Compliance
- Resolution of Audit Reports
- Top Ten Audit Findings
- Audit of Subrecipients
- Technical Assistance
- Full-Scope Auditing
- Commercial (For-Profit) Organizations
- Distribution of Audit Reports
- OIG Regional Offices



This chapter establishes responsibilities for the audit of organizations receiving agency funds. The intent of this chapter is to identify the policies for determining the proper and effective use of public funds rather than to prescribe detailed procedures for the conduct of an audit.

### AUDIT OBJECTIVES

Awards are subject to conditions of fiscal, program, and general administration to which the recipient expressly agrees in accepting the award. Accordingly, the audit objective is to review the recipient's administration of funds and required non-Federal contributions for the purpose of determining whether the recipient has:

1. Established an accounting system integrated with adequate internal fiscal and management controls to provide full accountability for revenues, expenditures, assets, and liabilities. This system should provide reasonable assurance that the organization is managing Federal financial assistance programs in compliance with applicable laws and regulations.
2. Prepared financial statements which are presented fairly, in accordance with generally accepted accounting principles.
3. Submitted financial reports (which may include Financial Status Reports, Cash Reports, and Claims for Advances and Reimbursements), which contain accurate and reliable financial data, and are presented in accordance with the terms of applicable agreements.
4. Expended Federal funds in accordance with the terms of applicable agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements or on the awards tested.

### AUDIT REPORTING REQUIREMENTS

Independent auditors should follow the requirements prescribed in OMB Circular A-133. The recipient's books of account must support all amounts reported to OJP. The recipient's financial activity reported to OJP should reconcile to the amounts reported on the grantee's audited financial statements. If there are any differences between the recipient's audited financial statements and the financial activity reported to OJP, the recipient must be able to explain the differences.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. The recipient, in turn, shall promptly notify the Federal cognizant agency and/or awarding agency of the illegal acts or irregularities and of proposed and actual actions, if any.

All awarding agency personnel have the responsibility to inform the Office of the Chief Financial Officer, DOJ's Office of General Counsel, the Office of the Inspector General, and State and local law enforcement agencies or prosecuting authorities, as appropriate, of any known violations of the law within their respective area of jurisdiction.

Audit costs for audits not required or performed in accordance with OMB Circular A-133 are unallowable. If the grantee did not expend \$500,000 or more in Federal funds during the organization's fiscal year, but contracted with a certified public accountant to perform an audit, these costs may not be charged to the grant.

## AUDIT SUBMISSION REQUIREMENTS

For fiscal periods ending on or after January 1, 2008, the Federal Audit Clearinghouse (FAC) requires all grant recipients to submit Form SF-SAC and the Single Audit Reporting package online utilizing the Internet Data Entry System (IDES). Recipients will use the IDES to:

1. Enter form SF-SAC data online;
2. Check form SF-SAC data for errors using the "Check Data" feature;
3. Upload a PDF copy of the Single Audit Reporting package;
4. Certify form SF-SAC electronically using a signature code provided by the IDES; and
5. Submit their complete certified form SF-FAC and Single Audit Reporting package to the FAC electronically.

To review the submission requirements and create an online report ID, visit FAC's Web site at <http://harvester.census.gov/fac/collect/ddeindex.html>.

## FAILURE TO COMPLY

Failure to have audits performed as required will result in the withholding of new discretionary awards and/or withholding of funds or change in the method of payment on active awards.

## AUDIT THRESHOLD

1. Non-Federal entities that expend \$500,000 or more in Federal funds (from all sources including passthrough subawards) in the organization fiscal year (12-month turnaround reporting period) shall have a single organizationwide audit conducted in accordance with the provisions of OMB Circular A-133.
2. Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year. However, records must be available for review or audit by appropriate officials including the Federal agency, passthrough entity, and General Accounting Office.

## AUDIT CONFIRMATION REQUESTS

Send audit confirmation requests to:

Office of the Chief Financial Officer  
Attention: Grants Financial Management Division  
810 Seventh Street, NW.  
Washington, DC 20531

## DUE DATES FOR AUDIT REPORTS

Audits are due no later than 9 months after the close of each fiscal year during the term of the award.

## AUDIT COMPLIANCE

Techniques used to determine recipient compliance with Federal requirements when an organizationwide audit has not been conducted include:

1. Obtaining audits from recipients that were made in accordance with the "Government Auditing Standards;"
2. Relying on previous audits performed on recipients' operations;
3. Desk reviews by program officials of project documentation;
4. Project audits by auditors or auditors obtained by recipients; and
5. Evaluations of recipients' operations by program officials.

## RESOLUTION OF AUDIT REPORTS

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each recipient shall have policies and procedures for responding to audit recommendations by designating officials responsible for:

1. Following up;
2. Maintaining a record of the action taken on recommendations and time schedules for completing corrective action;
3. Implementing audit recommendations;
4. Submitting periodic reports to the cognizant Federal audit agency on recommendations and actions taken; and
5. Providing an audit special condition on all subawards. This special condition contains information, such as the audit report period, required audit report submission date, and name and address of the cognizant Federal agency. The policy of the awarding agency is not to make new awards to applicants who are not in compliance with the audit requirements.

The awarding agency monitors the audit requirements through its audit tracking system and is responsible for tracking audit reports received through the audit process until the audit has been resolved and closed.

## TOP 10 AUDIT FINDINGS

1. Financial Status Reports not submitted timely;
2. Accounting procedures need improvement;
3. Suspension and Debarment Certifications not obtained;
4. Programmatic reporting requirements not met;
5. Subrecipients not adequately monitored;

6. Fixed assets not adequately monitored;
7. Grant management procedures need improvement;
8. Segregation of duties not adequate;
9. Cash management procedures need improvement; and
10. Procurement procedures need improvement.

#### **AUDIT OF SUBRECIPIENTS**

When subawards are made to another organization or organizations, the recipient shall require that subrecipients comply with the audit requirements set forth in this chapter.

Recipients are responsible for ensuring that subrecipient audit reports are received and for resolving any audit findings. Known or suspected violations of any law encountered during audits, including fraud, theft, embezzlement, forgery, or other serious irregularities, must be communicated to the recipient.

For subrecipients who are not required to have an audit as stipulated in OMB Circular A-133, the recipient is still responsible for monitoring the subrecipients' activities to provide reasonable assurance that the subrecipient administered Federal awards in compliance with Federal requirements.

#### **TECHNICAL ASSISTANCE**

The DOJ Office of the Inspector General is available to provide technical assistance to recipients in implementing the audit requirements of this chapter where DOJ is the assigned cognizant agency or has oversight responsibilities because it has provided the preponderance of direct Federal funding to the recipient. This assistance is available for areas such as:

1. Review of the audit arrangements and/or negotiations;
2. Review of the audit program or guide to be used for the conduct of the audit; and
3. On-site assistance in the performance of the audit, when deemed necessary, as a result of universal or complex problems that arise. Requests for technical assistance should be addressed to the appropriate DOJ Regional Inspector General's Office (see listing of regional offices).

#### **FULL-SCOPE AUDITING**

In addition to arranging and providing for the organizational, financial, and compliance audits required by OMB Circular A-133, individual recipients and subrecipients are encouraged to provide for additional audit coverage, as deemed appropriate. The additional audit coverage to be provided should be determined based on the circumstances surrounding the particular organization, function, program, or activity to be audited, management needs, and available audit capability.

Additional audit coverage could involve such organizational determinations relating to the following:

1. Are resources managed and used economically and efficiently?
2. Are desired results and objectives achieved effectively?
3. Are the organization's accounting system and system of internal controls acceptable prior to the receipt of awarding agency funds?
4. Are the organization's systems and controls adequate to detect fraud, waste, and abuse?

#### COMMERCIAL (FOR-PROFIT) ORGANIZATIONS

These organizations shall have financial and compliance audits conducted by qualified individuals who are organizationally, personally, and externally independent from those who authorize the expenditure of Federal funds. This audit must be performed in accordance with Government Auditing Standards, 2003 Revision. The purpose of this audit is to ascertain the effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the award. Usually, these audits shall be conducted annually, but not less frequently than every 2 years. The dollar threshold for audit reports established in OMB Circular A-133, as amended, applies.

#### DISTRIBUTION OF AUDIT REPORTS

The submission of audit reports for all grantees shall be as follows:

1. **State and Local Governments, Institutions of Higher Education, and Nonprofit Institutions.** Completed audit reports for State and local governments, institutions of higher education, and nonprofit institutions **should not be submitted to OJP** (unless requested by an agency official).

All single audit reports must be submitted electronically, rather than in paper format, to the Federal Audit Clearinghouse. There is information on FAC's Web site for grantees submitting their audit reports. Instructions for submitting audit reports are listed at <http://harvester.census.gov/fac/collect/formoptions.html>.

2. **Commercial Organizations and Individuals.** One copy of all audit reports for commercial organizations and individuals should be mailed to the U.S. Department of Justice, Office of Justice Programs, Office of the Chief Financial Officer, ATTN: Control Desk, 810 Seventh Street, NW., Room 5303, Washington, DC 20531.

## OIG REGIONAL OFFICES

Regional Audit Office	Geographical Area
<p>Atlanta Region (40)            Ferris B. Polk, Regional Audit Manager            75 Spring Street, Suite 1130            Atlanta, GA 30323            Phone: 404-331-5928            FAX: 404-331-5046</p>	<p>Alabama, Florida, Georgia, Mississippi,            North Carolina, Puerto Rico, South            Carolina, Tennessee, and Virgin Islands</p>
<p>Chicago Region (50)            Carol S. Taraszka, Regional Audit Manager            500 W. Madison, Suite 3510            Chicago, IL 60661            Phone: 312-353-1203            FAX: 312-886-0513</p>	<p>Illinois, Indiana, Iowa, Kentucky, Michigan,            Minnesota, Missouri, Ohio, and Wisconsin</p>
<p>Dallas Region (80)            Robert J. Kaufman, Regional Audit Manager            207 S. Houston Street            Box 4, Room 275            Dallas, TX 75202            Phone: 214-655-5000            FAX: 214-655-5025</p>	<p>Arkansas, Louisiana, Oklahoma, and Texas</p>
<p>Denver Region (60)            David M. Sheeren, Regional Audit Manager            1120 Lincoln Street, Suite 1500            Denver, CO 80203            Phone: 303-864-2000            FAX: 303-864-2004</p>	<p>Arizona, Colorado, Idaho, Kansas, Montana,            Nebraska, New Mexico, North Dakota,            South Dakota, Utah, and Wyoming</p>
<p>Philadelphia Region (70)            Richard A. McGeary, Regional Audit Manager            701 Market Street, Suite 201            Philadelphia, PA 19106            Phone: 215-580-2111            FAX: 215-597-1348</p>	<p>Connecticut, Delaware, Maine,            Massachusetts, New Hampshire, New            Jersey, New York, Pennsylvania, Rhode            Island, and Vermont</p>
<p>San Francisco Region (90)            David J. Gaschke, Regional Audit Manager            1200 Bayhill Drive, Suite 201            San Bruno, CA 94066            Phone: 650-876-9220            FAX: 650-876-0902</p>	<p>Alaska, American Samoa, California,            Guam, Hawaii, Nevada, Oregon, Trust            Territory of the Commonwealth of Northern            Mariana Islands, and Washington</p>
<p>Washington Region (30)            Troy M. Meyer, Regional Audit Manager            1300 North 17th Street, Suite 3400            Arlington, VA 22209            Phone: 202-616-4688            FAX: 202-616-4581</p>	<p>District of Columbia, Maryland, Virginia,            and West Virginia</p>

**NOTES**

# Chapter 20: The American Recovery and Reinvestment Act of 2009

## HIGHLIGHTS OF CHAPTER:

- Background
- The Recovery Act Programs Administered by OJP
- Supplanting Within the Recovery Act Programs
- Special Conditions
- Reporting Requirements for the Recovery Act
- Technical Requirements
- Delegating Reporting Requirements Under the Recovery Act
- Key Reporting Timeframes
- Special Reporting Requirements for Prime Recipients
- Data Quality Requirements
- How To Apply for Grants



## BACKGROUND

On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act of 2009 (Recovery Act). It was an unprecedented effort to jumpstart our economy, create and save millions of jobs, and make striving efforts toward addressing long-neglected challenges so our country can thrive in the 21st century.

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 to provide information to the public, including access to detailed information on grants and contracts made with the Recovery Act funds. For additional guidance regarding the Recovery Act and the Transparency Board, refer to the new Web site, <http://www.Recovery.gov>.

The Recovery Act includes \$4 billion to the U.S. Department of Justice for grant funding to enhance State, local, and tribal law enforcement and other criminal and juvenile justice activities that will help to prevent crime and improve the criminal justice system in the United States. While the Recovery Act provides much needed resources for State and local communities, it also supports the creation of jobs.

## THE RECOVERY ACT PROGRAMS ADMINISTERED BY OJP

OJP has five component bureaus to aide in the implementation of the Recovery Act of 2009: the Bureau of Justice Assistance (BJA); the Bureau of Justice Statistics (BJS); the National Institute of Justice (NIJ); the Office of Juvenile Justice and Delinquency Prevention (OJJDP); and the Office for Victims of Crime (OVC). Additionally, OJP has two program offices: the Community Capacity Development Office (CCDO), which incorporates the Weed and Seed strategy; and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART). BJA, OJJDP, and OVC play a significant role in implementing the various programs from the Recovery Act.

Funding for the following OJP programs is available through the Recovery Act:

- **Edward Byrne Memorial Justice Assistance Grant Program - \$2 Billion**
  - Formula program based on population and violent crime statistics
  - Supports broad range of activities to prevent and control crimes and improve the criminal and juvenile justice systems
- **Victims of Crime Act (VOCA) State Crime Victim Compensation Program - \$47.5 Million**
  - Formula program supports State efforts to compensate crime victims
- **Victims of Crime Act (VOCA) Assistance Formula Grant Program - \$47.5 Million**
  - Formula program supports State services to crime victims
- **Internet Crimes Against Children Task Force (ICAC) Formula Grant Program - \$50 Million**
  - Formula program supports the national network of ICAC task forces
  - Discretionary solicitations for Research and Training and Technical Assistance programs

- **Edward Byrne Competitive Grant Program - \$120.75 Million**
  - Categories include: Data-driven and evidence-based approaches; neighborhood-based probation and parole; mortgage fraud; hiring civilian law enforcement; enhancing forensic and crime scene investigations; victim assistance; and problem-solving courts
- **Mentoring Programs - \$97.5 Million**
  - Local Youth Mentoring Initiatives and National Youth Mentoring Programs
- **Research and Evaluation - \$2.25 Million**
  - Research and evaluation of Recovery Act State and Local Law Enforcement Assistance
- **Correctional Facilities on Tribal Lands Program - \$225 Million**
  - Construction or renovation of correctional facilities on tribal lands
- **Assistance to Rural Law Enforcement To Combat Crime and Drugs - \$123.75 Million**
  - Assistance to State and local law enforcement in rural States and rural areas to prevent and combat crime, especially drug-related crime
  - State and local law enforcement agencies include State and local prosecutors, parole, probation and community corrections agencies
- **Combating Criminal Narcotics Activity Stemming From the Southern Border of the United States - \$29.7 Million**
  - Assistance and equipment to State and local law enforcement along the southern border and in High Intensity Drug Trafficking Areas (HIDTA)
  - State and local law enforcement agencies include State and local prosecutors, parole, probation, and community corrections agencies
- **Crime Victims Competitive Grants - \$5 Million**
  - Training, technical assistance, and demonstration projects which are national in scope

#### **SUPPLANTING WITHIN THE RECOVERY ACT PROGRAMS**

The Recovery Act does not impose any new or unique nonsupplanting requirements on OJP programs. As specifically indicated in the solicitations, **the following OJP Recovery Act programs do not prohibit supplanting:**

- OJJDP FY 09 Recovery Act Internet Crimes Against Children (ICAC) Task Force Program Grants
- OJJDP FY 09 Recovery Act ICAC Task Force Training and Technical Assistance Grants
- OJJDP FY 09 Recovery Act ICAC Research Grants
- OJJDP FY 09 Recovery Act National Internet Crimes Against Children Data System
- OJJDP FY 09 Recovery Act Local Youth Mentoring Initiative

- OJJDP FY 09 Recovery Act National Youth Mentoring Programs
- Recovery Act: Assistance to Rural Law Enforcement To Combat Crime and Drugs
- Recovery Act: Edward Byrne Memorial Competitive Grant Program
- Recovery Act State and Local Law Enforcement Assistance Program: Combating Criminal Narcotics Activity Stemming From Southern Border of the United States
- Recovery Act: Evaluation of Internet Child Safety Materials Used by ICAC Task Forces in School and Community Settings
- Recovery Act: Research and Evaluation of Recovery Act State and Local Law Enforcement Assistance

### SPECIAL CONDITIONS

The recipient must agree with all of the terms and special conditions contained in the award document. The following special conditions may or may not apply to all of the Recovery Act programs.

- 1. Separate Tracking and Reporting.** The recipient must track, account for, and report on all funds received from the Recovery Act award (including specific outcomes and benefits attributable to Recovery Act funds) separately from all funds, including DOJ award funds from non-Recovery Act grants awarded for the same or similar purposes or programs. (Recovery Act funds may be used in conjunction with other funding as necessary to complete projects, but tracking and reporting of Recovery Act funds must be separate).
- 2. Reporting and Registration Requirements.** The recipient must complete projects and activities which are funded under the Recovery Act and report on the use of Recovery Act funds provided through each award. Information from these reports will be made available to the public. The reports are due no later than 10 calendar days after the end of each calendar quarter, for the life of each Recovery Act grant. Recipients and their first-tier subrecipients must maintain current registrations in the Central Contractor Registration (CCR) at all times during which they have active Federal awards funded under the Recovery Act. (Also, see Part III, Chapter 11: Reporting Requirements.)
- 3. Provisions of Section 1512(c).** Each recipient that received Recovery Act funds shall submit a report no later than 10 days after the end of each calendar quarter to the Federal awarding agency. The report must contain the following data: (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 all of 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 the State and local governments, the purpose, the total cost, and rationale of the agency for funding the Recovery Act.
- 4. DUNS and CCR Reporting for Subrecipient.** The recipient must work with its first-tier subrecipients to ensure that the subrecipient has a valid DUNS profile, no later than the due date of the recipient's first quarterly report after a subaward is made.

5. **Protecting State and Local Government and Contractor Whistleblowers.** The recipient recognizes that the Recovery Act provides certain protections against reprisals for employees of non-Federal employers who disclose information reasonably believed to be evidence of gross mismanagement, gross waste, substantial and specific danger to public health or safety, abuse of authority, or violations of law related to contracts or grants using Recovery Act funds.
6. **National Environmental Policy Act (NEPA) and Related Laws.** The recipient understands that all OJP awards are subject to NEPA and other related Federal laws (including the National Historic Preservation Act), if applicable. The recipient agrees to assist OJP in carrying out its responsibilities under NEPA and related laws, if the recipient plans to use Recovery Act funds (directly or through subaward or contract) to undertake any activity that triggers these requirements, such as renovation or construction. The recipient also agrees to comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under each award.
7. **Inapplicability of Nonsupplanting Requirement.** The recipient understands that, for purposes of this award, the general nonsupplanting requirement of the OJP Financial Guide (Part II, Chapter 3) does not apply.
8. **Quarterly Financial Status Reports.** The recipient agrees to submit quarterly financial status reports to OJP. Currently, the reports are to be submitted online using the Grants Management System (GMS) SF-269A Module, not later than 45 days after the end of each calendar quarter. The recipient understands that beginning October 1, 2009, OJP will discontinue its use of the SF-269A, and will require award recipients to submit quarterly financial status reports within 30 days after the end of each quarter, using the governmentwide Federal Financial Report (FFR-425) form. Beginning with the report for the fourth calendar quarter of 2009, the recipient agrees that it will submit quarterly financial status reports to OJP online using the FFR-425, not later than 30 days after the end of each calendar quarter. The final report shall be submitted not later than 90 days following the end of the grant period.
9. **Reporting on Potential Fraud, Waste, and Abuse, and similar misconduct.** The recipient must promptly refer to the Department of Justice, Office of Inspector General (OIG) any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either submitted a false claim for Recovery Act funds under the False Claims Act; or committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Recovery Act funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct can be reported to the OIG via e-mail at [oig\\_hotline@usdoj.gov](mailto:oig_hotline@usdoj.gov), telephone at 1-800-869-4499, FAX at 202-616-9881 or mail at: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, NW., Room 4706, Washington, DC 20530.
10. **Subaward Monitoring.** The recipient agrees to monitor its subawards under the Recovery Act in accordance with applicable statutes, regulations, OMB circulars, and guidelines, including the OJP Financial Guide, and to pass through the applicable award conditions in any subawards. The recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to the use of Recovery Act funds by its subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under the Recovery Act.
11. **Access to Records.** The recipient understands and agrees that DOJ (including OJP and OIG), and its representatives, as well as officials from the Government Accountability Office (GAO), shall

have access to and the right to examine all records (including, but not limited to, books, papers, and documents) related to each Recovery Act award, including such records of any subrecipient, contractor, or subcontractor.

**12. Buy American Notification Section 1605.** The recipient understands that this award is subject to the provisions of the Section 1605 of the Recovery Act. No award funds may be used for iron, steel, or manufactured goods for a project for the construction, alteration, maintenance, or repair of a public building or public work, unless the recipient provides advance written notification to the OJP program office, and a grant adjustment notice (GAN) is issued that modifies this special condition to add governmentwide standard conditions (anticipated to be published in subpart B of 2 C.F.R. part 176) that further implement the specific requirements or exceptions of Section 1605.

**13. Active CCR.** The recipient agrees to expeditiously obtain active registration with the CCR database, and to notify the program office in writing of its registration. Following satisfaction of this requirement, a GAN will be issued to remove this special condition.

**REPORTING REQUIREMENTS FOR THE RECOVERY ACT**

The recipients of Recovery Act funds must comply with extensive reporting requirements. Quarterly progress reports, which require both financial and programmatic data, will be **due within 10 calendar days after the end of each calendar quarter, beginning with the July to September 2009 reporting period. However, the report due on October 10, 2009 must also include the cumulative activities and projects funded since the enactment of the Act, or February 17, 2009.**

Reporting Periods	Due Dates
July – September	October 10
October – December	January 10
January – March	April 10
April – June	July 10

The report must contain the following information:

- the total amount of Recovery Act funds received from that agency;
- the amount of the Recovery Act funds that were expended or obligated to projects or activities;
- a detailed list of all projects or activities for which Recovery Act funds were expended or obligated, including—
  - the name of the project or activity;
  - a description of the project or activity;
  - an evaluation of the completion status of the project or activity;
  - an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
  - 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 the agency point of contact for infrastructure investment issues; and
- 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 Office of Management and Budget.

## TECHNICAL REQUIREMENTS

Section 1512 of the Recovery Act requires that activity reports on the use of Recovery Act funding be submitted by recipients into the central reporting solution at <http://FederalReporting.gov>. Recipients must be registered as authorized parties prior to submitting or reviewing activity reports on <http://FederalReporting.gov>. Since registration requires that recipients be registered in the CCR database, and that all reporting entities have a valid DUNS number, recipients that do not already meet these requirements are encouraged to register no later than 35 days prior to the end of the quarter. The registration function will be available at <http://FederalReporting.gov> beginning August 17, 2009, and the entire process may take up to 8 days. When the Web site registration process has been successfully concluded, the <http://FederalReporting.gov> solution will send a confirmation of registration to the user by e-mail.

There are three methods for submitting reports into the <http://FederalReporting.gov> reporting solution:

1. Online data entry – the Web site provides a data entry form which is available at <http://FederalReporting.gov>.

Technical Requirements: a commercial web browser, such as Microsoft's Internet Explorer or Firefox, is required for this option.

2. Excel spreadsheet – a Microsoft Excel spreadsheet can be downloaded, opened, completed, and then uploaded to the Web site at <http://FederalReporting.gov>. The spreadsheet is **locked** to restrict modification and only allows data to be entered in the required fields.

Technical Requirements: Microsoft Office Excel (version 2003 or newer) is required to open and edit the spreadsheet. A commercial Web browser, such as Microsoft's Internet Explorer or Firefox, is required for this option.

**NOTE:** Modification to the structure of this spreadsheet will result in an invalid submission.

3. Custom software system extract in Extensible Markup Language (XML) – a formatted XML system extract. A data dictionary and XML schema is needed for formatting and structuring the XML system extracts. The XML schema, and a service for validating the structure of the XML extracts, will be available on <http://FederalReporting.gov>.

Technical Requirements: A commercial browser, such as Microsoft's Internet Explorer or Firefox, is required for this option.

## DELEGATING REPORTING REQUIREMENTS UNDER THE RECOVERY ACT

The prime recipient of all Federal programs identified in Section 1512 of the Recovery Act is responsible for reporting on funded activities and projects in <http://FederalReporting.gov>. However, the prime recipient may choose to delegate certain reporting responsibilities to the subrecipient for those data elements related to subrecipient activities. This delegation must be clearly communicated and closely monitored to avoid mistakes and/or double counting (i.e., whereas both the prime recipient and the subrecipient separately report on the same activity). The prime recipient is responsible for designing and implementing a process to minimize potential reporting errors and mistakes. This policy should clearly identify which user (prime or subrecipient) is authorized to make corrections during the postsubmission stage.

## KEY REPORTING TIMEFRAMES

The Recovery Act requires that prime recipients and delegated subrecipients submit quarterly reports on <http://FederalReporting.gov> not later than the 10th day following the end of each quarter. The initial report is due on October 10, 2009, and should include the cumulative activities and projects funded since the enactment of the Act, or February 17, 2009. The statute requires that reported information will be made available to the public no later than the 30th day after the end of each calendar quarter. Summary statistics for reported data will appear on <http://www.Recovery.gov> and will be marked to indicate their review status: 1) Not reviewed by Federal agency; 2) Reviewed by Federal agency, no material omissions or significant reporting errors identified; or 3) Reviewed by Federal agency, material omissions or significant reporting errors identified.

The timeframe for reporting activities and their sequence is described below:

- **During days 1-10** following the end of the quarter, recipients and delegated subrecipients prepare and enter their reporting information. During this period, the data is considered to be in presubmission status until actually submitted. Recipients using the Web-based form will be allowed to store draft versions of their reports online. However, the draft versions will only be available to the individual creating the report. Recipients using the spreadsheet or system extracted XML options may store draft versions outside of the system on recipient-owned computers or workstations. The data will assume the status of “submitted” and conform with Section 1512 reporting requirements only when the reporting entity actually submits it using the Web site functions. Submitted reports will be viewable by the appropriate prime recipient and by the awarding agency. Prime recipients and delegated subrecipients that have not submitted their reports by the end of the 10th day will be considered in noncompliance with the reporting requirements.
- **During days 11-21** following the end of the quarter, prime recipients ensure that complete and accurate reporting information is provided prior to the Federal agency comment period beginning on the 22nd day. Prime recipients will perform a data quality review and verify submitted information for all Recovery Act funds for which they are responsible. Additionally, the prime recipient must notify all subrecipients of reporting errors or omissions, and ensure that any data corrections are completed in a timely manner. The prime recipient is responsible for coordinating with subrecipients on any identified data corrections.
- **During days 22-29** following the end of the quarter, the Federal agencies can review and comment on the submitted reporting information. Submitted reports will not be editable by the prime recipients or delegated subrecipients during this period, unless the Federal agencies request revisions. The Federal agencies will perform a data quality review and notify the prime recipients and the delegated subrecipients of any data anomalies or questions through the <http://FederalReporting.gov> solution. This notification will unlock the notated report and include instructions from the Federal agencies for any corrections. The original submitter must complete data corrections no later than the 29th day following the end of the quarter.
- **No later than 30 days** following the end of the quarter, detailed recipient reports are made available to the public on the <http://www.Recovery.gov> Web site. Any data issues identified beyond the date of publication will be corrected or addressed in the *next* quarterly report.

## **SPECIAL REPORTING REQUIREMENTS FOR PRIME RECIPIENTS**

Prime recipients will be required to enter their Marketing Partner Identification Number (MPIN) from the CCR at the time of reporting submission. The MPIN is a password created by a user in CCR and identifies the submitter as a prime recipient. Prime recipients will not be able to view subrecipient reports until the prime recipient report is submitted using a valid MPIN for the DUNS number associated with the award.

## **DATA QUALITY REQUIREMENTS**

Data quality reviews (i.e., accuracy, completeness, and timely reporting of information) are intended to emphasize and avoid two key data problems: material omissions and significant reporting errors.

Material omission is defined as an instance in which required data is not reported, or the prime recipient or delegated subrecipient fails to report. This type of omission can result in significant risk to the public on the status of a Recovery Act activity or project.

Significant reporting error is defined as an instance in which required data is not reported accurately and such erroneous reporting results in significant risk that the public will be misled or confused by the recipient report in question. Appropriate action should be taken to reduce the risk of significant reporting errors.



# Part IV: Organization Structure

## HIGHLIGHTS

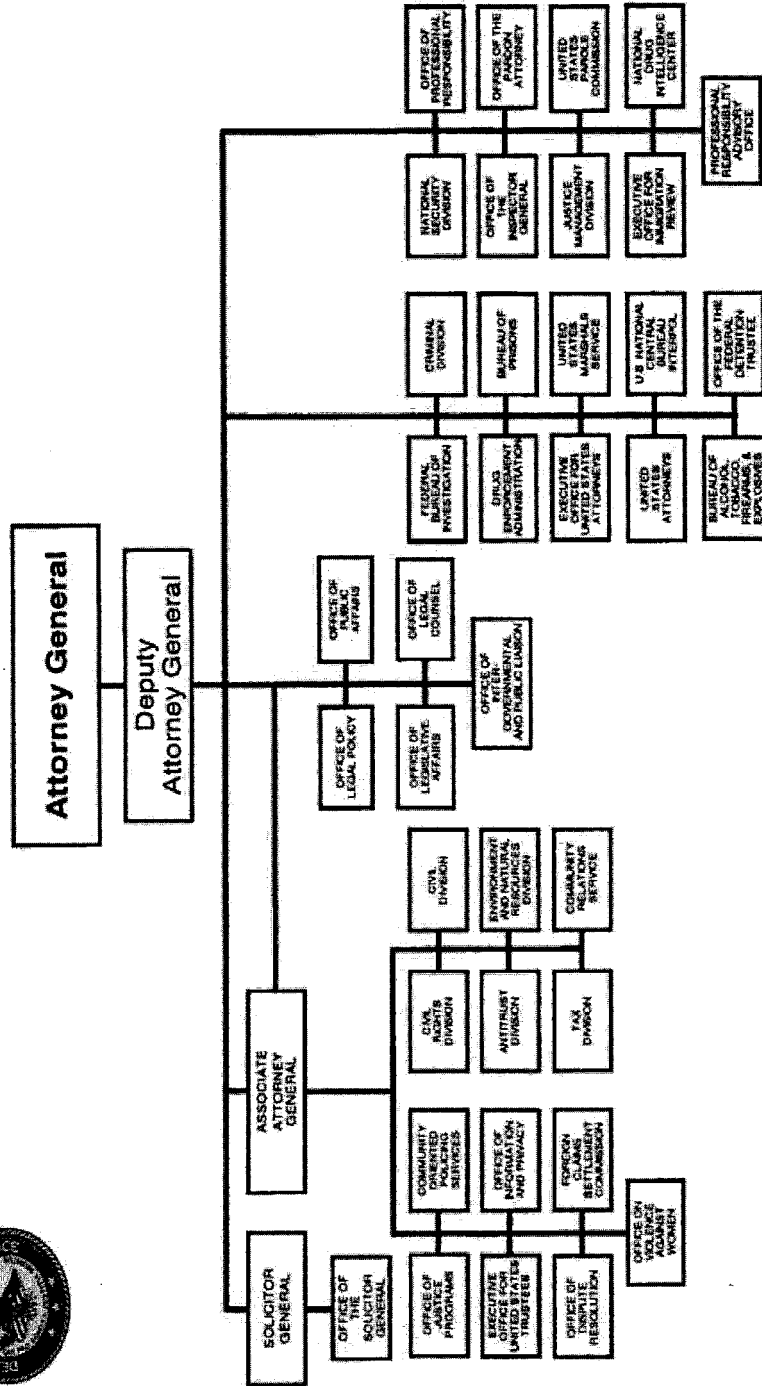
- United States Department of Justice Organization Chart
- Office of Justice Programs Organization Chart
- Office of the Chief Financial Officer Organization Chart

# U.S. Department of Justice

## Organization Chart

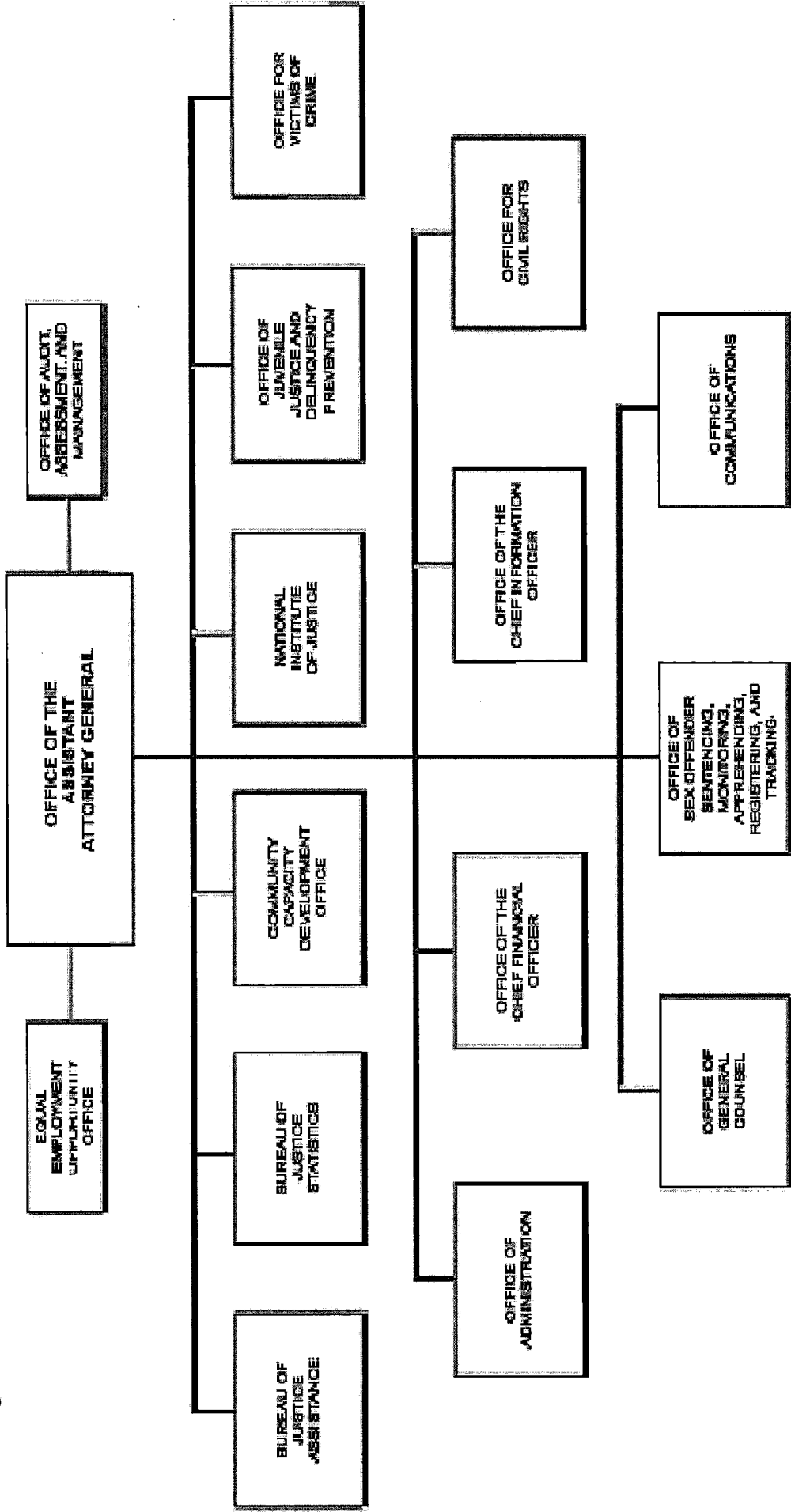


### U.S. DEPARTMENT OF JUSTICE



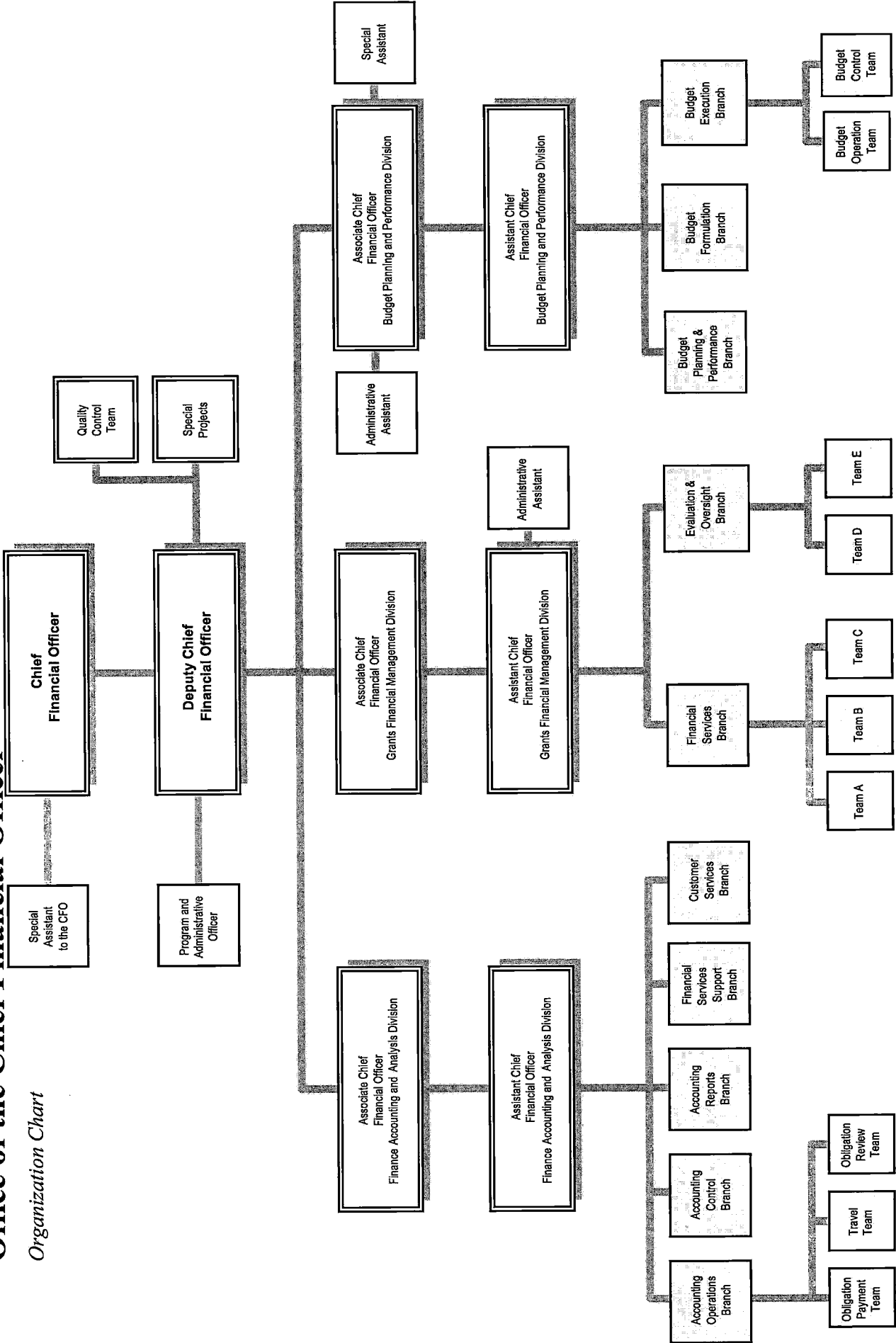
# Office of Justice Programs

## Organization Chart



# Office of the Chief Financial Officer

## Organization Chart



# Appendices

Appendix I: ACH Vendor/Miscellaneous Payment Enrollment Form

Appendix II: Financial Status Report (Short Form)

**ACH VENDOR/MISCELLANEOUS PAYMENT  
ENROLLMENT FORM**

This form is used for Automated Clearinghouse (ACH) payments with an addendum record that contains payment-related information processed through the Vendor Express Program. Recipients of these payments should bring this information to the attention of their financial institution when presenting this for completion.

<b>PRIVACY ACT STATEMENT</b>	
<p>The following information is provided to comply with the Privacy Act of 1974 (P.L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C. 3322 and 31 CFR 210. This information will be used by the U.S. Department of the Treasury to transmit payment data, by electronic means to vendor's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearinghouse Payment System.</p>	

<b>AGENCY INFORMATION</b>	
FEDERAL PROGRAM AGENCY OFFICE OF JUSTICE PROGRAMS	
AGENCY IDENTIFIER: OJP	AGENCY LOCATION CODE (ALC): 15-04-0001
Grantee Employer/Taxpayer Identification Number:	
ADDRESS: 810 Seventh Street, NW., Attn: Office of the Chief Financial Officer Control Desk  Washington, D.C. 20531	
AGENCY CONTACT: Office of the Chief Financial Officer - Customer Service Center	TELEPHONE NUMBER: 1-800-458-0786

<b>PAYEE/COMPANY INFORMATION</b>	
NAME:	OJP Vendor Number:
ADDRESS:	
CONTACT PERSON NAME:	E-MAIL ADDRESS:
TELEPHONE NUMBER: ( )	TELEPHONE NUMBER: ( )

<b>TO BE COMPLETED BY FINANCIAL INSTITUTION</b>	
NAME:	
ADDRESS:	
NAME OF BANK OFFICIAL OR ACH COORDINATOR :	TELEPHONE NUMBER: ( )
NINE-DIGIT ROUTING TRANSIT NUMBER:	
DEPOSITOR ACCOUNT TITLE:	
DEPOSITOR ACCOUNT NUMBER:	LOCKBOX NUMBER:
TYPE OF ACCOUNT:	
<input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS <input type="checkbox"/> LOCKBOX	
SIGNATURE AND TITLE OF AUTHORIZED BANK OFFICIAL OR ACH COORDINATOR:	DATE:

## EXHIBIT B

**FINANCIAL STATUS REPORT***(Short Form)***File the SF-269a report online at <https://grants.ojp.usdoj.gov>**

1. Federal Agency and Organizational Element to which Report is Submitted  <b>U.S. Dept. of Justice Office of Justice Programs (OJP)</b>		2. Grant or Award Number Assigned by OJP		OMB Approval No. <b>1121-0264</b>	Page <b>1</b>	of <b>1</b> page
3. Recipient Organization (Name and complete address, including ZIP code)						
4. Vendor Number		5. Recipient Internal Code or Identifying Number (If Any)		6. Final Report <input type="checkbox"/> Yes <input type="checkbox"/> No	7. Basis <input type="checkbox"/> Cash <input type="checkbox"/> Accrual	
8. Funding/Grant Period (See Instructions) From: (Month, Day, Year)   To: (Month, Day, Year)			9. Period Covered by this Report From: (Month, Day, Year)   To: (Month, Day, Year)			
10. Transactions:				I Previously Reported	II This Period	III Cumulative
a. Total outlays						
b. Recipient share of outlays						
c. Federal share of outlays						
d. Total unliquidated obligations						
e. Recipient share of unliquidated obligations						
f. Federal share of unliquidated obligations						
g. Total Federal share (Sum of lines c and f)						
h. Total Federal funds authorized for this funding period						
i. Unobligated balance of Federal funds (Line h minus line g)						
11. Indirect Expense	a. Type of Rate (place "x" in appropriate box) <input type="checkbox"/> Provisional <input type="checkbox"/> Predetermined <input type="checkbox"/> Final <input type="checkbox"/> Fixed					
	b. Rate	c. Base	d. Total Amount	e. Federal Share		
12. Remarks: attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.						
a. Block/Formula Passthrough \$			PROGRAM INCOME:		d. Other \$	
b. Federal Funds Subgranted \$			c. Forfeit \$		e. Expended \$	
					f. Unexpended \$	
13. Certification I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.						
Typed or Printed Name and Title				Telephone (Area code, number, and extension)		
Signature of Authorized Certifying Official				Date Report Submitted		

Standard Form 269a (REV 2002)

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The quarterly Financial Status Report (FSR) is due no later than 45 days after the end of the calendar quarter. Please be reminded that this is a report of expenditures not a request for reimbursement. To request reimbursement, use your assigned OJP payment system.

This FSR should be filed on-line at <https://grants.ojp.usdoj.gov>. The attached form and instructions are provided for information. When filing on-line, you will need to fill in each box on the form, as previously reported information is pre-populated on-line. The on-line system will calculate cumulative data for you. You can change or modify only the most recent report shown on-line. Without a current FSR on file, requests for funds will not be approved and funds will not be disbursed.

1. Pre-printed as: U.S. Dept. of Justice, Office of Justice Programs
2. OJP grant number found on your grant award document. For example, 2005-AB-CD-0000.
3. Current name and address of the award recipient.
4. OJP assigned 9 digit vendor number as recorded on your grant award document.
5. Enter any identifying number assigned by your organization for your internal use. If none, leave blank.
6. If you have finished expending funds and recording your required match related to this award, regardless of whether they have been or will be reimbursed by the Federal Government, check "Yes." Otherwise, check "No."
7. Indicate whether your accounting system uses a CASH or an ACCRUAL basis for recording transactions related to this award. For reports prepared on a CASH basis, outlays are the sum of actual cash disbursement for direct purchases of goods and services at the lowest funding level. For reports prepared on an ACCRUAL basis, outlays are the sum of actual cash disbursement at the lowest funding level. Unpaid obligations represent the amount of obligations that you incurred at the lowest funding level but have not yet paid out.
8. The begin and end dates of the award period.
9. The current reporting calendar quarter as listed below.
 

<u>Reporting Quarter</u>	<u>Reports Due Not Later than</u>
Jan 1 through Mar 31	May 15
Apr 1 through Jun 30	Aug 14
Jul 1 through Sep 30	Nov 14
Oct 1 through Dec 31	Feb 14

Note: Data for more than one calendar quarter may be rolled up into one report for the first report submitted.

10. Lines 10a, 10b, and 10c refer to your **cash outlays** including the value of in-kind match contributions for this award at the lowest funding level (i.e., monies you have spent). Column I is the cumulative total of expenditures for the prior reported calendar quarter. Amounts in this column came from your previous report. Column II is for the current reporting calendar quarter's outlays and for any corrections needed. Column III is for the result when adding across the amounts reported in Columns I and II. The total of lines 10b and 10c should equal the amount reported on line 10a for each column.

Lines 10d, 10e, and 10f should only be completed if you indicated in **Box 7** that you are on an accrual basis of accounting. Lines 10d, 10e, and 10f refer to the amount of unpaid obligations or accounts payable you have incurred. Items such as payroll (which has been earned, but not yet paid) is an example of an accrued expense. Line 10d is the total of your unpaid obligations to date.

Line 10e is your share of these unpaid obligations. Line 10f is the Federal share of unpaid obligations. The total of lines 10e and 10f should equal the amount on line 10d.

Line 10g is the total Federal share of your cash outlays and unpaid obligations regardless of whether you have received reimbursement. It will be the total of Column III, Lines 10c and 10f. Line 10h is the total amount of your award. Change this amount only if you have received a supplemental award. Line 10i is the amount of your total award which has not either been expended through a cash outlay or encumbered by an unpaid obligation. It is the difference between Column III, Lines 10h minus 10g equals Line 10i.

11. Please refer to your award documents to complete this section. This section will only be completed if you have a Negotiated Indirect Cost Rate with your cognizant agency.

Line 11a Indicate the type of rate that you have. Line 11b is the indirect cost rate in effect during this current reporting period. Line 11c is the amount of the base against which the cost rate is applied. Line 11d is the total amount of indirect costs charged during this current reporting period. Line 11e is the Federal Government share of the amount reported on Line 11d. ( $11b \times 11c = 11d$ )

11e Note: If more than one rate was in effect during this reporting period, add the additional rate amounts in Box 12 in the Remarks Section.

12. Line 12A is the cumulative amount of Federal funds your State agency has passed-through to local units of government, other specified groups or organizations as directed by the legislation of the program.

Line 12B is the cumulative amount of Federal funds subgranted including amounts subgranted to State agencies and amounts reported on Line 12A.

Line 12C is the cumulative Federal portion of forfeited assets to be used in this grant whether the assets were forfeited as a result of this grant or another grant.

Line 12D is the cumulative Federal portion of program income earned from other than forfeited assets. This is income from sources such as registration fees, tuition, and royalties. This amount should not be included in Box 10.

Line 12E is the cumulative amount of program income from all sources, including forfeited assets and interest earned, which have been expended by your organization. This amount should not be included in Box 10.

Line 12F is the balance of unexpended program income ( $12C + 12D - 12E$ ).

13. Type your name, title, phone number. A written signature is not required on-line. However, if a paper copy is submitted, please remember to sign and date it, and print your name and telephone number.

If you submit your SF269 on-line, DO NOT fax or mail a paper copy to OJP unless requested to do so by OJP.



**Consultant** is an individual who provides professional advice or services.

**Continental breakfast** means a light breakfast that may include a selection of coffees, teas, juices, fruits, and assorted pastries, and is allowable provided several hours of substantive material directly follows the continental breakfast. Grant recipients are reminded that the least expensive of the available selections should be chosen.

**Contracts** are entered into by the awarding agency, recipients or subrecipients, and commercial (profit-making) and nonprofit organizations. With the exception of a few justified sole-source situations, contracts are awarded via competitive processes to procure a good or service.

**Cooperative agreements** are awarded to States, units of local government, or private organizations at the discretion of the awarding agency. Cooperative agreements are utilized when substantial involvement is anticipated between the awarding agency and the recipient during performance of the contemplated activity.

**Discretionary awards** are made to States, units of local government, or private organizations at the discretion of the awarding agency. Most discretionary awards are competitive in nature in that there are limited funds available and a large number of potential recipients.

**Domestic travel** includes travel within and between Canada and the United States and its territories and possessions.

**Equipment** is tangible, nonexpendable personal property having a useful life of more than 1 year and an acquisition cost of \$5,000 or more per unit. A recipient/subrecipient may use its own definition of equipment provided that such definition would at least include all equipment defined above.

**Federal contractor** is a person or entity that contracts with the Federal Government to provide supplies, services, or experimental, developmental, or research work. Entities may include commercial organizations, educational institutions, construction and architect-engineer companies, State and local governments, and nonprofit organizations. See 48 CFR 31.103-105, 31.107-108 (1995).

**Federal employees** are those persons employed in or under an agency of the United States Federal Government or the District of Columbia. See 5 U.S.C. 4101 (1994).

**Federal grantee** means the component of a State, local, or federally recognized Indian tribal government, educational institution, hospital, or a for-profit or nonprofit organization which is responsible for the performance or administration of all or some part of a Federal award. See 2 CFR Part 225, Attachment A and 2 CFR Part 215, Attachment A.

**Focus group** means a gathering of Federal Government employees to discuss results and improvements of programs in the field. The focus group should follow a prepared agenda, be led by an expert in the subject matter, and serve to educate the Federal employees.

**Food and/or beverages** retain their common meanings. Food or beverages are considered in the context of formal meals and in the context of refreshments served at short, intermittent breaks during an activity. Beverages do not include alcoholic drinks.

**Foreign travel** includes any travel outside of Canada and the United States and its territories and possessions. For an organization located in a foreign country, this means travel outside that country.

**Formal agenda** provides a list of all activities that shall occur during the event,

using an hour-by-hour timeline. It must specifically include the times during the event when food and beverages will be provided.

**Grants** are awarded to States, units of local government, or private organizations at the discretion of the awarding agency or on the basis of a formula. Grants are used to support a public purpose.

**High risk** is a determination made by the awarding agency of a recipient's ability to financially administer Federal project funds. Additional reporting requirements are imposed on high-risk recipients.

**Incidental** means relating to a formal event where full participation by participants mandates the provision of food and beverages.

**Interagency agreements and purchase of service arrangements** are usually entered into by two governmental units or agencies. Such funding arrangements are negotiated by the entities involved.

**Match** is the recipient share of the project costs. Match may either be "in-kind" or "cash." In-kind match includes the value of donated services. Cash match includes actual cash spent by the recipient and must have a cost relationship to the Federal award that is being matched. (Example: Match on administrative costs should be other administrative costs, not other matching on program costs).

**Nonexpendable personal property** includes tangible personal property having a useful life of more than 1 year and an acquisition cost of \$5,000 or more per unit. A recipient may use its own definition of nonexpendable personal property provided that the definition would at least include all tangible personal property as defined below.

**Obligation** means a legal liability to pay under a grant, subgrant, and/or contract determinable sums for services or goods incurred during the grant period.

**Passthrough** is an obligation on the part of the States to make funds available to units of local governments, combinations of local units, or other specified groups or organizations.

**Personal property** means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence, such as patents, inventions, and copyrights).

**Preagreement costs** are defined as those costs which are considered necessary to the project but occur prior to the starting date of the award period.

**Prior approval** means written approval by the authorized official (the next highest authority except for sole source) evidencing consent prior to a budgetary or programmatic change in the award.

**Program income** means gross income earned by the recipient during the funding period as a direct result of the award. Direct result is defined as a specific act or set of activities that are directly attributable to grant funds and which are directly related to the goals and objectives of the project. Determinations of "direct result" will be made by the awarding agency for discretionary grants and by the State for block/formula subawards. Fines/penalties are not considered program income. Program income may be used only for allowable program expenses.

**Project Period** is the period for which implementation of a project is authorized. The project period may be equal to or longer than the budget period for an award, but can not be shorter than the budget period.

**Purchase of evidence (P/E)** is the purchase of evidence and/or contraband, such as narcotics and dangerous drugs, firearms, stolen property, counterfeit tax stamps, and so forth, required to determine the existence of a crime or to establish the identity of a participant in a crime.

**Purchase of services (P/S)** includes travel or transportation of a non-Federal officer or an informant; the lease of an apartment, business front, luxury-type automobiles, aircraft or boat, or similar effects to create or establish the appearance of affluence; and/or meals, beverages, entertainment, and similar expenses (including buy money and flash rolls, etc.) for undercover purposes, within reasonable limits.

**Purchase of specific information (P/I)** includes the payment of monies to an informant for specific information. All other informant expenses would be classified under P/S and charged accordingly.

**Real property** means land, land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

**Reasonable** means those costs that a prudent person would have incurred under the circumstances prevailing at the time the decision to incur the cost was made. Costs to consider when making judgments about reasonableness include the cost of food and beverage, total cost of the event, and costs incurred relative to costs in the geographical area. The exception to this definition is lodging costs for events of 30 or more participants, when the event is funded with an OJP award. For these events, reasonable is defined as the Federal per diem rate for lodging.

**Reception** means an informal gathering which is not mandatory for all event participants to obtain necessary information. Indicators of a reception include a cash bar,

inadequate seating for the entire group, food items from a reception menu (such as finger foods), and a longer break (than utilized throughout the day) between the substantive meetings and the reception. Receptions are expressly prohibited and are considered to be an unallowable cost with Federal funds.

**Recipient** is an individual and/or organization that receives Federal financial assistance directly from the Federal agency.

**Social event** is any event with alcoholic beverages served, available, or present.

**Stipend** is an allowance for living expenses. Examples of these expenses include, but are not limited to, rent, utilities, incidentals, etc.

**Subaward** is an award of financial assistance in the form of money to an eligible subrecipient or a procurement contract made under an award by a recipient.

**Subrecipient** is an individual and/or organization that receives Federal financial assistance from the direct recipient of Federal funds. This may include entities receiving funds as a result of block or formula awards.

**Supplanting** is to deliberately reduce State or local funds because of the existence of Federal funds. For example, when State funds are appropriated for a stated purpose and Federal funds are awarded for that same purpose, the State replaces its State funds with Federal funds, thereby reducing the total amount available for the stated purpose.

**Working dinner** means a formal and mandatory dinner necessary for all participants to have full participation in the conference or event. A working dinner must include a formal agenda including a program or speakers that will impart necessary information important for full understanding of the subject matter of the conference. There should be several hours of informative

sessions providing substantive information scheduled both before and after a working dinner. Indicators of a working dinner include seating for all participants. A cash bar is expressly prohibited.

**Working lunch** is a formal and mandatory lunch necessary for all participants to have full participation in the conference or event. A working lunch must include a formal agenda including a program or speakers that will impart necessary information important for full understanding of the subject matter of the conference. There should be several hours of informative sessions providing substantive information scheduled both before and after a working lunch (exhibits are not included). Indicators of a working lunch include seating for all participants. A cash bar is expressly prohibited.

**Work-related event** is a conference or meeting involving a topical matter of interest within the purview of the agency's mission and function.

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# THE TEN GUIDING PRINCIPLES



## OF DWI COURTS



## ◆ GUIDING PRINCIPLE #1 ◆

### Determine the Population

By Mike Loeffler and Hon. James Wanamaker (Ret)

#### *Introduction*

The DWI court should select a target population that possesses significant criminal and substance dependency histories and strive to alter those behaviors that present a clear danger to their respective communities. The target population must be of sufficient size to have community impact, yet be modest enough to allow DWI courts to provide participants the services necessary to effect change.

Targeting of a population is the process of identifying a subset of the DWI offender population for inclusion in the DWI court program. This is a complex task given that DWI courts, in comparison to traditional drug court programs, accept only one type of offender: the person who drives while under the influence of alcohol or drugs. The DWI court target population, therefore, must be clearly defined, with eligibility criteria clearly documented.

**GUIDING PRINCIPLE #1:**  
*Targeting is the process of identifying a subset of the DWI offender population for inclusion in the DWI court program. This is a complex task given that DWI courts, in comparison to traditional drug court programs, accept only one type of offender: the person who drives while under the influence of alcohol or drugs. The DWI court target population, therefore, must be clearly defined, with eligibility criteria clearly documented.*

- ***Developing a Target Population in collaboration with the Community.***

Community outreach and support is a vital component of a DWI court program. This is because DWI courts normally represent a dramatic departure from routine criminal case processing. Any such program instituted without community input and advice is liable to lack public support and subsequently be short-lived.

The process of identifying the subset of DWI offenders necessarily involves community outreach. The Drug court team should consult various community stakeholders for comment and advice on which types of offenders should be accepted (or excluded) from the DWI court program. A non-exhaustive list of community stakeholders includes law enforcement agencies, faith-based organizations and institutions, prosecutors, victims groups (e.g., MADD), civic clubs, traffic safety officials, defense counsel, local elected officials, and the recovery and treatment communities, among many others. While it may be difficult to arrive at a consensus among such a myriad of groups, allowing everyone concerned to have a voice will only increase broad-based support for the DWI court. This type of outreach often results in the formation of a steering or policy advisory committee for the community in connection with the Drug court.

With regard to the DWI court model, different communities have different priorities and tolerance levels with respect to the use of innovative resolutions to impaired driving cases. Such attitudes have been shaped, in part, by the increasing realization of the impact of impaired drivers on their community including the economic and public safety consequences of impaired driving. Eligibility for inclusion into a DWI court is necessarily a jurisdiction-by-jurisdiction determination, resulting in widely varying target populations from one DWI court to the next.

One overriding concern is paramount in the selection of a target population: *community impact*. Taking this one concern into account means accepting those offenders into the DWI court program

who are having the most negative impact on the community, and who are seen as wanting to alter their impaired driving behavior to achieve more positive results. Accordingly, DWI Courts should target primarily repeat offenders with serious alcohol/drug dependences or addictions.

- o ***Focus on first time offenders.*** However, a few DWI courts, especially where the offense level and punishment escalate significantly after the first conviction for DWI, may be better served concentrating efforts and resources on first time or lower level offenders. Often, the rationale for this is to intervene earlier in the cycle of addiction/alcoholism and criminality. And this approach is more politically palatable to elected policy makers than the alternative of dealing with repeat or higher level offenders. Unfortunately, there is a downside to this approach. In particular, many first time criminal offenders may be convinced simply by the 'mere brush' with the criminal justice system to refrain from future drunken driving behavior. This 'lesson learned' may prove effective regardless of the severity of the offender's addiction/alcoholism. Deterrence is one of the major tenets underlying the criminal justice system, and it would be short-sighted to believe that it cannot work with a large number of otherwise non-criminally involved first time offenders. To treat these persons in such a highly structured and resource intensive program as a DWI court may very well be an unwise use of scarce resources.

Another disadvantage to placing low-level offenders in the repeat offender DWI court program is the diluted impact on the community. Generally, the more DWI's a person accumulates, the more that offender costs society, and this is true regardless of whether the repeat offender causes a crash. At a minimum, these costs include court processing, law enforcement processing, and jail/prison incarceration costs. In addition, repeat offenders (approximately 1/3 of repeat DWI arrests each year) cause a disproportionate number of DWI fatalities and crashes. Accordingly, if a repeat DWI court fails to treat the underlying causes of these offenders criminal behavior, it risks failing to have a significant impact on its host community.

The final disadvantage to a DWI court that targets only low-level offenders is that the DWI court team may not have at its disposal a significant enough consequence to motivate or coerce the low-level offender into beginning and then completing treatment. It is important to note that just because an offender presents with an alcohol offense in the criminal justice arena does not mean that he or she will not also present with a drug addiction in the treatment arena. In other words, in a low-level criminal offense, the criminal justice system has limited coercive power to convince a hard-core addict/alcoholic offender to enter into and remain in treatment.

- o ***Focus on repeat offenders.*** At the other extreme from the court that deals primarily with the first time offender is the court that handles the cases of chronic offenders. These offenders may have repeatedly been involved in a crash resulting in property damage, personal injury, or even death to a third-party victim, either in the drinking driver's automobile or another vehicle.

This type of serious offender causes undeniable negative community impacts. Most states impose severe penalties on the multiple recidivist and some even treat DWI offenders who cause injuries or death as violent offenders. Ending this type of offender's criminal activity in any manner possible would be highly desirable. Further, there is no reason to think that dealing with these offenders in a DWI court setting would be any less effective than it has been with any other type of offender. However, securing and maintaining community support for this type of program may be problematic.

For example, there is a compelling argument that it is inevitable that the DWI

recidivist will hurt, maim, or kill someone. Accordingly, only incarceration may deprive them of the opportunity to do so - at least for a specified period of time. Incapacitation, like punishment, deterrence, and rehabilitation are major tenets of the criminal justice system. Thus, if the consensus of the community is that after an offender commits some unacceptable number of offenses, or an offense that includes death or injury, these serious offenders must be locked away, it would be disingenuous for the DWI court team to place these offenders into a community-based DWI court program. Accordingly, it may be desirable for the DWI court to exclude some of these more serious criminal offenders altogether. This is especially the case when there are probably many other offenders in the system whose addiction/alcoholism and repeat impaired driving offenses also negatively impact community safety.

As a final consideration, the DWI Court planning team must think of the DWI court target population as a continuum. At one end are the first time DWI offenders who have a lower level addiction and/or alcohol dependence. Continuing along this continuum next would be the first time offenders with a serious addiction/alcoholism. Finally, at the other end would be the seriously addicted/alcoholic offenders with dozens of prior DWI offenses. The most problematic offenders along this continuum would probably be those with severe poly-drug addiction and/or who have caused personal injury or death regardless of the number of offenses.

The task of the DWI Court team is to identify a target population range along this continuum that balances the need to make a positive impact on community safety while simultaneously maintaining political and community support. This target population must also be defined based on knowledge the community's expectations regarding punishment of various DWI offenders. In effect, this is what the criminal justice system has always done: balance the various interests and goals of penal system (deterrence, punishment, incapacitation, and rehabilitation) with those of the community it serves.

- ***Developing Eligibility Criteria.*** Once the DWI court planning team has considered the various goals and priorities of the criminal justice system and the community, defining and describing the desired target population is a relatively simple process. The first step is to delineate the 'eligibility criteria' for program participation, that is, those characteristics that make an offender eligible for inclusion in the DWI court program.

Eligibility criteria can be divided into two categories: offender characteristics and offense characteristics. Offender characteristics are those attributable to the DWI offender personally such as being an alcoholic, addict, convicted felon, high school graduate, employed, over 18 years old, etc. Offense characteristics describe the offenses that have brought the offender into the criminal justice system, for example, DWI (1<sup>st</sup> offense) misdemeanor, DWI (3<sup>rd</sup> offense) felony, etc. An example (not necessarily recommended) list of eligibility criteria for a DWI court might be as follows:

**OFFENDER CHARACTERISTICS:**

1. Adult (Age 18+)
2. Long-term moderate to severe alcoholic or drug dependant person
3. No driver license
4. Resident of the jurisdiction
5. No prior violent offenses

**OFFENSE CHARACTERISTICS:**

1. Felony offense of DWI
2. No less than 2 and no more than 7 prior convictions for DWI
3. Not charged in conjunction with DWI-related death or serious personal injury

The more precise and descriptive the eligibility criteria, the more control a DWI court has over how many total offenders are eligible for, and whom it selects into, the program. Conversely, this precision reduces flexibility with respect to accepting other types of offenders along the previously described continuum. However, certainty may be desired over flexibility, especially in the early stages of a newly implemented DWI court program.

After determining the goals of the DWI court team and the concerns and goals of the community as articulated through various stakeholders with respect to the target population, it is also necessary to balance the DWI court's available resources with the number of anticipated participants represented by that target population. In other words, care must be taken that the DWI court not accept more participants than it can adequately provide services. The number of participants cannot outstrip the treatment and supervision capacity of the jurisdiction, for example. Neither can the number of participants outstrip the capacity of the judicial system to process all the participants as required in the DWI court model. Exceeding resource capacity will necessarily dilute the effectiveness of services provided to the target population.

***Conclusion***

The targeting, or identifying, of offenders for inclusion in a DWI court program should focus on those offenders with the most serious criminal and dependency issues, who are most in need of treatment, and whose behavior poses the most clear and present danger to society – that is, those offenders who are seen as having the most negative community impact. Targeting should be based on specific eligibility criteria that are clearly defined and documented. And, to strengthen public support for the court, these criteria should be developed in collaboration with various community organizations and stakeholders to ensure they are consistent with the standards and values of community members.

## ◆ GUIDING PRINCIPLE #2 ◆

### Perform a Clinical Assessment

By Mike Devine, C. West Huddleston, III and Douglas B. Marlowe, J.D., Ph.D.

#### ***Introduction***

The determination of whether an impaired driver is eligible for participation in a DWI court program is typically based on legal criteria related to the individual's current impaired-driving charges and to their recidivism history. In addition, this eligibility decision may be made based on the results of a brief screening instrument administered by intake staff to confirm that the individual has a substance abuse problem, and that he or she is potentially amenable to substance abuse treatment. This, however, is only the first step in conducting a clinically competent objective assessment of the impaired driver, which addresses a number of bio-psychosocial domains including alcohol use severity and drug involvement, the level of needed care, medical and mental health status, extent and stability of social support systems, and individual motivation to change. Without clearly identifying a client's needs, strengths, and resources along each of these important bio-psychosocial domains, the clinician will have considerable difficulty in developing a clinically sound treatment plan for the individual.

***GUIDING PRINCIPLE #2:***  
***A clinically competent objective assessment of the impaired-driving offender must address a number of bio-psychosocial domains including alcohol use severity and drug involvement, the level of needed care, medical and mental health status, extent of social support systems, and individual motivation to change. Without clearly identifying a client's needs, strengths, and resources along each of these important bio-psychosocial domains, the clinician will have considerable difficulty in developing a clinically sound treatment plan.***

A number of instruments have been developed to measure these domains, though they vary considerably in terms of the populations with which they were normed, as well as on whether there are adequate data available to support their validity and reliability. The National Institute on Alcohol Abuse and Alcoholism (NIAAA) maintains an updated guide on the reliability and validity of alcohol assessment instruments<sup>1</sup> and the reader is advised to consult this guide in selecting appropriate instruments for particular clinical assessment purposes. Following are a number of important bio-psychosocial domains to be reviewed as part of a clinically competent objective assessment of an impaired driver.

- ***Alcohol Use Severity.*** The treatment needs of alcohol-involved offenders vary considerably from case to case. A "one-size-fits-all" approach to treatment is not acceptable and may even be inadvisable in some instances. For example, individuals manifesting hallmark features of dependence or addiction, such as cravings and withdrawal, may require pharmacological intervention and/or other intensive services focused on managing cravings,

#### **NOTES**

<sup>1</sup> Allen, J. P., & Wilson, V. B. (Eds.) (2003). *Assessing alcohol problems: A guide for clinicians and researchers* (2<sup>nd</sup> ed.) [NIH pub. No. 03-3745]. Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, U.S. Dept. of Health & Human Services.

avoiding alcohol-related stimuli, and marshalling social supports to forestall a relapse. In contrast, individuals who have not progressed to physical or psychological dependence, and who have not experienced significant dysfunction from their alcohol use, may instead respond better to motivational enhancement strategies or psycho-educational interventions. Mixing dependent and non-dependent individuals in the same regimen could have the unintended effect of distracting all involved from receiving proper treatment, or making treatment seem unsuited to their needs.

Many alcohol assessment instruments render a categorical diagnosis of abuse or dependence. One must be cautious, however, because the appropriate cut-off scores listed on these instruments for rendering a diagnosis could vary across populations. Moreover, some instruments were created on the presumption that alcoholics are in "denial" about their illness, and therefore they may inflate estimates of alcoholism based on "subtle" (and in some instances, non-validated) signs of addiction. Instruments that track official DSM-IV<sup>2</sup> diagnostic criteria and nomenclature will, at least, provide a common reference point of alcohol-severity across populations and across DWI court programs.

Ideally, instruments should measure not only global symptoms of dependence, such as tolerance, but should also measure concrete behaviors related to alcohol use, including the number of days the client drank alcohol in the previous month, or the amount of alcohol the client typically consumes in a single sitting. This permits a more sensitive characterization of the *severity* of the client's addiction than does a categorical, yes-or-no diagnosis. More importantly, it permits the program to measure *changes* in the client's drinking habits over time. Categorical diagnoses do not change by degree; rather, they can only measure full or partial remission.

- ***Drug Involvement.*** Drug and alcohol abuse are highly co-morbid conditions<sup>3</sup>; therefore, failing to inquire about both illicit and prescription drug involvement among alcoholics constitutes a sub-standard assessment. In particular, alcoholics who are abstaining from alcohol may take illegal or prescribed sedatives, or other intoxicating agents such as cannabis, to relieve anxiety, to attenuate withdrawal symptoms, or for the euphoric and calming effects. Predictably, this could constitute a serious continuing risk of intoxicated driving, and may portend a return to alcohol use following completion of the program. It is essential, therefore, to assess clients at baseline and periodically throughout the program regarding their drug usage. These assessments should include the clients' own self-reports, as well as results from multiple-panel urine drug screens and, where feasible, collateral reports from the clients' significant others.
- ***Medical Status.*** Many alcoholics suffer from serious co-morbid medical conditions, including vitamin deficiencies, malnutrition, and even mild to moderate dementia. Paradoxically, some may also experience serious or life-threatening medical consequences from periodically abstaining from alcohol, including delirium tremens (DTs), acute withdrawal, insomnia, or anxiety. In terms of best practices, therefore, it is desirable to have alcohol-dependent individuals evaluated by a trained physician who is competent to prescribe medications and vitamins, as needed, to stabilize and detoxify the client. At a minimum, the clinical evaluator for the DWI court program should screen the clients to determine who may be in need of an in-depth medical evaluation. Further screening should be performed following a sustained interval of abstinence to determine if the individual is

<sup>2</sup> American Psychiatric Association. (1994). *Diagnostic and statistical manual of mental disorders* (4<sup>th</sup> ed.). Washington, DC: American Psychiatric Press.

<sup>3</sup> Cornish, J., & Marlowe, D. B. (2003). Alcohol treatment in the criminal justice system. In B. Johnson, P. Ruiz, & M. Galanter (Eds.), *Handbook of clinical alcoholism treatment* (pp. 197-207). Baltimore, MD: Lippincott, Williams & Wilkins.

suffering from a lingering metabolic or cognitive disorder that could jeopardize his or her recovery, or threaten his or her ability to function safely and effectively in the community.

- ***Psychiatric Status.*** Many alcoholics experience psychiatric-like symptoms of anxiety, dysphoria, or depression when they detoxify from alcohol. Following an interval of sustained abstinence, it may also become apparent that the client is suffering from a co-morbid mental illness that may have previously been “self-medicated” with alcohol. The most common co-morbid conditions (other than drug abuse) include major depression, dysthymia, anxiety disorders, and post-traumatic stress disorder (especially for females). An appropriate assessment should screen for co-morbid affective and anxiety disorders, and should refer the patient for a more formal psychiatric assessment if this appears warranted from the findings.
- ***Employment and Financial Status.*** Substance abuse can create havoc with one’s job stability and financial resources. Although many DWI offenders are gainfully employed, others may have lost their job or been threatened with imminent financial ruin. Such stressors can threaten the client’s sobriety and may trigger further drunk-driving episodes. An appropriate assessment should screen for serious financial problems, and the client should be referred, where indicated, for a more formal assessment of educational and vocational needs.
- ***Family and Social Status.*** Substance abuse also devastates one’s family and social relationships. Although many DWI offenders have an intact family and may have stable living arrangements, others might be estranged from their loved ones or isolated from friends and acquaintances. In addition, many alcoholics tend to socialize with other alcohol abusers. If they continue these relationships after entering treatment, there is a substantial likelihood of reverting to alcohol use; conversely, if they discontinue such relationships, they might feel further isolated and unsupported. An appropriate assessment should, therefore, screen for serious family or social conflicts, evidence of familial estrangement, and evidence of interactions with alcohol-using peers or associates. Where indicated, the client may be referred for family therapy, or the treatment counseling sessions might focus on helping the client to avoid alcohol-involved peers and forge more productive sober relationships.
- ***Alcohol Triggers and Cognitions.*** Behavioral or cognitive-behavioral counseling assists clients to avoid alcohol-related triggers, practice alcohol-refusal skills, and correct distorted thoughts related to alcohol usage. These interventions cannot be effective unless the client first undergoes an assessment to identify alcohol-related attitudes and stimuli. A number of assessment instruments can assist clinicians to identify antecedents and consequences of the client’s alcohol use, as well as expectancies and cognitions that accompany alcohol intoxication. The information derived from these instruments should form the basis of subsequent behavioral and cognitive-behavioral counseling interventions. For example, the client might be encouraged to plan strategies for avoiding alcohol-related triggers, or the counselor might challenge some of the client’s maladaptive assumptions about alcohol use (e.g., “I’m no good, so I might as well drink”).
- ***Self-Efficacy and Motivation for Change.*** Several instruments have been developed to assess substance abuse clients’ motivation for change, confidence in their ability to quit alcohol or drugs, and expectancies related to the perceived positive effects (or

“pros”) of continued substance use. Most studies have failed to confirm a hypothesized continuum of motivational “stages of change”; however, there is evidence that clients who continue to deny the existence of a problem (i.e., who are “pre-contemplative” of change) tend to have a poorer prognosis. Moreover, as clients begin to progress through their recovery, there is some reason to believe they may begin to experience greater confidence in their ability to avoid drugs and alcohol, or may perceive fewer positive effects of substance abuse. As such, changes on these measures could serve as markers or predictors of ultimate treatment improvements.

- ***Level of Care Placement.*** The American Society of Addiction Medicine (ASAM)<sup>4</sup> publishes non-proprietary patient placement criteria for matching substance abuse clients to indicated levels or modalities of care. The assessment encompasses such issues as withdrawal symptoms, co-morbid biomedical conditions, emotional and behavioral complications, relapse potential, and the availability of a stable recovery environment. Based upon this assessment, a recommendation is reached about the indicated modality of care, which may include:
  - Early intervention or secondary prevention (e.g., psycho-education – ASAM 0.5);
  - Outpatient treatment (typically 1 to 5 hours per week – ASAM I);
  - Intensive outpatient treatment (typically 5 to 10 hours per week – ASAM II);
  - Partial hospital treatment (typically 4 to 8 hours per day – ASAM II.5);
  - Non-medically monitored residential treatment (e.g., 28-day rehab – ASAM III);
  - Medically-managed inpatient hospitalization (ASAM IV)

There may also be indications of the need for acute medical detoxification services, or for methadone maintenance treatment for individuals co-morbidly addicted to opiates. Although data are sparse in terms of validating the ASAM criteria, studies have confirmed that higher dosages of services in more structured environments may be required for patients who are suffering from withdrawal symptoms, who have alcohol-related metabolic or cognitive disorders, or who have seriously unstable community supports. Even in the absence of validity data, the ASAM criteria are generally regarded as reflecting the current standard of care in the alcohol abuse treatment field.

### ***Conclusion***

In the past, when all substance abuse clients received essentially the same menu of group-based, peer-facilitated services, there may have been little reason to conduct a comprehensive evaluation of each client’s distinct needs and resources. However, times have changed and treatments have progressed. At present, alcohol clients may be referred to an array of treatment protocols and services including the prescription of various types of medications, as well as different forms of behavioral, cognitive-behavioral, and interpersonal counseling programs. Effective treatment requires that the client first undergo a competent clinical assessment to identify relevant impairments as well as strengths in multiple bio-psychosocial domains. Providing a sub-standard clinical assessment runs the risk of leading to sub-standard care for a chronic and potentially life-threatening condition that has serious public-safety implications. A competent evaluation, however, facilitates the clinician’s efforts by pointing inexorably to an appropriate treatment care plan that focuses resources where they are likely to be most efficient and cost-effective.

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<sup>4</sup> American Society of Addiction Medicine. (1996). *Patient placement criteria for the treatment of substance-related disorders*. Chevy Chase, MD: Author.



## ◆ GUIDING PRINCIPLE #3 ◆

### Develop the Treatment Plan

By Chet Bell and Ken Robinson, Ed.D.

#### *Introduction*

According to the research, without clinical intervention, DWI offenders are at high risk of continuing to drive while impaired. In particular, certain types of individuals have been found to be at highest risk for continuing such behavior. For example, individuals with high levels of drinking for tension reduction; 'heavy drinkers,' with frequent episodes of alcohol abuse and low levels of depression and resentment; and, individuals with the highest levels of driving-related aggression, assaultiveness, sensation-seeking, hostility, and irritability. The individuals in these groups tend to be younger and heavier drinkers.<sup>5</sup> The typical eligible population for receiving treatment is therefore likely to include individuals evidencing substance dependence, criminality, and impulse control difficulties.

**GUIDING PRINCIPLE #3:**  
*Substance dependence is a chronic, relapsing condition that can be effectively treated with the right type and length of treatment regimen. In addition to having a substance abuse problem, a significant proportion of the DWI population also suffers from a variety of co-occurring mental health disorders. Therefore, DWI courts must carefully select and implement treatment practices demonstrated through research to be effective with the hard-core impaired driver to ensure long-term success.*

The provision of multiple and varying treatment interventions capable of addressing each of these domains will be required for producing effective outcomes. Presently, DWI courts may select from and utilize a variety of effective treatment models designed for addressing a number of problem areas including alcoholism<sup>6</sup>, other drug dependency disorders, and mental health issues. The challenge is to identify the constellation of treatment services that, individually prescribed and provided, are most likely to bring about change. Alcoholism treatment outcome research reveals a number of effective treatment principles to consider when developing a treatment continuum for DWI offenders, for example: there is no single superior approach to treatment for all individuals; treatment programs and systems should be constructed with a variety of approaches that have been proven to be effective; and treatment approaches must be individualized based on identified clinical needs.<sup>7</sup>

#### NOTES

<sup>5</sup> Caviola, A. & Wuth, C. (2002). *Assessment and treatment of the DWI offender*. Binghamton, NY: Haworth Press; Donovan, D. & Marlatt, G. (1983). Personality subtypes among driving while intoxicated offenders: Relationship to drinking behavior and driving risk. *Journal of Counseling and Clinical Psychology* 50(2): 241-249.

<sup>6</sup> Currently, there are three general approaches to alcoholism treatment – the Minnesota Model, a "learned behavior" model, and what has recently been described as the Pennsylvania Model. Minnesota Model programs describe alcoholism as a disease and emphasize group therapy and participation in 12-step programs. Learned behavior models see alcoholism not as a disease, but as learned behavior that can be addressed by cognitive-behavioral therapy. The Pennsylvania Model is based on the work of Volpicelli and others at the Pennsylvania School of Medicine Treatment Research Center. The Pennsylvania model addresses alcoholism as a complex disease with specific biological, psychological, and social components. Protocols in the Pennsylvania model include the use of medications to reduce craving and address co-occurring psychiatric issues including anxiety and depression, and the use of cognitive-behavioral therapy (see Vacovsky, L. (2004). Finding effective treatment for alcohol dependence. Internet document: [www.aca-usa.org/pharm2.htm](http://www.aca-usa.org/pharm2.htm)).

<sup>7</sup> Miller, W. & Hester, R. (2003). Treating alcohol problems: Toward an informed eclecticism. In Hester, R. & Miller, W. (eds.) *Handbook of alcoholism treatment approaches: Effective alternatives, 3<sup>rd</sup> edition*. Boston, MA: Allyn and Bacon.

Multi-systemic treatment approaches work best because multiple domains, conditions, deficits, and disorders are treated simultaneously. A recent meta-analysis of 381 rigorous alcohol treatment outcome studies provided a “Cumulative Evidence Score (CES)” for each treatment modality studied. The CES ultimately allows a ranking of evidence-based approaches.<sup>8</sup> The alcoholism treatment approaches with a positive CES score, ranked in order (top to bottom, left to right) include:

- Brief Intervention
- Motivational Enhancement Therapy
- GABA Agonist (Acamprosate)
- Community Reinforcement plus Vouchers
- Self-Change Manual (Bibliotherapy)
- Opiate Antagonist (e.g. Naltrexone)
- Behavioral Self-Control Training
- Behavior Contracting
- Social Skills Training
- Marital Therapy – Behavioral
- Aversion Therapy, Nausea
- Case Management
- Cognitive Therapy
- Aversion Therapy, Covert Sensitization
- Aversion Therapy, Apneic
- Family Therapy
- Acupuncture
- Client-Centered Counseling

DWI courts must consider providing all the pieces that comprise an effective treatment continuum, particularly, motivational enhancement therapies, community reinforcement, behavior contracting, social skills training, and marital therapy. However, research further indicates that motivational approaches, cognitive-behavioral therapies, pharmacological approaches, and aftercare are critical to sustaining long-term successful treatment outcomes.

- **Motivational Approaches.** It was once assumed that the client must demonstrate a particular level of motivation to change prior to enrolling in treatment. Without this motivation on the part of the client, there was a belief that counseling would be ineffective. Motivational approaches, however, disprove this notion. Current theory holds that most individuals enter treatment under some sort of duress, which results in resistance, or, at best ambivalence, regarding any change in behavior. Motivational approaches therefore focus on ways to engage substance users in considering, initiating, and continuing substance abuse treatment while at the same time, discontinuing their use of alcohol and other drugs.<sup>9</sup>

Motivational approaches involve linking a therapeutic style, called “motivational interviewing”(MI), with a transtheoretical stages-of-change model. MI is a style of interacting with the client and generates more of a discussion than an interview. MI emphasizes providing feedback, assigning responsibility for change to the client, giving advice, and offering a menu of counseling options. Importantly, MI provides an empathic rather than confrontational approach with the goal of improving client self-efficacy – a sense on the part of the client that change is possible and achievable.<sup>10</sup> The transtheoretical model of change defines the processes involved in natural recovery and self-directed change, a movement from pre-contemplation regarding change, through contemplation, preparation, action, and then to maintenance.<sup>11</sup> And, these “stages of change” can be engaged and continued by enhancing motivation.<sup>12</sup>

<sup>8</sup> Miller, W., Wilbourne, P. & Hettema, J. (2003). What works? A summary of alcohol treatment outcome research. In Hester, R & Miller, W. (eds.) *Handbook of alcoholism treatment approaches: Effective alternatives, 3<sup>rd</sup> edition*. Boston, MA: Allyn and Bacon.

<sup>9</sup> Miller, W. (ed). (1999). Enhancing motivation for change in substance abuse treatment. *Treatment Improvement Protocol Series #35*. DHHS Publication No. (SMA) 99-3354. Rockville, MD: Substance Abuse and Mental Health Services Administration.

<sup>10</sup> Miller, W. (2003). Enhancing motivation for change. In Hester, R & Miller, W. (eds.) *Handbook of alcoholism treatment approaches: Effective alternatives, 3<sup>rd</sup> edition*. Boston, MA: Allyn and Bacon.

<sup>11</sup> Prochaska, J. & DiClemente, C. (1984). *The transtheoretical approach: Crossing traditional boundaries of therapy*. Homewood, IL: Dow Jones-Irwin.

<sup>12</sup> Miller (1999).

- **Cognitive-Behavioral Therapy (CBT) Approaches.** The use of cognitive behavioral models has been recognized as a critical factor in reducing recidivism. A research review of meta-analyses found that cognitive behavioral approaches consistently appear to be among the most effective treatment therapy for substance abusers.<sup>13</sup> CBT approaches suggest that unless offenders' faulty thinking is addressed, there is a reduced likelihood of long-term change. Moreover, other research has shown that the use of cognitive interventions can enhance outcomes by up to 50%.<sup>14</sup> However, even today, only about 30 to 50 % of treatment programs for offenders report having a cognitive-behavioral component as part of the therapeutic intervention. The three main cognitive models now utilized by criminal justice agencies are Reasoning and Rehabilitation (R&R), Thinking for a Change, and Moral Reconciliation Therapy (MRT®).

- **Pharmacological Treatments – Naltrexone and Campral (Acamprosate).** The Substance Abuse and Mental Health Services Administration's (SAMHSA) Treatment Improvement Protocol (TIP) Series 28 titled "Naltrexone and Alcohol Treatment" concluded that "when used as an adjunct to psychosocial therapies for alcohol-dependent or alcohol-abusing patients, naltrexone can reduce the percentage of days spent drinking, the amount of alcohol consumed on a drinking occasion and relapse to excessive and destructive drinking."

Naltrexone is a medication utilized for many years as a highly effective opiate treatment (referred to as an opioid receptor antagonist), and is able to be given with Antabuse if needed. Recently, it was determined that the brain pathways used by alcohol and opiates may be the same. Because of this, Naltrexone reduces or stops the cravings experienced by alcoholics during treatment, without causing physical or psychological dependency.<sup>15</sup> It is these cravings (physiological reactions which are triggered by behavioral cues) that interfere with an alcoholic's ability to complete a treatment program.

Essentially, Naltrexone functions as a tool to aid recovery and treatment; it is not a "stand alone" treatment. While being used by recovering alcoholics, Naltrexone functions in two manners: (1) it blocks cravings, and (2) if the offender does drink, while they may become intoxicated, there is no pleasure derived from drinking alcohol. Thus, if an alcoholic is sincerely working on changing his/her behavior through treatment, true progress can be made. While on Naltrexone a client can maintain sobriety long enough to successfully establish a pattern of behavior modification, and at the end of 180 days, they are examined to determine if a reduction in use of Naltrexone can be ordered.

Research suggests that the utilization of Naltrexone (especially as part of the terms and conditions of a probation sentence) is effective since it blocks cravings and allows behavioral modification to take effect. In particular, it was found that when combined with substance abuse treatment, Naltrexone is significantly more successful (61%) than a placebo combined with the same treatment program (22%) in preventing relapse.<sup>16</sup> Further, those who did drink did so on fewer days than the placebo group (2 and 6 days respectively) over the same 12-week period.

Another pharmacological treatment is Campral Delayed-Release Tablets, which are now FDA-approved for the maintenance of abstinence from alcohol in those patients with alcohol

<sup>13</sup> Taxman, F.S. (1999). Unraveling "What Works" for Offenders in Substance Abuse Treatment Services. *National Drug Court Institute Review* 2(2): 93-134.

<sup>14</sup> Mackenzie, D.L. (2001). *Sentencing and Corrections in the 21st Century: Setting the Stage for the Future*. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

<sup>15</sup> However, prior to the prescribing of Naltrexone, persons must be screened through a liver panel as there are specific physical conditions that are not compatible with the administration of this drug. (see Tauber J. & Huddleston, W. (1999). *DWI courts: Defining a national strategy*. Alexandria, VA: National Drug Court Institute.)

<sup>16</sup> Archives of General Psychiatry. (1992), 49:881-887

dependence who are abstinent at the time of treatment initiation. Treatment with Campral can be part of a comprehensive management program that includes psychosocial support; particularly since this drug appears to reduce cravings and distress during early abstinence. Based on studies conducted in Europe, the drug is both safe and effective with minimal side effects.

- **Aftercare.** Research indicates that the window of greatest vulnerability for relapse is the first 30 to 90 days following discharge from an index episode, although an elevated risk of relapse can extend up to 2 years or more.<sup>17</sup> The vast majority of aftercare services provided in this country are 12-Step or similar peer-support groups.<sup>18</sup> Studies have consistently shown a positive and substantial correlation between engagement in peer-support groups and maintenance of sobriety or reductions in substance use.<sup>19</sup> These correlations, however, do not prove causality. It is possible that higher-functioning or better-motivated clients may be more likely both to adhere to aftercare recommendations and to sustain symptom improvements. Regardless, the data indicate that involvement in aftercare groups is a significant predictor of long-term success. Unfortunately, less than 20% of graduates of community-based substance abuse treatment programs attend even two aftercare sessions.<sup>20</sup>

Several studies have examined the effectiveness of professionally administered aftercare services. A 2001 review article identified 14 empirical studies of professional continuing-care interventions that presented follow-up data. Of those studies that included an active control condition, only 1 out of 7 yielded positive findings. Of those that included a minimal-aftercare or no-aftercare control condition, 3 out of 7 yielded positive findings. Based on the limited literature that does exist, it appears that six interventions have some empirical support for their efficacy. These include: telephone monitoring<sup>21</sup>, quarterly recovery management checkups<sup>22</sup>, behavioral recovery groups<sup>23</sup>, nurse home-visits<sup>24</sup>, couples behavioral therapy<sup>25</sup>, and an assertive continuing care model for adolescents.<sup>26</sup> Of these, the efficacy of only one intervention (telephone monitoring) has been replicated in subsequent clinical trials. Taken together, these data suggest that graduates of substance abuse treatment programs require at least monthly contacts, either in person or by telephone, to check in with them about their progress, to monitor them for impeding signs of relapse, and to make treatment or aftercare referrals as required.

- **12-Step Self Help/Mutual Aid Approaches.** Self-help or mutual aid approaches refer to those situations in which alcoholics seek help from other people experiencing the same problem. Drug courts, whose program rules universally require abstinence from the use of alcohol and illicit drugs, typically recommend that clients participate in self-help/mutual aid programs that reinforce the program's philosophy. The programs most often attended include Alcoholics Anonymous (AA), Narcotics Anonymous (NA), Cocaine Anonymous (CA), Women for Sobriety, and SMART Recovery. It should be noted that while AA, NA, and CA are widely

<sup>17</sup> Hunt et al. (1971); Joe et al. (1994); Simpson & Savage (1980); Simpson & Sells (1990); Stout et al. (1999) (Moos et al., 1990; Valliant, 1973).

<sup>18</sup> McKay et al. (1998) and Ouimette et al. (1998).

<sup>19</sup> Emerick, et al. (1993); Ito & Donovan (1986); McKay et al. (1998); Montgomery et al. (1997); Moos & Moos (1994); Morgenstern et al. (1997); Ouimette et al. (1998); Peterson et al. (1994); Timko et al. (2000); Tonigan et al. (1996); Trent (1998).

<sup>20</sup> Godley et al. (2001, 2002).

<sup>21</sup> Foote & Erfurt (1991); McKay et al. (in press); Sobell & Sobell (2000); Stout et al. (1999).

<sup>22</sup> Dennis et al. (2003).

<sup>23</sup> McAuliffe (1990).

<sup>24</sup> Patterson et al. (1997).

<sup>25</sup> O'Farrell et al. (1998).

<sup>26</sup> Godley et al. (2002).

available, Women for Sobriety and SMART Recovery both have fewer than 350 groups nationwide.<sup>27</sup>

Manualized treatment approaches designed to integrate 12-step principles into primary treatment have also been developed and utilized successfully in treatment. The 12-Step Facilitation Therapy Manual<sup>28</sup> (which focuses on AA's first four steps) was found to be an effective treatment approach with individuals both intentionally and unintentionally matched in the National Institute on Alcohol Abuse and Alcoholism's (NIAAA) Project MATCH.

The experience of drug courts is that self-help/mutual aid group attendance appears to be enhanced when clients are offered choices, both in terms of the types of groups approved by the court and also in the types of 12-step programs (AA, CA, NA) offered in the community. Clients report a greater level of acceptance when attending meetings where there is a good match in terms of drug of choice (i.e., alcoholics attending AA, rather than NA or CA meetings) and also in the demographics of the client and the group (i.e. young people, women, etc.).

### **Conclusion**

Recovery and rehabilitation are the primary treatment goals for participants in DWI courts. Treatment providers now benefit from having a broad array of clinical and medical interventions to choose from that can be employed to enhance motivation, teach new skill sets, and facilitate long-term recovery from addiction to alcohol and other drugs. Research suggests that the most important factor is to create an environment in which it is possible for participants to remain engaged in treatment for significant periods of time. The design of drug court programs provides this structure. Equally important is regular participation in treatment, which has been demonstrated effective with similar client groups and is provided by properly trained and supervised clinicians. The combination of providing high quality therapeutic interventions and promoting treatment retention results in significant improvements in treatment outcomes.

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<sup>27</sup> McCrady, B., Horvath, A. & Delaney, S. (2003). Self-help groups. In Hester, R & Miller, W. (eds.) *Handbook of alcoholism treatment approaches: Effective alternatives, 3<sup>rd</sup> edition*. Boston, MA: Allyn and Bacon.

<sup>28</sup> Nowinski, J., Baker, S. and Carroll, K. (1994). *Twelve step facilitation therapy manual*. NIH Publication No. 94-3722. Rockville, MD: National Institute on Alcohol Abuse and Alcoholism.

◆ GUIDING PRINCIPLE #4 ◆

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## Supervise the Offender

By Helen Harberts and Kathy Waters

### *Introduction*

The offender who drives under the influence of drugs or alcohol is extraordinarily dangerous,<sup>29</sup> and this, coupled with the quick dissipation of alcohol from the body, makes increased supervision a necessity. Public safety remains the paramount concern and therefore more frequent monitoring by the court, the probation department, and treatment provider must occur. Because this crime presents such a significant level of danger to the public, supervision must be tighter, and the response to violations must be faster and stricter. This can be accomplished through technical innovation,<sup>30</sup> random and frequent drug and alcohol testing, home and other field visits, office contacts, and frequent judicial review.

***GUIDING PRINCIPLE #4:***  
**Driving while intoxicated presents a significant danger to the public. Increased supervision and monitoring by the court, probation department, and treatment provider must occur as part of a coordinated strategy to intervene with repeat and high-risk DWI offenders and to protect against future impaired driving.**

Research supports the position that coerced treatment works,<sup>31</sup> and in a program where protecting public safety is imperative, community supervision reinforces the importance of treatment, accountability, and early intervention for relapse. Absent a coordinated strategy to intervene with these repeat and high-risk offenders, thousands more innocent individuals will become victims of a substance related vehicular accident each year.

- ***The Role of Community Supervision in DWI Courts.*** Court and treatment supervision teams must extend their supervision of offenders into the home, community, and work environments of the offender. In particular, community supervision officers must conduct field and home visits frequently to identify emerging relapse patterns, to assist with the cognitive restructuring and the development of problem solving capabilities of offenders, and to monitor the offender for signs of substance use. Officers must relay all of the learned information regarding the offender's habits, associates, new trends, any positive urine tests, changes of circumstance, or barriers to success to the rest of the DWI court team immediately. This requires the supervision officer to be knowledgeable of the life circumstances of the offender, including both negative and positive circumstances and changes. In fact, a critical element of the community supervision piece is to *catch offenders doing something right* and then alerting the rest of the court team.

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### NOTES

<sup>29</sup> This statement is based on the fact that 17,500 Americans died and 500,000 injuries were reported in 2003, and \$16 billion dollars in property damage occurs every year because of impaired driving (Cited in The George Washington University Medical Center (2004). "Finding Common Ground: Improving Highway Safety With More Effective Interventions for Alcohol Problems". *Ensuring solutions to alcohol problems, primer 7*).

<sup>30</sup> For example, utilization of Ignition Interlock Devices, In-Home Electronic Monitoring with Alcohol Detection Devices, the SCRAM transdermal alcohol detection device, presumptive alcohol screening devices, and instant test cups for detection of drug use.

<sup>31</sup> See National Drug Court Institute (2004). *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States, Vol. I, No. 1*. Alexandria, VA: Author.

Encouragement and incentives are the counterbalance to the higher degree of sanctions and accountability in these courts. The supervision strategy of these offenders should focus on identifying the underlying problems and providing appropriate treatments, rather than on relying solely on the surveillance and punishment model of supervision. There must be a balance between enforcement and treatment.

Protecting officer safety, however, is crucial. In addition to the understood dangers, officer safety is also a concern given the increased number of required home visits to homes where domestic violence is often a reality and where firearms and weapons pose a threat (in this circumstance, all weapons must be ordered removed). Officers must also be aware of the possibility of sabotage or pressure being placed on the probationer by their partner, particularly if the partner is a substance abuser.

Community supervision officers and in fact, all team members, should be aware that participants may have cultural norms that do not prohibit drinking and driving. While this must be addressed in treatment and from the bench, it must also be a primary focus for supervision in participant indoctrination and when dealing with the participant's family. Communications, orientations, and expectations of supervision should be conveyed to the family to ensure there is a clear understanding of the requirements for success in treatment and supervision. This, in turn, will build a stronger support system for the offender. Also, some offenders may provide a mixed message to their family regarding driving under the influence. The concept of treatment requires abstinence, and the concept of a DWI court requires abstinence, recovery, and not driving until properly licensed. By conducting family and community outreach, officers can clarify any confusion regarding the expectations of the court, and assist with the readjustment of family norms if they include consumption of alcohol.

- **Screening and Risk Assessment.** Unlike the illicit drug user, the alcoholic may not have lost support of family and friends, and in many cases may still have some semblance of a functional lifestyle. Similarly, while court involvement may be considered inconvenient or embarrassing, alcohol use may be condoned and even expected by family or work associates. Because of this, the DWI offender is often in a greater state of denial than other addicts, and therefore more resistant to the goals of the drug court team, specifically to supervision efforts.

Offenders come before the courts with different strengths and weaknesses, and this is particularly true of DWI offenders. For example, some DWI offenders may have a high level of functioning, are able to maintain employment, have a relatively stable family environment, and a relatively lower level of criminogenic needs. As such, these offenders may require a different level of structure and support than a typical offender with different criminogenic needs. Alternatively, some DWI offenders, particularly those with a poly substance abuse problem may require yet a different level of supervision as they progress through recovery. They may present with high criminogenic needs and have a profoundly poorer recovery environment at home or in the community. This may be the case because offenders have lost the support of family and friends, may not have a clean and sober environment in which to recover, or may not possess sufficient resiliency factors to complete treatment and probation without a higher level of assistance and supervision.

Use of risk assessment instruments that have been normed on corrections populations is important. Instruments such as the LSI-R (Level of Service Inventory – Revised) allow for targeted case management, and a better sequencing of collateral referrals designed to maximize success over the long term. In addition, instruments such as the LSI-R show movement in various dimensions, allowing both the agent and the offender to see improvement, and share in the success of the case plan. Likewise, such instruments help to identify if treatment and interventions may or may not be working. The supervising officer and team should take an active interest in how well

the offender who has been diagnosed with a drug or alcohol problem responds to the treatment. The LSI-R or like assessment should be re-administered periodically to help identify improvements in offender behaviors, as well as to assist in the modification, if necessary, of the case plan which might include referral to a different treatment program. This forms a basis of incentives, and encourages a partnership in recovery and accountability between the offender and the officer.

- **Monitoring Medication, Abstinence, & Relapse Detection.** Many DWI court jurisdictions have a zero tolerance policy in place regarding drug testing, with the participant immediately taken into custody upon having a positive test. This is in contrast to a standard drug court non-driving case where, in most cases, a positive test does not cause immediate custody. The distinction, of course, is the aspect of *driving* while impaired. By virtue of their conviction and referral to the DWI court, these offenders have demonstrated a propensity to *drive* under the influence, and put the public at risk. Because of the public safety concerns surrounding driving under the influence, the discretion of the officer may default to custody to protect the public.

Because of the public safety risks, DWI offenders must be monitored through every method possible. This includes utilizing technology such as ignition interlocks, car impounds, global positioning devices, in-home electronic surveillance that has photo capable alcohol testing equipment or trans-dermal alcohol detection devices. However, these technologies are only an adjunct to personal surveillance. In jurisdictions where naltrexone or other medications are used to assist with recovery, community supervision agents must review the observation logs of the pharmacies responsible for monitoring actual consumption of the medication to ensure the offender's adherence to the court orders regarding the use of the medication. Similarly, community supervision is in the best position to monitor the ASAM<sup>32</sup> recovery environment of the offender, and attendance at a 12-step program by reviewing signed meeting logs and written step work.

Additionally, the team must be vigilant in identifying relapse behaviors that occur before the participant falls back to using drugs or alcohol, and provide appropriate intervention. These behaviors could include loss of a job, appearance of old associates or even advancement in program phases. This information must be detected and shared in a timely manner with other team members.

- **Testing.** Alcohol use is more difficult to detect than other drug use. Alcohol burns off at a fairly steady rate of .02 Blood Alcohol Content (BAC) per hour. Thus, a person could be under the influence in the evening and provide a clean test the next day. Testing, therefore, must be conducted more frequently and randomly than is done with other drugs of abuse. Increased field services by community supervision are an essential component of this monitoring requirement. Noting any signs of alcohol cans, bottles, and alcohol packaging is just as important as the results of breath testing in the detection of use or relapse potential. As many offenders have both primary and secondary drugs of choice, supervision must always search, and screen, for poly substance abuse.

Community supervision must, therefore, arrive with breath testing equipment when they are not expected: on paydays, during football games, early in the morning, or two hours after making their last check at the house (to catch the "celebration" syndrome). Knowledge about the behavior and life style of the offender will also assist with scheduling surprise visits. In addition, the availability of proper resources and equipment for use by the officers in the field is paramount for being able to conduct truly random and accurate testing, particularly since field

<sup>32</sup> American Society of Addiction Medicine; [www.asam.org](http://www.asam.org).



and community testing should be a required component of supervision in addition to office visits. Testing should also take place at every possible point of contact between the community supervision team member and the offender, especially given the fact that breath testing is relatively inexpensive and swift. Testing should take place at group meetings, at the court, in the supervision office, and during field contacts. In addition to breath testing, occasional and random urine testing should be conducted. While urine testing is not as effective for detecting alcohol use, it assists with the identification (and prevention) of poly substance abuse.

Additionally, other law enforcement agencies can provide assistance with testing, as many local police departments have screening devices, intoxilyzers, or other testing equipment on site or in their vehicles. Random testing, or assigned testing can thus assist with monitoring use. As part of an assigned testing protocol, an offender can be directed to appear at a local precinct or department twice a day with picture identification to provide a breath sample. And, as part of conducting unannounced, random checks, a local police officer can be asked to drop by and check on the status of an offender. Police can also assist with caseload supervision if they are provided with a list of people on the DWI court caseload and know who should and should not be driving. Police work 24/7 and can often report observed pro-social and negative activities of DWI court participants to the team. If other law enforcement is utilized as part of the team strategy, they must understand the team concept and the desired outcomes of the supervision strategy, as they may have a different view of dealing with offenders and the expectations of the program.

- **Court Orders.** Court orders must be absolutely clear, unambiguous, and delineate all the court's expectations. This includes consequences if alcohol or drugs are found in the offender's presence, in their vehicle, at their workplace, or in their home. In particular, the offender must have absolute clarity about the total ban of alcohol and other drugs in the home, even if these substances belong to someone else living in the home. That is, parents, roommates, or other associates cannot possess alcohol or drugs in a place that is accessible to the participant. In addition, the offender must clearly understand the section of the court order that includes the avoidance of any alcohol outlets, bars, casinos, or other places where liquor is a primary item sold, and that this will be strictly monitored and enforced.

The offender should also have a thorough indoctrination with the community supervision officer, and should sign all relevant consent forms, as well as a clause affirming that they understand the terms and conditions of their release into the community. As it is often the nature of an addicted person to try and "beat the system" at first, the court's orders must leave no doubt about the expectations placed upon the participant. Community supervision is crucial in detecting and addressing non-compliant and compliant behavior in a swift manner. This is important in behavior modification, because reinforcement, either in a positive or negative manner, should occur as close as possible to the targeted conduct. Failure to detect, or address such behavior in a responsive manner allows intervening behaviors to confuse the message, and reduces the effectiveness of the sanction or incentive in shaping future behavior.<sup>33</sup>

Court orders may also include orders tailored to meet the individual needs of the offender or a specific offender population. Such orders may include general and specific curfews, for example, geographic curfews (the offender is not to go to the concert arena or River Park), temporal curfews (the offender must be in his/her home between 8:00 PM and 7:00 AM each day); and occasional curfews (the offender must be home by 7:00 PM on New Years Eve). And,

<sup>33</sup> See Marlow, Douglas B. and Kimberly C. Kirby. (1999). Effective use of sanctions in drug courts: Lessons from behavioral research. *National Drug Court Institute Review Volume II, Issue 1*. See too Transforming probation through leadership (Reinventing Probation Council Center for Civic Innovation at the Manhattan Institute, 2000); and Stevens, Darrell et al., Butte County Revia Project ([www.aca-usa.org/reviaproject.htm](http://www.aca-usa.org/reviaproject.htm)).

orders can be tailored to address specific individual triggers until recovery is well under way, such as limiting certain activities or places unless otherwise approved by the supervision agent (e.g., the offender is not to enter the raceway without the express permission of their probation officer). Officers and law enforcement partners can assist in the monitoring of these orders by conducting checks of local bars and other known party areas. In addition to surveying for negative behaviors, they can also look for pro-social and recovery oriented activities that support the success of the client and which can then be rewarded with positive incentives by the team in support of continued behavior modification.

Case managers can help the client work with their family members, roommates, and others in the residence to determine if they are willing to comply with these terms. If not, then the court team will need to help identify new housing for the client that can be alcohol and drug free. In addition, if there are other factors present in the home that are identified as possible impediments to the treatment and supervision plan and long-term recovery of the offender, these will have to be addressed.

- ***Court Contacts.*** While personal accountability by the offender is the keystone of allowing clients to remain within the community setting, frequent judicial monitoring is important. The presence of a well informed bench officer who is able to encourage progress is fundamental in assisting the offender pursue a clean and sober lifestyle. Frequent appearances early on promotes the establishment of the relationship between the offender and the court, and this relationship will be strengthened both through the court's use of rewards and praise for success and of the dispensation of immediate sanctions for non-compliant behavior if necessary. Positive and negative reinforcement of conduct soon after it occurs has been shown to be critical in helping to build the increased sense of personal accountability among offenders. Additionally, the immediacy of a pending court appearance enforces the notion that the court is very serious about supporting and monitoring the defendant's abstinence and engagement in treatment. Having weekly court appearances therefore sustains pressure on the offender to perform in a positive manner. Immediacy of appearances before the bench officer also assists with the prevention of denial. Moreover, the public viewing of these conditions and court responses by other offenders in the program will assist in developing camaraderie and support from other participants, as they will see that they are not alone.

### ***Conclusion***

Supervision of a DWI offender, particularly because of the very serious risk they pose to society, is best accomplished with a team approach. The DWI court team, comprised of court, supervision, and treatment staff must closely monitor the behaviors of DWI offenders not only in the office, but out in the community, and in offender's home as well. Monitoring can also be accomplished through the use of various risk screeners and assessments to assess the impact of treatment over time, as well as through a number of technological methods such as drug testing, breathalyzers, and ignition interlocks. Expectations and consequences of non-compliance must be clearly and unambiguously delineated in the court orders so that the offender understands what is required of him or her for successful completion of the DWI court program. Successful monitoring of an offender requires more than the issuing of sanctions for non-compliance – DWI court team members should also seek to identify incidences of positive behavior on the part of the offender and provide accolades and incentives to motivate the continuation of such behaviors.

◆ GUIDING PRINCIPLE #5 ◆

## Forge Agency, Organization, and Community Partnerships

By Jane Pfeifer with contributions from Norma Jaeger and Nadine Milford

### *Introduction*

The idea to initiate a drug court program can come from any number of individuals, whether it is a judge, a court administrator, a prosecutor, a public defender, a treatment agency, a non-profit corporation, or just a concerned citizen. This initiating individual, however, must strive to create a broad partnership with others in support of establishing a DWI court.

While partnerships are the cornerstone of any effective collaborative program and one of the *Ten Key Components* of the drug court model<sup>34</sup>, they are essential within the DWI court setting where public safety is of great concern and public misunderstanding and misinformation about the program abounds. A broad-based, multi-agency, and grassroots partnership enhances credibility, and with an established mission that elicits widespread support and active involvement by various stakeholders – community leaders, the media, and the public – the partnership’s efforts will be taken more seriously. Building coalitions – creating a group of individuals and organizations working together for a common cause – broadens the availability of resources and moves others to embrace the change that is being promoted. Because a Drug court is built on a strong team approach, the court should solicit the cooperation of agencies, organizations, and community partnerships to work together as a coalition. The more community members involved, the more ambassadors representing the DWI court within the community from diverse perspectives. Thus, the program gains validity and acceptability within the community as a solution to a critical social problem. Ultimately, quality partnerships fulfill three main purposes within the DWI court setting. In particular, they beget: (1) increases in services for program participants, thereby increasing the likelihood of their long-term success; (2) broader support and understanding of agencies and organizations that might otherwise be opposed to a DWI court; and (3) the building of a foundation of ongoing resources including but not limited to financial resources to support the operations of the court. Partnerships are the foundation upon which drug courts are based. The DWI court requires a more varied group of partners due to the unique challenges facing DWI offenders and the heightened public safety risk these offenders present. As with all drug court programs, the design must follow the *Ten Key Components* and be tailored specifically to the target population being served. The development of partnerships must similarly be chosen based on the needs of the program participants and to the benefit of the program as a whole.

***GUIDING PRINCIPLE #5:***  
***Partnerships are an essential component of the DWI court model as they enhance credibility, bolster support, and broaden available resources. Because the DWI court model is built on and dependent upon a strong team approach, both within the court and beyond, the court should solicit the cooperation of other agencies, as well as community organizations to form a partnership in support of the goals of the DWI court program.***

### NOTES

<sup>34</sup> *Defining Drug Courts: The Ten Key Components*. (1997). Washington, DC: U.S. Department of Justice.

- ***How Partnerships support the DWI court.*** Partnerships expand the collateral resource base, allowing the DWI court to link participants to a comprehensive list of services provided in the community. The availability of such expanded services enhances the likelihood of positive treatment outcomes. This is a critical issue for the repeat DWI offender who often faces prison if he or she fails, or worse, significant potential to reoffend and place lives in danger. Effectively addressing the underlying causes and effects of the long-time alcoholic's drinking and related behaviors is a monumental task, both for the participant and the drug court team. Having access to a broad array of treatment and rehabilitation resources, thus expanding the availability of culturally responsive services, can have a major impact on treatment success.

Moreover, the National Institute of Corrections cites the importance of engaging in ongoing support through a natural community approach<sup>35</sup>:

Realign and actively engage pro-social supports for offenders in their communities. Research indicates that many successful interventions with extreme populations (e.g., inner city substance abusers, homeless, dual diagnosed) actively recruit and use family members, spouses, and supportive others in the offender's immediate environment to positively reinforce desired new behaviors. This Community Reinforcement Approach (CRA) has been found effective for a variety of behaviors (e.g., unemployment, alcoholism, substance abuse, and marital conflicts). In addition, relatively recent research now indicates the efficacy of twelve step programs, religious activities, and restorative justice initiatives that are geared towards improving bonds and ties to pro-social community members.<sup>36</sup>

Partnerships provide not only direct and collateral resources for the program, but they can also provide essential political support. Through effective collaboration, partnerships can achieve significant community awareness and understanding of the DWI court's mission and goals. And, given the significant public safety risk posed by repeat DWI offenders, broad-based partnerships can serve to inform both policy makers and the general public of the high level of accountability expected of offenders participating in the DWI court program. Furthermore, broad and informed support of the DWI court increases public acceptance for treatment interventions, rather than sole reliance upon incarceration of offenders. Effective partnerships can also make a major difference in helping the community understand the policies in place to assess offenders' risk, and to provide appropriate, intensive supervision. It is then that the DWI court becomes an accepted response to addressing repeat offenders.

Partnerships also provide a foundation for identifying and accepting resources in support of the long-term success and sustained efforts of the DWI court program. A broad-based partnership is essential to maintain a resource base and to continue to expand to meet growing demands. Financial resources, while important, and able to be provided via an effective partnership, are not the only resources that are needed. Other resources include physical facilities, drug-testing equipment, staff support for various elements of the court, incentives and rewards for participant successes, and, of course, alcohol treatment services.

Additionally, partnerships facilitate access to varied and influential contacts that foster success on

<sup>35</sup> *Implementing Evidenced-based Principles in Community Corrections: The Principles of Effective Intervention.* (2004). National Institute of Corrections, Community Corrections Division. Washington, DC: U.S. Department of Justice.

<sup>36</sup> See Azrin, & Besalel. (1980); Emrick et al. (1993); Higgins & Silverman. (1999); Meyers & Smith. (1997); Wallace (1989); Project MATCH Research Group (1997); Bonta et al. (2002); O'Connor & Perryclear. (2003); Ricks (1974); Clear & Sumter. (2003); Meyers et al. (2002).

key public policy issues. Most legislation is enacted through the efforts of coalitions, whether explicit or implicit. In this sense, partnerships can provide many benefits, particularly, they can:

- o Coordinate and focus the resources of many groups that have a common interest in the issue;
- o Consolidate resources: groups may provide technical or financial assistance, help from membership, name recognition, etc;
- o Produce influential contacts; and
- o Create a powerful image: the perception of power and broad-based support.

- ***What Partnerships to Develop.*** Partnerships should be expansive, and each community designing a DWI court must identify the appropriate partnerships to be developed based on the target population of program participants and the unique characteristics of the jurisdiction. For example, a DWI court in a college or university community will likely serve students in their program. Such a court will need to develop partnerships not only with the college or university but also with other local agencies and organizations that provide services to young adults. Similarly, treatment and other services will need to be designed to meet the developmental needs of this youth population. A jurisdiction that elects to utilize medication, such as Naltrexone, to aid participants in their early recovery, must develop a strong relationship with the medical community, especially pharmacists. A comprehensive service delivery system will depend on developing these kinds of quality partnerships.

By pooling resources, coalition members can also multiply opportunities. Broad-based coalitions include more than the traditional drug court partners such as law enforcement, judges, prosecutors, and treatment providers. They could also include local educators, activists, youth groups, the faith community, the military, civic groups, emergency medical personnel, hospitals and trauma units, physicians, insurance companies, members of the Chambers of Commerce, Victim Advocacy groups (including MADD and SADD), defense attorneys and public defenders, attorneys working throughout the legal system, treatment groups, 12-step programs, licensing agencies such as Alcohol Beverage Control (ABC) or Alcohol Beverage Laws Enforcement (ABLE) Commissions, Departments of Motor Vehicles and Highway Traffic Safety agencies, schools, colleges and universities, local pharmacies, and pharmaceutical groups are all potential partners and coalition members. Coalition models emerge in different forms, with the three basic models as follows:

- o The **Endorsement Model** consists of a list of endorsers who lend credibility and a base of support to the effort;
  - o The **Associate Model** is made up of groups or individuals who take a more active role, but one person or organization is responsible for making decisions, with occasional meetings to inform members; and
  - o The **Partner Model** shares power and active participation by partners including various groups and volunteers working closely together. (It is this model, with a horizontal decision making process, that best suits the DWI court setting).
- ***Enlisting Partners and Supporters.*** There are several strategies that can assist the DWI court in developing quality partnerships with other agencies and organizations. The development and maintenance of these partnerships must be an ongoing effort and must be the responsibility of the entire DWI court team. Such strategies might include:

- Making frequent presentations to public clubs and groups, explaining the program;
  - Inviting potential partnering agencies to court sessions;
  - Inviting potential partnering agencies to graduations or other special events;
  - Including potential partnering agencies in Advisory or Steering Committees, or in ad hoc committees focused on specific program issues;
  - Conducting community outreach and education, and invite program participants to “tell their story”;
  - Using video and other outreach materials;
  - Setting up booths at public safety and information fairs, county fairs, and other community events;
  - Making wise use of the media to let them see the public safety orientation of the program and the good outcomes of the model;
  - Holding meetings with potential partners to discuss common mission and goals, and to address concerns; and
  - Conducting ongoing evaluations and publicizing results.
- ***Strategies for Managing Partnerships.*** As with any collaboration, communication is key to successful operations. Identifying roles and responsibilities at the onset can help avoid misunderstandings as the DWI court becomes operational. Developing a memorandum of agreement (MOA) or memorandum of understanding (MOU) between partnering agencies and organizations can provide the detail necessary to frame the expectations of all partners, by clearly outlining agreed upon specific duties and responsibilities of each partner. Having an MOA or MOU in place can also assist new team members as they transition into the program.

Cross-training as well can assist with increasing the knowledge base of all partnering agencies. Often agencies and organizations come together with little or no prior information about the operation, or legal and ethical mandates, of one another, particularly as terminology alone can differ greatly between agencies and disciplines. While this is true of all multidisciplinary teams, the DWI court team faces additional challenges as team members learn the additional considerations involving public safety and the policy decisions that must be made. To develop, maintain, and manage an effective collaboration there are eleven essential elements as identified by the National Institute of Corrections:<sup>37,38</sup>

#### 1. *Common Vision*

- Define a problem to be solved or task to be accomplished that will result in a mutually beneficial outcome.
- Seek agreement regarding a shared vision to develop system-wide commitment.
- Develop strategies for achieving the vision.
- Ensure a safe environment for vocalizing differences.
- Find a common ground and keep everyone engaged and at the table.

#### 2. *Purpose*

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<sup>37</sup> NIC (2004).

<sup>38</sup> The list is adapted from The Wilder Foundation and incorporates views from Feely, K. (2000). *Pathways to Juvenile Detention Reform: Collaboration and Leadership* Baltimore, MD: Annie E. Casey Foundation; Carter, M., et al. (2002). *Collaboration: A Training Curriculum to Enhance the Effectiveness of Criminal Justice Teams*. Washington, D.C.: State Justice Institute; and Griffith G. (2000). *Report to Planning Committee on the Study of Three Collaborations*.

- Develop a unique purpose and clarify the need for change.
  - Build concrete, attainable goals and objectives.
  - Seek agreement between partners regarding strategies.
  - Create incentives for collaboration and change.
3. *Clarity of Roles and Responsibilities*
- Value the unique strengths that each partner brings to the collaboration.
  - Clarify *who does what*, and create a sense of accountability.
  - Take time to develop principles defining how participants will work together and revisit them often.
  - Focus on strengths.
  - Listen to, acknowledge and validate all ideas. Be inclusive.
4. *Healthy Communication Pathways*
- Ensure open and frequent communication.
  - Establish formal and informal communication links to strengthen team bonds and direct the process.
5. *Membership*
- Develop an atmosphere of mutual respect, understanding, and trust that is shared between participants.
  - Help participants to see that collaboration is in their self-interest.
  - Develop multiple layers of decision-making or consensus-based decision-making to create ownership of the project and maintain communication.
  - Ensure that members share a stake in both the process and outcomes, have the ability to make compromises and the authority to make decisions..
6. *Respect and Integrity*
- Ensure that respect and integrity are integral to the collaborative relationship. Collaborations will fail without these two elements.
  - View all partners as representatives of organizations and as *Centers of Expertise*.
  - Ensure that all partners offer each other *procedural respect and role respect*.
  - Overcome feelings of skepticism and mistrust. If not, they will undermine achievements of the collaboration.
7. *Accountability*
- In order to clarify mutual expectations, partners must explicitly understand the following: their accountability to each other, to the collaboration as a whole, and to his or her parent organization.
  - In order to create mutually agreed-upon expectations of accountability, each collaborative partner must understand the others' *accountability landscape* (i.e., their organization's history, successes, and challenges).
  - Once a common understanding is achieved, the modes of attaining accountability can be developed among the partners.
8. *Data-Driven Process*
- Focus on data. *The centerpiece of reform implementation is a data-driven, outcome oriented, strategic planning process and a cross-agency coordinated plan.*<sup>39</sup>
  - Maintain a process that is flexible and adaptable to obstacles or barriers.
  - Develop clear roles and policy guidelines, and utilize process improvement strategies.

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<sup>39</sup> Feely (2000).

- Identify and collect outcome data. *Identifying clear, measurable outcomes and charting progress toward their attainment is the most concrete and visible basis for accountability in complex change strategies.*<sup>40</sup>
  - Utilize data to review and refine processes and outcomes.
  - Evaluate the process; self-assessment and data are essential tools for effective collaboration. The strength of the collaboration will grow as access and capacity to use data to inform policy and program decisions increases.
9. *Effective Problem Solving*
- Identify problems in a safe way before they become crises.
  - Offer collaboration participants an agreed-upon process to resolve problems effectively and efficiently.
  - Continually assess team effectiveness and take steps to strengthen their work together.<sup>41</sup>
  - Build upon *small wins*. Celebrate and institutionalize changes quickly.
10. *Resources*
- Provide sufficient funds and staffing necessary to maintain momentum.
  - Use skilled convener(s), as they can help to keep leadership and working groups on task and organized.
11. *Environment*
- Develop a reputation for collaborating with the community.
  - Be seen as a leader in collaborative work within the community.
  - Develop trust, as it is a critical element in a collaborative climate.
  - Develop a favorable political/social climate – a political climate that supports collaboration is one that recognizes what collaboration is, values it as a process for social action, and supports collaborative efforts.

### ***Conclusion***

The design and implementation of a DWI court requires the cooperation of and collaboration between a number of court and community partners. The greater the quality of these partnerships the greater will be the resources, credibility, and support given to the program. To maintain and manage these partnerships, the DWI court must keep various stakeholders informed of and engaged in ongoing activities, including the touting of accomplishments by court programs to media partners. A number of resources are available by the National Drug Court Institute, the Department of Justice, and the National Institute of Correction to courts considering implementing a DWI court program and to courts seeking to increase and/or manage community partnerships.

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<sup>40</sup> Ibid.

<sup>41</sup> Carter et al. (2002).



◆ GUIDING PRINCIPLE #6 ◆

## Take a Judicial Leadership Role

By Hon. J. Michael Kavanaugh, Hon. Philip F. Howerton, Jr., Hon. Kent Lawrence and  
Hon. James Wanamaker (Ret)

### *Introduction*

The judge is a vital member of the DWI court team. As team leader, he/she must be committed to this role and willing to recognize and understand the complex and often troubled lives of those who stand before the bench. The judge must express a sincere commitment to this role and possess a strong personal belief that only by first addressing the underlying problems of substance abuse – through intensive treatment and accountability – can an offender acquire the ability to stop driving while impaired. The success or failure of a DWI court in large part depends on the convictions held and strength exuded by the judge as leader of the program.

DWI courts provide an effective T.E.A.M. (i.e. “Together Each Achieve More”) approach, involving the judiciary, prosecutor, defense counsel, court coordinator, treatment coordinator, treatment provider, law enforcement, and probation officer. As leader of this team, the judge’s role is paramount to the success of the Drug court program.

**GUIDING PRINCIPLE #6:**  
*Judges are a vital part of the DWI court team. As leader of this team, the judge’s role is paramount to the success of the Drug court program. The judge must also possess recognizable leadership skills as well as the capability to motivate team members and elicit buy-in from various stakeholders. The selection of the judge to lead the DWI court team, therefore, is of utmost importance.*

- ***Selection of a Judge.*** The selection of the judge to lead the DWI court team, therefore, is of utmost importance. A judge with extensive experience handling DWI cases is obviously preferable. Additionally, a well-known judge with a positive reputation in the community is often in a good position to forge the kinds of partnerships and support, which are needed to develop and implement a successful DWI court. The judge must also possess recognizable leadership skills as well as the capability to motivate and elicit buy-in from various stakeholders.

A DWI court judge should also be capable in tempering judicial authority in a manner that encourages teamwork and empowers others to contribute to the team process. He or she must recognize that differences of opinion can often lead to creative solutions to problems; the judge’s role, therefore, is to create an environment where team members are encouraged to offer input, while also being able to make difficult and sometimes risky decisions when necessary. The judge must also be willing to assume the role of inspirational leader of the team by continually providing encouragement and positive reinforcement to team members.

- ***Capabilities of a DWI court Judge.*** Substance abuse issues involving alcohol and other drugs are complex, and it is incumbent upon the judge to understand the nature of addictive disorders and attendant behaviors. In order to be effective in a DWI court setting, the judge must fully appreciate the importance of his/her persona and its effect on the dynamics of the relationships established with program participants. The judge must be perceived as one who has a genuine interest in both the present and future well being of program participants.

Additionally, the judge must be willing to enforce all program requirements, including the meting out of sanctions, yet be seen as fair and impartial when doing so by both program participants and drug court team members.

The judge also has the on-going responsibility of ensuring that the entire team, including him/herself, receives adequate training and cross training on matters related to the operations of a DWI court. This includes taking advantage of national, regional and state DWI court specific training programs. Also, site visits to reputable DWI courts, including mentor DWI courts, provide for an effective method of demonstrative learning of practices and procedures in established court programs.

In addition to providing training, the judge must also be keenly aware, and make the team aware, of the importance of cultural sensitivity and how the culture of the offender may influence their current circumstances and their progress through the program. The judge should work with the other team members to implement strategies that work best for the particular participant, taking into account as many cultural aspects as possible. Without strong judicial leadership on this point, cultural issues are often ignored or overlooked.

- ***Funding a DWI court Program.*** Initial funding, and the sustainability of a DWI court are continuing issues. Some courts begin operations solely on grant funding, while other courts have started programs with a combination of local government and grant funding. A few courts have initiated programs entirely on local funds and community resources. To the extent permitted by applicable judicial standards, the judge should consider and aid in the process of securing adequate funding for the continued operation of the court. Regardless of the funding source(s), the judge must be aware of all funding sources and to make certain of the sustainability of the program based on these funds.

Additional sources of funds available for use to sustain the program are those monies collected by program participants to offset the costs of conducting testing and providing treatment. The judge should recognize and emphasize the significance of a financial investment by each participant in the program who has an ability to pay. Not only do these funds provide an additional funding stream, but also, the requirement of financial contributions by participants tend to increase attendance at treatment sessions and increase feelings of accountability.

- ***Community outreach on the part of the Judge.*** The DWI court judge must constantly strive to develop trusting, cooperative, and supporting relationships with various community and victims groups, including MADD. Such groups need to be informed about the DWI court's practices, particularly those designed to address community safety issues. The judge should view these groups as partners who have a common interest in the DWI court mission of promoting public safety and helping DWI offenders achieve long-term sobriety through treatment and accountability.

Additionally, the role of the judge is to effectively communicate to local government officials, the media, and the general public, the multiple benefits derived from the operation of a program that is based on: (1) individual and financial accountability; (2) enhanced supervision of offenders; (3) the provision of prolonged counseling and treatment; (4) the conduct of random and frequent alcohol and other drug testing; and (5) the continual and frequent judicial monitoring of each participant.

- ***Considerations for a judge considering implementing a DWI court.*** A judge considering the implementation of a DWI court should consider a number of important factors, including:

- The level of need, if any, for such a court within a particular community;
- Whether the resources within the targeted geographic area of operation are sufficient to support this type of program;
- The level of interest and commitment of each of the necessary team members to the DWI court model;
- The unity and cohesiveness of the identified DWI court team on issues such as program structure, eligibility of participation, rewards and sanctions, compliance issues, and phase movements;
- The ability to coordinate the structure of the new DWI court with court imposed sentence requirements;
- The identification of local qualified and licensed treatment clinicians and programs;
- The capacity to implement an appropriate incentives and rewards program designed to serve as a continuing motivator for participants to achieve sobriety, as well as an appropriate sanctions schedule to handle non-compliant behavior;
- The development of program conditions that meet driver license reinstatement requirements for the target population served by the DWI court; and
- The available resources to maintain complete program records, which can be used as part of a program evaluation to examine participant outcomes following program completion, as well as part of a cost-benefit analysis comparing DWI court operations and benefits with other court programs.

### ***Conclusion***

With the establishment of DWI court programs across the county, and their documented successes, judges have become enlightened to the benefits of using the innovative team approach with clients, which includes protocols of immediate intervention, participant accountability, enhanced supervision, and prolonged counseling and treatment. These protocols, delivered within a team framework, enable DWI offenders to clearly focus on and establish sobriety in their lives, and function as productive members of the community. The role of the judge as the leader of the DWI court team, therefore, is that of the proverbial strong link in the chain, and how this role is carried out will ultimately be determinative of program success. Simply stated, the role of the judge should be that of a *change agent*, by providing effective and continuing judicial leadership and support to the team members, program participants, and the community at large served by the program.

◆ GUIDING PRINCIPLE #7 ◆

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## Develop Case Management Strategies

By Randy Monchick, Ph.D., J.D.

### *Introduction*

*Defining Drug Courts: The Key Components*<sup>42</sup> underscores that a successful drug court requires a coordinated team strategy and seamless collaboration across the treatment and justice systems. Case management is the series of inter-related functions that provides for this coordination and seamless collaboration and ensures that: (1) clients are linked to and guided through relevant and effective services; (2) all service efforts are monitored, connected, and in synchrony; and (3) pertinent information gathered during assessment and monitoring is provided to the entire drug court team in real-time. Case management, therefore, forms the framework around which the drug court process can credibly and effectively operate.

***GUIDING PRINCIPLE #7:***  
*Case management, the series of inter-related functions that provides for a coordinated team strategy and seamless collaboration across the treatment and justice systems, is essential for an integrated and effective DWI court program.*

- ***Functions of Case Management in DWI courts.*** There are five core functions of case management in a DWI court setting: 1) assessment; 2) planning; 3) linking; 4) monitoring; and 5) advocacy. Although various members of the drug court team share the performance of these functions, a specially designated team member serves as the person primarily responsible for coordinating the development and pursuit of participant case plans, linking participants to resources, and monitoring participant and service provider performance. As part of his or her monitoring responsibilities, this designated “primary case manager” makes sure that the participants’ case plans, AOD test results, and relevant treatment and supervision data are timely, and are accurately and routinely memorialized. It is only when this information is systematically collected, recorded, and shared with the team that the “team case management” concept can be employed and the full power of the drug court model can be demonstrated. And it is only through the systematic collection of related demographic, process, and outcome information that a foundation can be laid for a comprehensive and comprehensible program evaluation.
- ***Team Member Functions.*** All members of the DWI court team assist the primary case manager by providing relevant services, supporting the participant’s pursuit of the goals in his or her case plan, and supplying timely and accurate information to the case manager for recordkeeping and information sharing. For example, clinical treatment and other service providers who oversee the delivery of specialized services to the DWI court participants disseminate the relevant attendance and participation reports to the case manager. Community supervision officers provide compliance reports based on home, job, or other collateral contacts.

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### NOTES.

<sup>42</sup> *Defining Drug Courts: The Key Components*. (1997). Prepared in collaboration with The National Association of Drug Court Professionals, Drug Court Standards Committee, Washington, DC: U.S. Department of Justice.

Those responsible for administering alcohol and other drug screens, a task perhaps shared amongst community supervision officers, case managers, treatment providers and law enforcement officers, closely monitor the delivery of the specimen, maintain its security through appropriate sealing and chain of custody documentation, and transmit test results promptly to the court. The designated DWI court attorney, in consultation with the team's representative from the prosecutor's office, coordinates the removal or resolution of legal obstacles to the participant's long term sobriety and helps keep the team focused on each participant's strengths.

Team case management is absolutely necessary in this environment because DWI court participants come into court with untold numbers and types of problems and chaos in their personal and professional lives. Managing this chaos is not typically something that the AOD dependent person can accomplish or should even attempt to accomplish until they reach a point of stability in their recovery. Rather, it is the primary case manager who is charged with seeing that the chaos is "managed" in a way that allows the participant to restructure and rebuild. With that said, the knowledge and skills required to effectively control all the outstanding issues are beyond what a designated case manager or any one person could possess. But it is not beyond what a "team" can possess. In example, the fallout from and repercussions of AOD dependency are varied and many and often times implicate legal processes. The primary case manager is normally not the team member who is skilled in maneuvering a client through the complex legal system. Rather, it is the DWI court attorney, in consultation with the team's prosecutorial representative, who is typically best situated to assist in delaying the impact of this fallout or coordinating its resolution in a manner that does not undermine the treatment process. The existence of related criminal cases, outstanding warrants, pending or alterable administrative decisions (e.g., driving and professional license suspensions), and unresolved family, probate, juvenile and other civil court-related matters are just some of the venues within which the DWI court attorneys' expertise may be called upon to offer guidance or assistance. As one would expect, AOD dependent individuals are at a heightened risk for causes of action related to such things as family dissolution, child custody disputes, tax and other payment default, creditor attachments, business dissolution, mental commitment, and paternity. The primary case manager is attuned to the fact that each of these potential legal issues may have ramifications for the participant's recovery and draws upon fellow team members or other resources to help the participant "manage" his/her road to recovery.

Regardless of one's role on the DWI court team, performance of one or more of the case management functions will be part of the team member's job description. In the performance of the case management functions, information relevant to the participant's progress toward recovery will need to be documented and shared. All such participant information must be passed to a primary case manager in time for the court's periodic review of the participants' progress. The accuracy and promptness of this information sharing is critical for providing appropriate sanctions and incentives, maintaining quality assurance across the various program components, and developing a database for program evaluation.

- ***Special Role of the Defense Attorney.*** Defense attorneys, as part of the case management team, can play a unique and powerful role in promoting and supporting behavioral change. The defense attorney is typically the first system player whom the client looks to for advice and direction. Defense attorneys are ethically tasked with doing what is in the best interests of the client. They present the defendant with a relatively early opportunity to talk with a non-judgmental and non-threatening person. The defense attorney carries an aura of trust and reliance and in effect authorizes the client to be vulnerable. The defense attorney can...and should...be trained to pre-screen for AOD abuse and dependency and provide motivation for the revealing client to seek more formal assessment and treatment as needed. It is in this sense that the defense attorney kicks off the case management process. Upon entry into a DUI/drug court, the

defense attorney continues to perform duties that correspond with some of the key functions of case management, most notably planning, ongoing assessment (in its general sense) and advocacy. The defense attorney is especially useful in serving as a conduit for delay or resolution of pending civil matters that arise from behaviors tied to the participant's pre-treatment addiction.

- ***Case Management with Alcoholics.*** There are preliminary indications that the team case management approach takes on heightened significance in the DWI court arena where alcohol, as opposed to illicit substances, tends to be the primary drug of choice for the target population. Clinical case management staff in drug courts that work with both alcohol dependent and illicit drug dependent target populations indicate that when alcohol dominates as the dependency drug of choice, "denial" of the addiction is more deeply ingrained and tougher to overcome. "Denial" is the self-imposed armor that shields the alcoholic from confronting his/her disease and associated deficits.

Conventional wisdom indicates that the alcoholic's denial of his or her disease arises in large part from the legitimacy our society bestows on alcohol consumption. Drinking alcohol is not only socially accepted, but it is celebrated by many of our cultures as a rite of passage into adulthood. Indeed, there is no escaping the fact that "drinking" is promoted through virtually every medium available to salesmanship, its promotion serving as a constant reminder that alcohol is okay for "normal" and "responsible" adults. And while the DWI court team expects and requires the participant to move quickly through the denial phase of the disease, they understand that admitting that one is powerless over alcohol is not an easy pill to swallow when the use of alcohol is so widely condoned and promoted.

During the early stage of drug court intervention, managing the alcoholic requires an extra focus on the breakthrough of denial. This breakthrough can be expedited by a unified and supportive team response. But breakthroughs in denial can be short-lived. The cultural entrenchment and social psychological power of alcohol makes it exceedingly difficult for the alcoholic to readily adopt a total abstinence philosophy, the philosophy that dominates the treatment of the disorder of alcoholism. Team members must maintain a constant focus on participant ego-building and other strength development throughout the treatment process to help prop up the alcoholic against the steady barrage of competing messages that he or she will confront daily. The monitoring and management of the alcoholic participant must be vigilant and intensive. Given that the alcoholic may well need more frequent home and collateral contact, team members must be willing to share roles so as to be more omnipresent in their supervision and support and more vigilant in carrying out frequent and random AOD testing. It is in this sense that the DWI case management team can serve as a chronic prevention tool.

Case management in a DWI court must be designed with the alcoholic target population in mind. This means it must ready itself to deal with the unique problems posed by the diverse demographics, economics, and cultures that define the broad target population. Case management must also be flexible and willing to intensify or reduce the intensity of treatment interventions to support the progress being made and to reflect the participant's changing needs and circumstances.

### ***Conclusion***

Successful DWI court programs are those that rely on a coordinated team strategy approach between the courts, supervision, and treatment staff and on a case management model coordinated by a primary case manager. By adopting a case management framework, court programs can operate in a manner that can seamlessly provide needed services to clients at all stages of the program while simultaneously

allowing court personnel to monitor offenders' progress. Case management therefore engenders an open environment and supports the sharing of information among all team members and between the DWI court team and partner organizations in the community. The implementation and maintenance of this type of seamless, coordinated system, therefore, improves the DWI court team's ability to effectively monitor and manage participants progress through the program, identify and address problems in a timely manner, and support participants successful completion of the program.

◆ **GUIDING PRINCIPLE #8** ◆

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***Address Transportation Issues***

By Mark Pickle and Hon. James Wanamaker (Ret)

**Introduction**

Perhaps the most unique aspect that differentiates DWI courts from drug courts is the issue of transportation. Nearly every state revokes or suspends a person's driving privileges upon conviction for a DWI offense. And, many states suspend or revoke driver's licenses prior to conviction based on breath alcohol results or refusal to submit to a blood or breath alcohol test at the time of initial arrest. License revocation, therefore, poses a significant issue for the individual who is involved in a DWI court program.

Virtually every participant in a DWI court program will have had a previous DWI conviction and a previous revocation of their driver's license. Unfortunately, and in many cases, the participant will have previously approached his or her transportation problem created by the loss of their license by driving anyway and taking a chance that he or she would not be caught. The DWI court participant must be cautioned against taking such chances in the future and to alter their attitude about driving without a license. It is very important at the outset of defendant's participation in the program to emphasize that there will be absolutely no driving of a vehicle unless the defendant has a valid driver's license. Furthermore, the DWI court program must strictly emphasize the participant's responsibility to obey all laws including the prohibition against driving while their license is suspended or revoked. Typically, the participant will need to get by without a driver's license for several months or years after completion of the DWI/Drug Court program, since the usual period of license suspension is longer than the duration of the drug court program. Also, the participant will have several years of probation following completion of the drug court program. As such, if the participant has learned to solve his or her transportation problems while in the program, then he or she will have the ability to continue solving them during the remaining time of license suspension and probation.

***GUIDING PRINCIPLE #8:***

***Though nearly every state revokes or suspends a person's driving license upon conviction for a DUI offense, the loss of driving privileges poses a significant issue for those individuals involved in a DWI/Drug Court program. In many cases, the participant solves the transportation problem created by the loss of their driver's license by driving anyway and taking a chance that he or she will not be caught. With this knowledge, the court must caution the participant against taking such chances in the future and to alter their attitude about driving without a license.***

- ***Transportation of Participants in Custody.*** Transportation problems may arise while the defendant is still in custody serving their DWI sentence, as there may be a need to transport an in-custody defendant to an alcoholism treatment provider for assessment. Or, in those programs that require the taking of naltrexone or other adjunctive medications to reduce alcohol cravings, it will be necessary to get a defendant to a doctor for a medical assessment. Typically, it is very difficult to get the corrections personnel or jailers to transport a defendant for this purpose. Several DWI court programs have a van for this purpose, while others have provided a brief release with bail to such appointments as long as a court approved "Third Party Custodian" accompanies the defendant. Otherwise, the participant will remain in custody until his or her time is served.



- **Transportation during the DWI court Program.** In most DWI court programs, the majority of participants will be on some form of monitored bail release and will be engaged in outpatient treatment. Participants will have the responsibility of getting themselves to and from treatment meetings, Alcoholics Anonymous meetings, court appearances, medical appointments, and work. How the defendant will solve his transportation needs will depend largely on the transportation structure of his community, including the availability of public transportation, ride sharing programs, taxicabs, as well as friends and family members who are willing to assist. Also, the location of meetings and other appointments is important, since close proximity also allows for walking or bike riding by the participant.

Emphasis by the court should be placed on the participant solving his or her transportation needs. The end goal is that the participant will accept responsibility for leading a sober, lawful, and self-reliant lifestyle, with the obtaining of lawful transportation as one of these requirements. It is acceptable for the program to point out what resources are available, but programs should avoid solving the participant's transportation problems. Though the DWI court participant is required to adhere to strict program requirements, the lack of transportation should not be used as an excuse for failing to attend required appointments; failure to do so would result in court imposed sanctions for non-compliance.

Depending on the type of area in which the drug court is located (urban vs. rural for example), it may be necessary for the court to develop program requirements which take into account limited transportation options. For example, programs may provide indigent participants with bus passes or tokens while others may utilize a bicycle loan program. In many DWI courts throughout the country, unclaimed bicycles are obtained from the police department, refurbished, and then loaned to the participants in need. The bike is then returned to the program upon discharge. In other programs located in rural jurisdictions, vans have been purchased to help provide a variety of services across a large geographical area including counseling, drug and alcohol testing, education, and face-to-face contacts with probation officers and other case managers. The vans may also be used to transport the assigned Judge to a central location to preside over a DWI court docket.

- **Issuing Limited Driver's Licenses.** The loss of driver's license in one of the most common penalties imposed upon a person convicted of DWI. Providing a procedure for participants to regain driving privileges would provide a powerful incentive for DWI defendants to enter the DWI court program. Sometimes, state laws will empower a court and/or the Department of Motor Vehicles (DMV) to issue a limited driver's license to a defendant who has completed a DWI court. If a court is issuing a limited drivers license, then strong efforts should be made to coordinate through the state's DMV, and a suitable plan, as issued by the court, would require a defendant to satisfy the procedural requirements of the DMV before proceeding. Such requirements would include: passing a written driver's test; passing a vision test; showing proof of automobile insurance; the expiration of clearance of any drivers license suspensions in prior cases; and the installation of any ordered monitoring systems such as ignition interlock.<sup>43</sup>

Only after these procedural matters have been completed should the court proceed to authorize a limited license. The limited license would typically be limited to proceeding to and from work, school, and treatment, and would expire upon the date when a defendant is eligible to receive a

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#### NOTES

<sup>43</sup>An ignition interlock device is an in-car alcohol breath-screening device that prevents a vehicle from starting if it detects a blood alcohol concentration (BAC) over a pre-set limit (i.e., .02 or 20 mg of alcohol per 100 ml of blood). The device is located inside the vehicle, near the driver's seat, and is connected to the engine's ignition system.

regular license. It is best if the DMV actually issues the license card and monitors compliance issues. Moreover, in authorizing a limited license, the court should make it a condition that defendant obey all laws and conditions of probation.

State law primarily governs such matters of driver's licensing. There is, however, a customary provision in the federal law concerning funding of highway construction, to the effect that, if a state does not meet certain required federal standards on issuing limited licenses, then a certain financial penalty amount is removed from that state's construction funding and moved to a discretionary account administered by the state's Highway Traffic Safety Director. Since these Federal provisions may change from time to time states should stay abreast of the current status of these Federal guidelines before proceeding to authorize limited licenses.

- **Monitoring Compliance.** There are various methods for monitoring the requirement that a defendant not drive on a suspended or revoked driver's license or drive beyond the parameters of a limited license. Detection will require active observations by the police, probation agents, case managers, and treatment providers. Whether conducting random home visits to document the mileage on the participant's vehicle odometer, or checking the parking lot of the treatment program on a regular basis, each team member must ensure public safety through proactive means. Finally, ignition interlock devices that disable a car if the operator fails a breath test are an extremely useful technology for monitoring compliance.

#### **Conclusion**

As a result of having their license suspended or revoked, if only for a short time, every participant in a DWI court will face some transportation problems. The program, however, should make it clear to the participant that they must obey the law and the rules of the program, which restricts the driving of an automobile with a suspended or revoked license; rules, which if broken, can lead to sanctioning, including rearrest. Furthermore, the program must clearly articulate that it is the participant's responsibility to solve their transportation problems. By solving these problems on his or her own, the participant will gain the tools and skills necessary to lawfully solve his or her transportation needs on a continuing basis.

◆ GUIDING PRINCIPLE #9 ◆

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### Evaluate the Program

By Douglas B. Marlowe, J.D., Ph.D. and Randy Monchick, Ph.D., J.D.

#### *Introduction*

To be useful, an evaluation of a DWI court must provide a road map for others to understand the type of program provided, how the program was implemented, what types of clients were served, and how outcomes were measured. The evaluation must control for the impact of non-program variables that correlate with and thus could explain behavioral outcomes. These include *jurisdictional variables* (e.g., mandatory minimum jail terms & driver's license suspensions); *participant risk factors* (e.g., educational achievement level, prior DWI arrests, and age); *supervision variables* (e.g., enhanced alcohol testing or surprise home visits & use of sanctions and incentives); and *treatment variables* (e.g., types and dosages of services delivered to program clientele).

In some instances, DWI courts may be well funded, targeted to the appropriate clients, and administered with substantial programmatic integrity. In other instances, they may be poorly implemented, provided to the wrong types of clients, or watered down by extraneous political or economic forces. It is not instructive to have some studies report positive outcomes for DWI courts and others to report negative findings unless there is some basis for reconciling the discrepancies. This makes it imperative for evaluators to describe the legal and fiscal culture within which their DWI court operated, the types of interventions that were delivered and in what doses, and the types of clients that were served.

No intervention "works" for all clients in all locales regardless of how it is administered. Some clients may respond well to DWI court, others may be unaffected by the interventions, and still others may be harmed. If outcomes are averaged over the sample as a whole, they may become diluted and may mask important "interaction effects" for specific types of clients. DWI courts typically have several "ingredients" such as status hearings, alcohol treatment, breathalyzers, and graduated sanctions and rewards. Some clients may respond well to certain ingredients but may be unaffected or harmed by others. This, too, can lead to a washing-out of overall outcomes and may mask important client-program interactions. Analyses should seek to determine (1) which types of clients had the best outcomes, (2) which interventions were most predictive of improved outcomes, and (3) which clients had better outcomes when exposed to which interventions.<sup>44</sup>

#### ***GUIDING PRINCIPLE #9:***

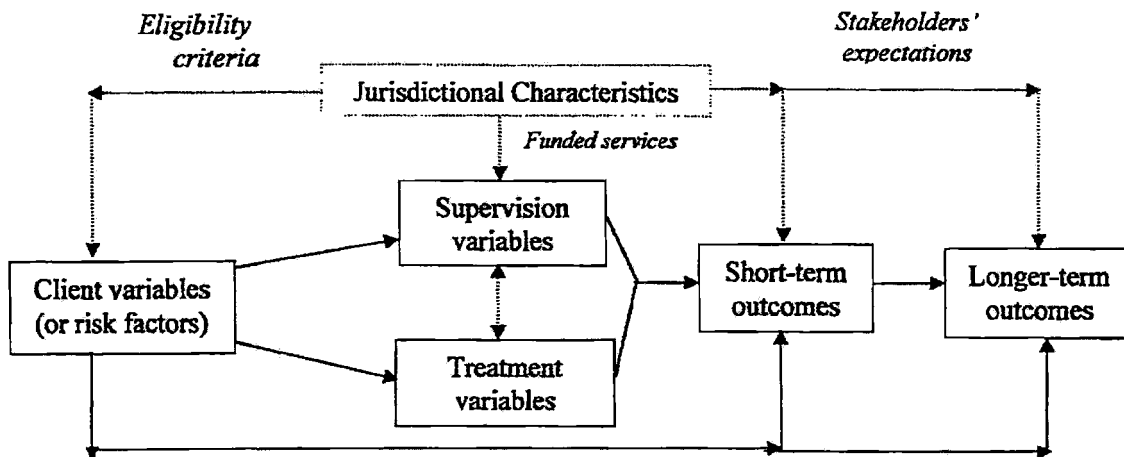
***To convince "stakeholders" about the power of DWI court, program designers must design a DWI court evaluation model capable of documenting behavioral change and linking that change to the program's existence. A credible evaluation is the only mechanism for mapping the road to program success or failure. To prove whether a program is efficient and effective requires the assistance of a competent evaluator, an understanding of and control over all relevant variables that can systematically contribute to behavioral change, and a commitment from the DWI court team to rigorously abide by the rules of the evaluation design.***

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#### NOTES

It is important to have a conceptual framework in mind for analyzing and reporting on the findings. This framework must take into consideration the baseline characteristics of the clients, the services that were delivered and the short-term and long-term outcomes of the program (see Figure 1).

Figure 1. Conceptual framework for analyzing and reporting findings



- Jurisdictional Characteristics.** Outcomes in DWI courts are likely to be influenced by the legal and economic climate. Local policies may set limits on which clients are eligible for DWI court; economic constraints may affect the range of treatment and supervisory services that are available; and the demands of policymakers and the public may influence what types of outcomes are considered acceptable. In addition, some jurisdictions may impose across-the-board consequences such as minimum jail time, mandatory fines, community service, or drivers' license suspension for repeat DWI offenders. These policies, in and of themselves, have been associated with a small to moderate reduction of approximately 1% to 17% in local DWI rates<sup>45</sup>. Finally, outcomes are likely to be influenced by such factors as whether offenders are afforded the opportunity for drivers' license reinstatement, criminal diversion, or expungement upon graduation from DWI court. It is important to describe these characteristics in evaluation reports to set reasonable limits on the potential generalizability of the results. Positive results for a DWI court that offers license reinstatement to graduates, for example, might not be expected to generalize to a court in another jurisdiction that offers no such incentive.

To the extent that jurisdictional variables affect all participants equivalently, they generally cannot be statistically factored into outcome analyses. This is represented by a dotted line in the above Figure. For example, if all clients in the program have the same opportunity for license reinstatement, then this variable cannot be used to predict outcomes for clients within that program.

- Client Variables or Risk Factors.** Outcomes in DWI court could be expected to vary considerably depending upon the proportion of seriously impaired or "high-risk" clients being served in the program. The most frequently reported risk factors for failure in DWI treatment

<sup>44</sup> For an example of how interaction effects were evaluated in a drug court program, see Festinger et al. (2002).

<sup>45</sup> Wagenaar et al. (1995).

programs are lower educational attainment, earlier age at first DWI arrest, greater number of prior DWI convictions, higher arrest BAC level, and higher scores on such instruments as the CAGE or the MMPI-2 MacAndrews Alcoholism Scale.<sup>46</sup> Relatively poorer outcomes have also been reported for so-called “Type B” alcoholics who are characterized by an earlier age of onset of alcohol abuse (< 14 years of age), more severe alcoholism symptoms including withdrawal, higher rates of alcoholism among first-degree relatives, and impulsive or antisocial behavioral characteristics.<sup>47</sup>

Ideally, evaluation studies should *randomly assign* DWI offenders either to DWI court or to a suitable comparison condition such as probation or adjudication-as-usual. This has the effect of spreading the risk-level evenly across the conditions. As a practical matter, however, it is often necessary to settle for non-randomized comparison groups such as DWI offenders from a neighboring jurisdiction that does not have a DWI court. Under such circumstances, there is a serious concern that the two groups could differ on important dimensions that are, themselves, responsible for differences in outcomes. For instance, if the DWI offenders in the neighboring jurisdiction tended to have more severe alcohol problems, then the “deck would be stacked” in favor of the DWI court from the outset. It is, therefore, necessary to (1) identify client characteristics that correlate significantly with DWI court outcomes; (2) determine whether the intervention group and comparison group differed on those characteristics; and if so, (3) statistically control for the effects of those characteristics (also called “covariates” or “confounds”) in the outcome analyses.

- ***Supervision Variables.*** It is important to indicate how participants’ conduct was assessed in DWI court and how consequences were imposed for compliance or noncompliance in the program. Urinalyses or breathalyzers, for instance, may be relatively insensitive to alcohol consumption in part due to the body’s rapid absorption of alcohol. Accurate assessment of alcohol use may require frequent and random spot-tests, surprise home visits, or blood analyses. The method and “density” of alcohol testing – for example, the number of breathalyzer tests performed per week per subject – are important “mediating variables” that should be reported in evaluations and statistically correlated with outcomes.

It is similarly important to report on the fidelity with which negative sanctions were imposed for infractions and positive rewards were imposed for accomplishments. Outcomes could be expected to differ substantially, for instance, between a DWI court that administered sanctions for every positive breathalyzer test compared to one that administered sanctions for an average of every fifth positive test.<sup>48</sup> Outcomes might also be expected to differ based on such factors as the frequency with which status hearings were held and whether the program adhered to a “zero-tolerance” policy for alcohol consumption.

- ***Treatment Variables.*** Many evaluations list the range of treatment services that were potentially available to all clients in the program, but do not report the type(s) and dosage of services that were *actually delivered*. Without this information, it is not possible to judge the integrity of the program or to conduct “dose-response analyses.” If clients received relatively few services in a particular program, then negative outcomes may be attributable to poor compliance or to poor integrity of the program, rather than to limitations with DWI courts generally. It is important to indicate whether the program provided a standard “platform” of treatment services to all clients, and what adjunctive services, if any, were delivered on a referral or as-needed basis. Some programs, for instance, may offer a standard regimen of psycho-

<sup>46</sup> C’de Baca et al. (2001); Cornish & Marlowe, in press.

<sup>47</sup> Ball et al. (2000).

<sup>48</sup> Marlowe & Kirby (1999).

educational groups or may present graphic footage of accident scenes or victim-impact statements to all clients.<sup>49</sup> It is important to indicate what proportion of clients completed all or part of such a standard regimen, what proportion was referred for additional individual or group counseling services or pharmacological interventions and how many sessions clients attended of each intervention. It is also useful to conduct a form of “dose-response” analysis that relates the amount of services clients received to their outcomes. Obviously, the extent to which an evaluation can achieve this specificity of measurement depends in large part on the sophistication of the DWI court’s management information system (MIS) and the reliability of program staff’s data documentation. Moreover, a meaningful analysis of an evaluation that simultaneously controls for a multitude of variables would necessitate a sufficient number of program attendees and graduates.

- ***Short-Term Outcomes.*** Clients’ functioning during DWI court is likely to be an important “performance indicator” of longer-term outcomes. For instance, individuals who achieve sustained intervals of abstinence during their time in the DWI court program are more likely to remain sober in the future than are those who have intermittent lapses. It is important to report such short-term outcomes as counseling attendance, attendance at court hearings, weekly urinalysis and breathalyzer results, and attainment of treatment plan goals. Other short-term goals may include whether clients reduced the time they spent with alcohol-using associates, whether they developed and implemented a risk management plan, and whether they completed homework assignments and practiced alcohol-refusal strategies.
- ***Longer-Term Outcomes.*** The outcomes from DWI courts that are likely to be of greatest interest to policymakers, stakeholders, and the public are DWI recidivism, alcohol relapse, and realized cost savings from such sources as reduced jail sentences or more efficient administration of court dockets. Official re-arrest records can be an important and objective source of information on recidivism rates; however, they only reflect criminal activity that was officially detected by authorities. Self-report information from clients about their actual DWI episodes and other criminal activity, irrespective of detection, could provide important convergent information, but only if the information is collected by researchers who are independent of the criminal justice system and who can assure clients of strict confidentiality.
 

It is very difficult to obtain reliable data on alcohol use or drug use following completion or termination from the program. Unless it is possible to offer substantial payment incentives to clients, relatively few may be willing to return for follow-up assessments. Moreover, given the relatively short “window” for detecting alcohol use in urine or blood, it is very difficult to obtain reliable objective assessments of continued alcohol usage. Self-report information, possibly obtained over the telephone, may be the only practicable means for obtaining information on relapse to substance use. Again, independent researchers should be responsible for collecting this information under conditions of guaranteed confidentiality. Whenever possible, self-report information should be compared for accuracy against objective evidence such as urinalysis or breathalyzer results, employment pay stubs, and official records on criminal, domestic violence, and traffic offenses.
- ***Determining Types of Data to be Gathered.*** Ultimately, a DWI court evaluation design should consider the types of information that policymakers, stakeholders and the public would want to draw upon in determining whether a program is effective...and worth the cost. This means

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<sup>49</sup> DeYoung (1997).

that the evaluation design must take into consideration the interests of Legislatures, victim impact groups (e.g., MADD), local funding sources (county commission, local planning councils, local law enforcement), state funding sources (AOD office; Department of Public Safety; Crime Commission; Governor's Highway Safety Commissions), state judiciaries, media, and law enforcement, among others. For example:

- **Legislatures and other funding sources** would likely be most interested in avoiding duplication of services and measuring cost effectiveness (e.g., cost of involvement in DWI court per participant vs. incarceration or cost savings derived from reductions in impaired driving episodes, future prosecutions, deaths, critical injuries, and other victimizations).
- **Advocacy groups** (e.g., MADD; NOVA; American Medical Association and its affiliates) would likely be most interested in (1) data reflecting the intensity of supervision of program participants compared to traditional supervision; (2) AOD testing results during program participation and over time after program completion; (3) recidivism; (4) number of subsequent victims of DWI court participants or graduates (compared to a control group); and (5) number of "clean" babies birthed (i.e., reductions in occurrence of fetal alcohol syndrome).
- **Judicial and Executive Branch Agencies**, although interested in many of the above noted types of information, may have a unique interest in some specialized data that measures docket control, case processing time, jail/prison beds saved, and reduction of alcoholism and other drug dependencies among adult and juvenile offenders and among respondents in juvenile petitions for abuse or neglect.
- **Local service delivery organizations** (e.g., educational/vocational institutions, family service organizations, religious groups) may be most interested in how DWI court participation enhances participants' efficacious use of community services, impacts family unification and harmony, and promotes more effective use of community-based resources by justice and treatment system personnel.
- **Elected Officials** may have a special interest in ascertaining levels of community approval and support for the DWI court intervention and documenting efficient and effective increases in the personal, familial, and societal accountability of offenders.

### ***Conclusion***

By taking into account program-controlled (e.g., type of program, type of clients served) and non-controlled variables (e.g., jurisdictional, participant risk, supervision, and treatment factors) when evaluating the efficacy and effectiveness of a DWI court program, evaluators and the DWI court program can have greater confidence in findings, whether or not findings support the value and cost of the program as currently implemented. In addition, it is important to have a conceptual framework in mind for analyzing and reporting on the findings, such as the framework presented above. Finally, it is important to know and understand the interests of those stakeholders who are in a position to affect the continued operation of the program, and to gear the collection and reporting of data accordingly.

## ◆ GUIDING PRINCIPLE #10 ◆

### Ensure a Sustainable Program

By Norma Jaeger and Dennis Reilly

#### Introduction

The foundation for sustainability is laid, to a considerable degree, by careful and strategic planning, which includes considerations of structure and scale, organization and participation and, of course, funding. Planning for sustainability often means moving ahead slowly to reduce resistance from interagency partners and the courts.

Becoming an integral and proven approach to the DWI problem in the community, rather than an interesting experiment, is the ultimate key to sustainability. This can be accomplished through strategic planning which includes identifying resources, creating sustainable collaborative partnerships with other criminal justice and community agencies, setting administrative standards and protocols, engaging and involving all team members toward achieving a common goal, and learning to foresee obstacles and addressing them proactively.

***GUIDING PRINCIPLE #10:***  
*The foundation for sustainability is laid, to a considerable degree, by careful and strategic planning. Such planning includes considerations of structure and scale, organization and participation and, of course, funding. Becoming an integral and proven approach to the DWI problem in the community however is the ultimate key to sustainability.*

- ***Planning for Sustainability.*** Part of the planning process for achieving sustainability includes the decision of what type of program or approach will be initially implemented. One common approach is to initially implement a pilot program in order to demonstrate the effectiveness of a new program – in this case the DWI court. The implementation of a pilot program provides time to accrue resources and refine policies and procedures. Additionally, time allows team members, who have not worked in an interdisciplinary environment, to gain experience before working with a larger population.

Jurisdictions may also choose to go beyond implementing a DWI court as one sentencing option and use a systems approach, using the model to address all levels of DWI offenses that provides a continuum of responses to match the severity of the offense and addiction. A DWI court system may overcome certain legal barriers through universal screening, and standardized eligibility and program requirements, which address all levels of offenders. Such a universal system can achieve greater impact and greater efficiency through economies of scale. For example, fixed costs for drug testing can be spread among more participants. The more integral the DWI court is to the justice system the less likely it is to be eliminated.

A third option is that jurisdictions can move beyond a narrowly defined DWI court model to a collaborative justice model that may apply the established key drug court components to a wide range of offenses. "Blended" DWI courts can accept both drug cases and DWI cases. The key to maximizing this opportunity is to serve large populations where different types of offenses are integrated for appropriate court monitoring and treatment based on the commonality of their addiction. Collaborative justice courts create benefits that more narrowly defined courts lack, including bringing together relevant specialists and specialized services and the centralization of information collection, sharing, and reporting.



Once the type of program to be implemented has been selected, the other important component in the sustainability planning process is the development of a funding strategy. This should start with a clear vision of the desired product and an analysis of each component, followed by how each can be obtained. Often, the first consideration is to seek seed money, particularly from federal grant funding sources. While grants can provide a window of time to demonstrate positive results and publicize community impact, they do pose limitations with respect to getting courts “to scale”, that is, to adopt a systems approach. Thus, grants include requirements that may not fit the community, and are a short-term operational strategy. Mobilizing existing resources, with or without grant funding, may take longer and involve more complex stakeholder negotiations but is more likely to ensure the ongoing and stable operation of a DWI court; and local resources can better adapt to local circumstances and changes.

- **Resources for Sustainability.** Courts must clearly identify all program cost elements and be vigilant about examining potential cost reductions. Program administration and stakeholders must be alert to circumstances that may affect current and future funding opportunities. An effective method of resource analysis is “community mapping”, ideally conducted on a yearly basis. Community mapping systematically reviews the availability and stability of the widest possible range of existing resources and identifies new resources. In addition to funding, resources include the existence of appropriate treatment and rehabilitation services, recovery support activities, facilities, in-kind contributions, partners, and program supporters.
  - **State Funding.** State legislative bodies can provide initial funding or continuation funding when grants are included through specific appropriations to state agencies to be passed through to the DWI court. New appropriations may also be augmented by allocations from existing resources such as the federal Substance Abuse Prevention Treatment (SAPT) block grant.

State agencies may also have access to grant funding opportunities that can be utilized for supporting or strengthening program components. For example, National Institute of Corrections Technical Assistance funding has been utilized to provide training for cognitive behavioral group facilitation, and highway traffic safety funds have supported DWI court program elements such as drug testing or probation supervision.

States have employed multiple strategies toward financial sustainability of drug court programs. Strategies include: linking mandatory incarceration savings to DWI court funding; creating separate state DWI accounts, which may only be expended for the purposes of providing alcohol and other drug abuse treatment or education efforts and which are funded from revenues collected from DWI offenders as part of their court costs and held centrally for distribution; imposing Drug Court Litigation Taxes, which are taxes on all drug and alcohol related criminal warrants settled without a proceeding; enacting drug court fees assessed to all drug convictions and DWI treatment fees assessed to every DWI conviction for DWI courts; and creating assessments on certain criminal offenses to be deposited into these funds. Additionally, litigation taxes on all criminal cases can be passed to an Indigent Defense Fund, and those monies can be used to access treatment for drug court offenders. Courts can also utilize probation funds including probation supervision fees or conviction surcharges imposed on participating and nonparticipating offenders convicted of drug offenses, utilizing lower level offenders program fees to support higher-level offender treatment and supervision costs.

State Commissions, formed to reduce crime, improve highway safety, or increase access to treatment may be tapped for court or program funding. And, states can

incorporate surcharges on the gross sales of beverage alcohol sold by state liquor dispensary systems or legislate that liquor taxes fund DWI courts.

In addition, expenses associated with the judicial staff, including the judge or magistrate, probation, pretrial supervision, and clerks, should be assumed under the court budget as traditional costs. And, wraparound services, such as medical care, employment training, vocational and educational counseling, housing, parenting classes, and childcare can be provided through resources administered by various state agencies.

- **Medicaid and Managed Care.** Medicaid, a State-administered medical services reimbursement program, has been used to cover treatment for DWI court participants. In some states, legislation has allowed for Medicaid reimbursement for all "court mandated" treatment services provided under the Medicaid system. In other states, county governments have provided funds to the state to match the federal Medicaid dollars. Courts have even been able to take advantage of some court discretionary funding to match Medicaid supported treatment.
- **Counties and Municipalities.** Some jurisdictions have successfully looked to local governments for funding. Judges have asked counties within the court's jurisdiction to provide a proportionate share of funding based on participants served from each county. Also, some municipalities and counties have been able to support DWI court models by reallocating other state or federal funds received by the county, or creating new funding streams to support the courts.

Counties have directed money from fines and forfeitures toward DWI court treatment programs. Other criminal justice system partners may also access limited funding. For example, Sheriffs Departments or other law enforcement agencies can contribute by dedicating staff or providing funds from the sale of confiscated property or may even donate confiscated vehicles for program transportation needs. Other ways in which City or County budgets can contribute is through the allocation of funds from fees collected through ordinances from traffic violations; doubling of the marriage license fees charged by the county and probate fees; and providing a greater share of sales tax revenues. Finally, at the community level, designated Drug Free Community Funds can be established to assist with program delivery and staffing.

- **Client fees.** Offender user fees can be utilized to support treatment, testing, supervision, and assessment. In the DWI population, clients tend to be higher functioning so the likelihood of their ability to pay is greater. Client and user fees are utilized not only to support the long term sustainability of the DWI court, but research has shown that by instilling responsibility in the client for their own treatment results in higher levels of engagement and completion. These fees may be imposed on a sliding scale or the clients may be given to the end of the program or the end of a probationary period to pay for their participation. Fees may also be reduced for clients who participate in extra treatment or support meetings, or who complete additional community service hours. There may also be monetary sanctions for missed groups that are given to a non-profit provider for the development of incentive systems. Requiring each participant to pay a fee (court costs and restitution) to help offset part of the cost of the program is not only a positive thing for participants, but it helps gain support from stakeholders, funding sources, the community, and victims groups.
- **Broader Fundraising Considerations.** DWI courts may also carry out fundraising to provide for operating costs, treatment, and behavioral incentives. To make fundraising a

viable and significant part of a financial support strategy, courts need to formalize and develop an infrastructure for fundraising. An effective fundraising strategy is based on comprehensive and systematic information, educating the public, and the development of relationships to build visibility and credibility. Fundraising tools include brochures, historical documents, and a case statement outlining program mission, vision and goals for the future, and clear evidence of effectiveness; and, this may be a resource that can be obtained *pro bono* from among the partners in the DWI court effort.

Local non-profit fundraisers can also improve awareness for DWI courts, and local media and public broadcasting stations can produce segments on these fundraisers. This type of free publicity can help educate the community and can be used as a marketing tool during formal solicitations.

DWI courts can also establish a non-profit organization under IRS tax code 501(c)3 to seek funding and to promote public awareness of this effective criminal justice system substance abuse approach. Forming a non-profit corporation to conduct fundraising activities may be worthwhile for several reasons, for example, the public may be more willing to donate to a non-profit organization; non-profit organizations enjoy certain legal and tax preferences (e.g., reduced postal rates); and non-profit organizations may be eligible to receive some gifts that the courts themselves might not. A DWI court established as a 501(c)3 non-profit can write grants for funding from foundations and other organizations and can become a United Way member agency, which can help build credibility.

- **Affiliations with Non-profit Organizations.** Affiliations with non-profit agencies can provide crucial support and resources for participants and programs. Non-profit organizations can solicit monetary and material donations or open special bank accounts as "pass-throughs" for donations for program operations or to cover extraordinary needs for program participants such as glasses, work uniforms, and other necessary items for clients in recovery. Non-profit organizations can also supply incentive items that have been donated such as cosmetics, clothing, photo albums, and cameras and can also be crucial in coordinating "donated treatment beds" and sober living homes from community treatment providers. These organizations may also assist with coordinating activities for participants such as attendance at cultural and civic events and gaining free YMCA memberships for drug court participants and their families.
- **Foundations, Service Organizations, and Private Businesses.** By demonstrating support from a variety of private sector businesses, a DWI court can become more competitive in traditional funding streams. In particular, granting agencies are interested in identifying innovative program partnerships with the ability to sustain the program long term. The existence of a partnership between a DWI court and a foundation or business can boost the court's ability to demonstrate sustainability to funding agencies.

By tapping into non-traditional areas of support, new funding streams can be identified, and non-monetary donations (as well as access to funding) can come as a result of new partnerships formed with foundations and community coalitions (e.g., with citizen's councils, with community anti-drug coalitions, and prevention groups). These groups can also provide resources for treatment or other necessary services, such as alcohol-free housing, or vocational-education programs. Other support can be garnered from local citizens organizations (e.g., the Rotary Club, Elks Lodge) and corporations (for example, Wal-Mart frequently provides matching funds for fundraisers and donates gift cards that can be used as incentives to recognize client achievements).

Foundations can also assist in the process of developing a fundraising plan, in identifying funding sources and in writing grant applications. They can help organize

letter-writing campaigns and develop newsletters, bulletins and list serves that communicate the research of effective court approaches and treatment to members of the community.

- **Partnering for Sustainability.** Partnerships and interagency cooperation not only provide necessary resources but also create the network of community and political support necessary to sustain the DWI court effort. Partners may provide staff, financial resources or in-kind services to the DWI court with the understanding that the involved offenders would be a responsibility of their agency in the absence of drug court. Other partners will link with the DWI court because they have an overlapping mission and see the court partnership as a means to enhance results.
  - **State Agency Partners.** The State Department of Health may enforce standards for substance abuse treatment or facilitate access to additional services such as communicable disease prevention or mental health treatment and may be able to assign case coordination providers to conduct on-site assessments, treatment planning, and help the DWI court work across systems. These workers may also assist in Medicaid eligibility determination, service and payment prior authorization, and reporting. The State's Division of Alcohol and Drug Abuse may provide state match for Medicaid and access to treatment financed by state funds and federal block grant resources. The State Medicaid agency is a key potential partner to assure that treatment provided to eligible participants is well coordinated and appropriate to their needs. While some states have drafted legislation to require Medicaid managed care organizations to provide covered services to court ordered participants, courts can also encourage managed care organizations to cooperate by reaching out to explain DWI court operations and requirements as well as how drug courts can improve treatment outcomes.

State entitlement agencies also provide important resources to DWI court participants. A well-coordinated working relationship can reduce cases closures during jail-sanctions as well as facilitate pretreatment and education programs that engage clients in treatment immediately while they are awaiting verification of eligibility.

- **Law Enforcement and Probation.** The relationship with law enforcement is critical to community credibility of the DWI court program. Beyond political support, building relationships with law enforcement can assist by conducting home-visit alcohol testing, setting up random checkpoints, and carrying out bar sweeps to identify noncompliant participants. Law enforcement and assigned supervision officers can work in conjunction by entering supervised person information into state and federal criminal information systems to alert officers running routine checks of active DWI court supervision and speed the process of serving warrants for program noncompliance.
- **Treatment Partners.** Courts working with treatment partners create the leverage that is one of the foundations of the success of the DWI court. Treatment providers can often enable DWI court participants to access Medicaid or other state financed treatment dollars for the client's treatment and mental health services. As DWI court systems engage larger numbers of participants they become major treatment referral sources. This may result in partnering treatment programs becoming more economically viable and better able to provide effective treatment
- **Community Organizations.** Community support for DWI courts requires an intensive educational effort and clear understanding of concerns for community safety. DWI

courts need to engage the community to serve on the advisory board, to volunteer in the program, or provide resources and opportunities for program participants. Such engagement may come from invitations to planning sessions, courtroom hearings, graduations, and alumni activities. DWI court team members can also join other community coalitions with common goals and purposes to the program. Existing support systems like DWI driving schools can assist the court by providing required DWI classes. Improved relationships with employment agencies can assist program participants in finding secure employment. DWI courts may also develop relationships with local colleges and universities to provide enhanced student services to potential applicants, and offer internship opportunities.

- **Media Partners.** Outreach and communication with various agencies and programs necessarily involves outreach to the media. DWI court practitioners must build a media strategy, including a crisis response plan, to ensure the communication of a positive image of the program's goals and achievements. Court program team members can increase community awareness and understanding by inviting not only the court staff and community leaders, but also the media, to planning sessions, courtroom hearings, graduations, and alumni events – the media will not only publicize the event, but will show that civic leaders support the DWI court and its programs by attending such events and interacting with participants. And, by developing a partnership with the media, when a critical incident does occur, the media will have an accurate knowledge base to report from. Additionally, the media can report on the positive achievements and benefits gained by participants in the program. This is an important partnership to forge as well since the media can help educate the community during such times when the court needs particular community backing (e.g., the passage of a special referendum or ballot initiative in support of the court). The media can also communicate research and evaluation results as well as individual success stories that powerfully personalize the pro-DWI court message and clearly demonstrate the value added to the community by the program.
- **Administration and Standards.** Integrating DWI courts into the fabric of public policy is a key long-term strategy for sustainability. Legislation or executive orders can legitimize administration, support permanent interagency cost-sharing, foster support in the legal community, enhance the use of best practices, build the necessary infrastructure, and ensure that programs reach capacity. Legislation can also formalize legal eligibility for program entry thereby reducing localized legal challenges, can clarify minimum standards of operation, and can clarify that DWI courts are officially sanctioned and can foster essential interagency collaboration to build effective systems.

States may support the stability of DWI courts by creating a state-level administrative authority to coordinate and oversee the courts. Such administrative entities may establish standards or guidelines for drug court operation, develop funding allocation and accountability mechanisms, receive and administer federal and other grants, develop statewide management information and evaluation systems, and work to develop necessary collaborative relationships. For example, some States have developed effective, voluntary certification of drug courts as a means of promoting best practices.

Local jurisdictions must also play an integral role in managing, staffing, and funding DWI court operations. Local communities and their elected officials have a key public safety responsibility, as well as access to community resources. In addition, they provide an important link to the relevant legislators for information and education on the impact of DWI courts at the

local level. Counties may also establish regional agreements with other areas as a way to share scarce resources.

- ***Team Engagement and Judicial Involvement.*** One of the most critical components of DWI court stability and sustainability is maintaining the ongoing commitment of the members of the DWI court multidisciplinary team by promoting a sense of accomplishment and a work experience based on mutual respect and accountability. Teams benefit from regular and on-going training, technical assistance, and encouragement.

Judicial leadership and willingness is universally acknowledged as a critical element of effective and sustained DWI court operations, both short-term and long-term. Operational effectiveness hinges on judicial involvement in providing direct client supervision, ongoing planning, resource development, and outcome tracking and information dissemination. And, effective judicial leadership can overcome bureaucracy and skepticism through both positional authority and personal relationships.

### ***Conclusion***

The sustainability of a DWI court program relies on ongoing strategic planning, which includes the continual development and strengthening of relationships with criminal justice and community partners, the establishment and dissemination of realistic and achievable operating standards, the engagement of all team members to work toward a common goal, the ability of the program to proactively address problems, and the identification of long-term sources of funding. Coming to be seen as an integral and proven approach to the DWI problem in the community, however, is the ultimate key to sustainability. This can be achieved by involving key stakeholders (at the community, media, and legislative levels) in program planning sessions, disseminating program success stories and publicizing findings from program evaluations, and keeping DWI court team members engaged and motivated to continue to help offender's achieve success throughout the program and beyond.

**PROGRESS HOUSE, INC.**

CHEMICAL DEPENDENCY TREATMENT

COUNSELING CENTER FEE SCHEDULE

Individual Sessions	\$75.00
1 hour session (Including Intake, Assessment, Collateral, One on One, Etc.)	
Group Sessions	\$35.00
1.5 hour session (Including Day Treatment, Phase I, Dual Diagnosis, Etc.)	

*\*\* Lower income individuals may qualify for sliding scale fees with proof of income.\*\**

SLIDING FEE SCALE

Gross Monthly Income	Number in Family					
	1	2	3	4	5	6
Under 800	<i>see application for indigent funding</i>					
800 - 999	10	10	10	10	10	10
1000 - 1199	15	15	10	10	10	10
1200 - 1399	20	20	15	15	10	10
1400 - 1599	25	25	20	20	15	15
1600 - 1799	30	30	25	25	20	20
1600 - 1999	35	35	30	30	25	25
1800 - 2199	40	40	35	35	30	30
2200 - 2399	45	45	40	40	35	35
2400 - 2599	50	50	45	45	40	40
2600 - 2799	55	55	50	50	45	45
2800 - 2999	60	60	55	55	50	50
3000 - 3199	65	65	60	60	55	55
3200 - 3399	70	70	65	65	60	60
3400 - 3599	75	75	70	70	65	65
3600 - 3799	80	80	75	75	70	70
3800 - 3999	85	85	80	80	75	75

The sliding fees listed above are for individual sessions and for clients enrolled in group sessions the above fee schedule is based on a weekly amount and will be adjusted to the number of group visits scheduled for a weeks period of time.

Updated 07/2007

**PROGRESS HOUSE COUNSELING CENTER**

***CONTRACT AGREEMENT FOR SELF PAY POLICY  
EFFECTIVE 07-09-2009***

I, \_\_\_\_\_, agree to attend and to self pay all appropriate fees initiated by Progress House, I further understand failure to render payment at the time of service will result in my inability to participate in that group at that time.

***I understand that failure to provide payment three consecutive times in a row will be a mandatory drop in treatment.***

\_\_\_\_\_  
Participant Signature / Date

\_\_\_\_\_  
Counselor Signature / Date



# DUI TREATMENT COURT

## TREATMENT AUTHORIZATION FORM

### EL DORADO COUNTY HEALTH SERVICES DEPARTMENT

TO:      PROGRESS HOUSE  
         2914 Cold Springs Road  
         Placerville, CA 95667  
         (530) 626-9240  
         FAX (530) 626-8992

Facility: \_\_\_\_\_  
Fax #    \_\_\_\_\_  
Contact: \_\_\_\_\_

Treatment Level: \_\_\_\_\_

**COURT NUMBER:** \_\_\_\_\_ **NAME:** \_\_\_\_\_ has been ordered to Alcohol/Drug Treatment under terms of the DUI Court program. He/She has been directed to contact the Provider indicated above to schedule an intake appointment, before **5:00** p.m. on \_\_\_\_\_.

- Initial 21-day Progress Report due:**
- Treatment Plan due:**
- 1<sup>st</sup> Quarterly Report due n/a.**

\_\_\_\_\_  
DUI Court Coordinator      Date  
(530) 621-6207

- The client failed to contact the Provider as directed.
- The client contacted the Provider, but failed to show for intake on \_\_\_\_\_.
- A second intake was set for \_\_\_\_\_. The client failed to show.
- Comments: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signed

EXHIBIT G

SERVICE REIMBURSEMENT SCHEDULE  
El Dorado County Health Services Department – Public Health Division  
Substance Abuse and other Therapeutic Counseling and Treatment Services

11.0891.H.278

Services will be billable based on the specific types of services defined in each agreement. All rates may not apply within each individual agreement depending on type of service needed and/or availability and criteria of funding source.

Pursuant to CA Health and Safety Code Section 11758.42(h)(1) "Reimbursement to narcotic treatment program providers shall be limited to the lower of either the uniform statewide daily reimbursement rate, pursuant to subdivision (c), or the provider's usual and customary charge to the general public for the same or similar service."

All charges shall be based on the Medi-Cal Reimbursement Rate in effect at the time of service.

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Definitions:

Program Code: 25 (Perinatal Services): Client must be pregnant and substance using; or parenting and substance using, with a child or children ages birth through 17 years. This includes a woman who is attempting to regain legal custody of her child(ren).

Program Code: 20 (Alcohol and Drug Services): All clients, not included under Program Code: 25 (Perinatal Services).  
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EXHIBIT G

Program Code: 20 (Alcohol and Drug Services)

Description	Unit of Service	Service Function Code/Rate	Service Definition
Outpatient Drug Free (ODF) Individual Counseling	50 Minutes	80-83	A face-to-face session between client and a therapist or counselor. Including, but not limited to: <ul style="list-style-type: none"> <li>• Dual Diagnosis</li> </ul>
Outpatient Drug Free (ODF) Group Session	1.5 Hours  Two or more clients at the same time.	85-88	A face-to-face session in which one or more therapists or counselors treat a group of clients (see criteria by category), focusing on the needs of the individuals served. Group sessions may include: <ul style="list-style-type: none"> <li>• Anger Management</li> <li>• Parenting</li> <li>• Dual Diagnosis</li> </ul>
Day Care Rehabilitative (DCR)	Two or more clients at the same time	30-38	Substance abuse counseling and rehabilitation services, lasting three or more hours, but less than 24 hours, per day, for three or more days per week.
Individual Assessment	50-60 Minutes	80-83	The evaluation or analysis of the cause or nature of mental, emotional, psychological, behavioral, and substance abuse disorders; the diagnosis of drug abuse disorders; and the assessment of treatment needs to provide medically necessary treatment services.
Intake	50 Minutes	80-83	The process of admitting a client into substance abuse treatment. Should include medical coverage evaluation, sliding fee scale determination, and other client demographic information.
Treatment Planning	50 Minutes	80-83	Collaborative session between program staff and client to identify problems, goals, action steps, and target dates as components of an individual's prescribed course of substance abuse treatment.

EXHIBIT G

Program Code: 20 (Alcohol and Drug Services)

Description	Unit of Service	Service Function Code/Rate	Service Definition
Discharge	50 Minutes	80-83	Face-to-face final collaborative session between program staff and client to reinforce newly developed recovery skills and develop a plan to maintain those skills upon conclusion of treatment.
Crisis Intervention	50 Minutes	80-83	Face-to-face contact between a program staff person and a client in crisis. Services provided must focus on alleviating the crisis problem. Crisis means an unforeseen event or circumstance which presents an imminent threat of relapse, or actual relapse, to the client.
Case Management	50 Minutes	80-83	Activities involved in the integrating and coordinating of all necessary services to ensure successful treatment and recovery. This involves managing multiple clients and is limited to four (4) episodes per month. Not billable per client.
Transitional House (per day)		\$17.50 per day	A clean and sober living environmental meeting the requirements of the California Association of Recovery Homes.
Residential Treatment (per bed day)		Up to \$92.00 per day	The actual rate will be negotiated between the purchaser and the vendor. The delivery of services to males and females in an inpatient setting. Program should consist of group education and counseling, drug screening, individual counseling, treatment planning and introduction to support programs such as AA / NA.
Collaborative Case Management and Court Sessions		Up to \$60.00 per hour	Attendance at: <ul style="list-style-type: none"> <li>• Case Management Conference</li> <li>• Drug Court Session</li> </ul>
Substance Abuse Testing and Miscellaneous Fixed Rates		\$30.00 per test	Urinalysis substance abuse testing
		Ethyl glucuronide testing (aka EtG testing)	
		Hair strand testing	
		H.E.A.R.T.S.	
		\$40.00 per test	HIV Test Pre and Post Counseling Services

EXHIBIT G

Program Code: 25 (Perinatal Services)

Description	Unit of Service	Service Function Code/Rate	Service Definition
Outpatient Drug Free (ODF) Individual Counseling	50 Minutes	80-83	A face-to-face session between client and a therapist or counselor. Including, but not limited to: <ul style="list-style-type: none"> <li>• Dual Diagnosis</li> </ul>
Outpatient Drug Free (ODF) Group Session	1.5 Hours Two or more clients at the same time.	85-88	A face-to-face session in which one or more therapists or counselors treat a group of clients (see criteria by category), focusing on the needs of the individuals served. Group sessions may include: <ul style="list-style-type: none"> <li>• Anger Management</li> <li>• Parenting</li> <li>• Dual Diagnosis</li> </ul>
Day Care Rehabilitative (DCR)	Two or more clients at the same time	30-38	Substance abuse counseling and rehabilitation services, lasting three or more hours, but less than 24 hours, per day, for three or more days per week.
Individual Assessment	50-60 Minutes	80-83	The evaluation or analysis of the cause or nature of mental, emotional, psychological, behavioral, and substance abuse disorders; the diagnosis of drug abuse disorders; and the assessment of treatment needs to provide medically necessary treatment services.
Intake	50 Minutes	80-83	The process of admitting a client into substance abuse treatment. Should include medical coverage evaluation, sliding fee scale determination, and other client demographic information.
Treatment Planning	50 Minutes	80-83	Collaborative session between program staff and client to identify problems, goals, action steps, and target dates as components of an individual's prescribed course of substance abuse treatment.

EXHIBIT G

Program Code: 25 (Perinatal Services)

Description	Unit of Service	Service Function Code/Rate	Service Definition
Discharge	50 Minutes	80-83	Face-to-face final collaborative session between program staff and client to reinforce newly developed recovery skills and develop a plan to maintain those skills upon conclusion of treatment.
Crisis Intervention	50 Minutes	80-83	Face-to-face contact between a program staff person and a client in crisis. Services provided must focus on alleviating the crisis problem. Crisis means an unforeseen event or circumstance which presents an imminent threat of relapse, or actual relapse, to the client.
Case Management	50 Minutes	80-83	Activities involved in the integrating and coordinating of all necessary services to ensure successful treatment and recovery. This involves managing multiple clients and is limited to four (4) episodes per month. Not billable per client.
Transitional House (per day)		\$17.50 per day	A clean and sober living environmental meeting the requirements of the California Association of Recovery Homes.
Residential Treatment (per bed day)		Up to \$92.00 per day	The actual rate will be negotiated between the purchaser and the vendor. The delivery of services to females in an inpatient setting. Program should consist of group education and counseling, drug screening, individual counseling, treatment planning and introduction to support programs such as AA / NA.
Collaborative Case Management and Court Sessions		Up to \$60.00 per hour	Attendance at: <ul style="list-style-type: none"> <li>• Case Management Conference</li> <li>• Drug Court Session</li> </ul>
Substance Abuse Testing and Miscellaneous Fixed Rates		\$30.00 per test	Urinalysis substance abuse testing
		\$40.00 per test	Ethyl glucuronide testing (aka EtG testing)
		\$95.00 per test	Hair strand testing
		\$28.00 per hour	H.E.A.R.T.S.
		\$40.00 per test	HIV Test Pre and Post Counseling Services

# FINANCIAL ASSESSMENT

\*\*\*Complete if any indigent/public funding is to be used\*\*\*

Name \_\_\_\_\_ Date \_\_\_\_\_

Social Security #: \_\_\_\_\_

Past/Present Employer: \_\_\_\_\_ Monthly Income \_\_\_\_\_

Significant other's Employer: \_\_\_\_\_ Monthly Income \_\_\_\_\_

Do you qualify for: (If yes, how much?)

Veteran's Assistance \_\_\_\_\_ TANF \_\_\_\_\_

Unemployment Benefits \_\_\_\_\_ SDI \_\_\_\_\_

Pension \_\_\_\_\_ SSI \_\_\_\_\_

Family Members \_\_\_\_\_ Other \_\_\_\_\_

Money Available:

- a) Income tax refund due \_\_\_\_\_
- b) Cash on hand \_\_\_\_\_
- c) Cash in bank \_\_\_\_\_
- d) Stocks, Bonds, etc. \_\_\_\_\_
- e) Money owed to you by others/employers \_\_\_\_\_

Vehicles you own:

Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_ Value \_\_\_\_\_

How much money is being put down by or for this person? \_\_\_\_\_

Who put down the money/where did it come from?

Name \_\_\_\_\_ Relationship \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

*All resources have been explored, client has no available funding.*

Staff Signature \_\_\_\_\_ Date \_\_\_\_\_

I CERTIFY THE ABOVE IS TRUE AND CORRECT. I DO NOT HAVE THE ABILITY TO PAY FOR MY (\_\_\_\_\_) RECOVERY PROGRAM AT PROGRESS HOUSE; (\_\_\_\_\_) I DO HAVE THE ABILITY TO PAY \$ \_\_\_\_\_ PER MONTH FOR MY RECOVERY PROGRAM AT PROGRESS HOUSE.

Client Signature \_\_\_\_\_ Date \_\_\_\_\_

