

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>.

<b>Reporting Periods</b>	<b>Due Dates</b>
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