

2017 FEDERAL REQUIREMENTS

Revised 10/25/17 – see revisions in red

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1. ENSURING COMPLIANCE OF SUBGRANTEES (SUBRECIPIENTS)

Grantee is responsible for notifying any subgrantee (subrecipient), issued under this grant, of all provisions herein. Grantee is responsible for monitoring any subgrantee (subrecipient) for compliance all the provisions herein.

2. GENERAL CONDITIONS

A. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the grantee that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP"), the Office on Violence Against Women (OVW), or the Division of Criminal Justice (DCJ) taking appropriate action with respect to the grantee and the award. Among other things, the OJP, OVW and/or DCJ may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP and OVW, and DCJ also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or [42 U.S.C. 3795a](#)), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

Revision 10/25/17:

- [Section 3795](#) was editorially reclassified as [section 10271](#) of Title 34, Crime Control and Law Enforcement.

B. Applicability of Part 200 Uniform Requirements

Grantee agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2017 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP and OVW awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>, or the OVW website at <https://www.justice.gov/ovw/grantees>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP or OVW that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the grantee is to contact DCJ promptly for clarification.

C. Compliance with DOJ Grants Financial Guide

The grantee agrees to comply with the DOJ Grants Financial Guide as posted on the [Office of Justice Programs](#) (OJP) or [the Office on Violence Against Women \(OVW\)](#) websites (currently, the "2015 DOJ Grants Financial Guide"), including any updated version that may be posted during the period of performance.

D. Requirements related to "de minimis" indirect cost rate

A grantee that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

E. Requirement to report potentially duplicative funding

If the grantee currently has other active awards of federal funds, or if the grantee receives any other award of federal funds during the period of performance for this award, the grantee promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the grantee must promptly notify DCJ in writing of the potential duplication, and, if so requested by DCJ, must seek a budget-modification and/or change in Statement of Work and/or change in Statement of Work to eliminate any inappropriate duplication of funding.

F. Requirements related to System for Award Management and Universal Identifier Requirements

The grantee must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

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The grantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the grantee) the unique entity identifier required for SAM registration.

The details of the grantee's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> and OVW's website <https://www.justice.gov/ovw/grantees> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

G. All subawards ("subgrants") must have DCJ authorization

The grantee, and any subrecipient ("subgrantee") at any tier, must seek approval from DCJ for authorization of any subaward.

H. Specific post-award approval required to use a noncompetitive approach in any procurement contract

The grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP or OVW considers a procurement "contract" (and therefore does not consider a subaward).

I. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP or OVW authority to terminate award)

The grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of grantees, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the grantee or of any subrecipient.

The details of the grantee's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> or OVW web site at <https://www.justice.gov/ovw/grantees> (Award condition: Prohibited conduct by grantees and subrecipients related to trafficking in persons (including reporting requirements and OJP or OVW authority to terminate award)), and are incorporated by reference here.

J. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ),

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including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

OVW funded grants only: OVW has established guidelines and policies to help recipients of OVW grants and cooperative agreements in planning meetings and conferences. The documents listed below are designed to help minimize costs of conferences funded by OVW and to provide tips for expediting the approval process for conferences funded under OVW cooperative agreements.

- [OVW Conference Costs Guidelines](#) (PDF)
- [OVW Instructions for DOJ-Sponsored Conference Request and Report Form](#) (PDF), Oct 2016
- [DOJ-Sponsored Conference Request and Report Form](#) (Download Excel file)
- [What's Delaying Your Conference Request and Other Frequently Asked Questions](#) (PDF), 2014

K. Requirement for data on performance and effectiveness under the award

The grantee and subrecipients ("subgrantees") must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to DCJ and/or DOJ in the manner (including within the timeframes) specified by DCJ in applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

Recipients of OVW grant dollars Under the Government Performance and Results Act (GPRA), VAWA 2000 and subsequent legislation grantees and subgrantees are required to collect the information that is included on the Measuring Effectiveness Progress Reports for the OVW Program under which this award is funded.

L. Training Guiding Principles

Any training or training materials that the grantee -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP or OVW award funds must adhere to federal awarding agency (OJP or OVW, as appropriate) training guidelines. The OJP Training Guiding Principles for Grantees and Subgrantees, are available at <https://ojp.gov/funding/ojptrainingguidingprinciples.htm>, and the OVW Training Guiding Principles for Grantees and Subgrantees, are available at <https://www.justice.gov/ovw/grantees>.

M. Effect of failure to address audit issues

The grantee understands and agrees that DCJ or the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DCJ or the DOJ awarding agency) the grantee does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

N. Potential imposition of additional requirements

The grantee agrees to comply with any additional requirements that may be imposed by DCJ during the period of performance for this award, if the grantee is designated as "high-risk".

O. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

P. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

Q. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to grantee and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to grantees and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

R. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP or OVW may not be used by the grantee, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

OVW funded grants only: The grantee, or any subrecipient ("subgrantee") may, however, use federal funds to collaborate with and provide information to federal, state, local, tribal and territorial public officials and agencies to develop and

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implement policies and develop and promote state, local, or tribal legislation or model codes designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking (as those terms are defined in 42 U.S.C. 13925(a)) when such collaboration and provision of information is consistent with the activities otherwise authorized under this grant program.

Revision 10/25/17:

- **Section 13925 was editorially reclassified as section 12291 of Title 34, Crime Control and Law Enforcement. Replace 42 USC 13925(a) with 34 USC 12291(a).**

Another federal law generally prohibits federal funds awarded by OJP or OVW from being used by the grantee, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a grantee (or subrecipient) would or might fall within the scope of these prohibitions, the grantee is to contact DCJ for guidance, and may not proceed without the express prior written approval of DCJ.

S. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2017)

The grantee, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2017, are set out below, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a grantee (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the grantee is to contact DCJ for guidance, and may not proceed without the express prior written approval of DCJ.

Restrictions applicable to all federal funds awarded in FY2017

(1) **Publicity or propaganda.** Federal funds are not legally available, and may not be used (whether directly or indirectly, including by private contractors), for publicity or propaganda purposes not authorized by the Congress.

(2) **Certain employee trainings.** Federal funds are not legally available, and may not be used, for any employee training that--

(a) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(b) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

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- (c) does not require prior employee notification of the content and methods to be used in the training and written end-of-course evaluation;
- (d) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or
- (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

Nothing in this provision prohibits, restricts, or otherwise precludes an agency from conducting training bearing directly upon the performance of official duties.

(3) Nondisclosure policies, forms, and agreements.

- (a) General rule - Federal funds are not legally available, and may not be used, to implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following provisions:

"These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing [federal] statute or Executive order relating to: (1) classified information; (2) communications to Congress; (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and [federal] statutory provisions are incorporated into this agreement and are controlling."

Notwithstanding the above provision, a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the United States Department of Justice, that are essential to reporting a substantial violation of law.

- (b) Certain exceptions. Under certain circumstances, a nondisclosure agreement that does not contain the provisions set out in subsection (a) above nevertheless may continue to be implemented and enforced. Should a question arise as to whether an exception to the general rule set out in subsection (a) may be available for a particular nondisclosure agreement, the recipient is to contact OJP for guidance, and the recipient may not use federal funds to implement, continue to implement, or enforce the nondisclosure agreement without the express prior written approval of OJP.

(4) ACORN and related organizations. Absent express prior written approval from OJP, federal funds may not be provided to the Association of Community Organizations for

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Reform Now (ACORN), or any of its affiliates, subsidiaries, allied organizations, or successors.

T. Reporting potential fraud, waste, and abuse, and similar misconduct

The grantee, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates 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.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oig.hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://www.usdoj.gov/oig>.

U. Restrictions and certifications regarding non-disclosure agreements and related matters

No grantee or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the grantee--
 - (a) represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - (b) certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

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2. If the grantee does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--
 - (a) it represents that—
 - (1) it has determined that no other entity that the grantee's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - (2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
 - (b) it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

V. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The grantee (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The grantee also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the grantee is to contact DCJ or the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

W. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages grantees and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

3. FINANCIAL REQUIREMENTS

A. Non-supplanting of State and local funds

Supplanting arises when a State or unit of local government reduces State or local funds for an activity specifically because federal funds are available (or are expected to be available) to fund that same activity. Federal funds must be used to supplement existing State or local funds for program activities, and may not replace (that is, may not "supplant") State or local funds that have been appropriated or allocated for the same purpose. Additionally, federal funding may not replace State or local funding that is required by law.

When supplanting is prohibited, potential supplanting will be the subject of DCJ and OJP monitoring and audit. Should a question of supplanting arise, the applicant or grantee will be required to substantiate that any reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

B. Awards in excess of \$5,000,000 - Certification related to federal taxes

A prospective grantee of an OJP award in excess of \$5,000,000 may be required to submit a particular certification concerning filing of federal tax returns, criminal convictions under the Internal Revenue Code, and unpaid federal tax assessments. In such cases, no award funds may be used until OJP receives a satisfactory certification.

4. CIVIL RIGHTS REQUIREMENTS ASSOCIATED WITH OJP AWARDS

The Grantee hereby agrees that it will comply, and all of its recipients ("subgrantees") will comply, with the applicable provisions of:

A. Civil rights laws and nondiscrimination provisions

States and units of local government, public and nonprofit institutions of higher education, nonprofit organizations, for-profit businesses, and other recipients of OJP grants and cooperative agreements may be subject to various federal civil rights laws for reasons other than their receipt of OJP funds. Some examples include federal civil rights laws related to discrimination on the basis of race, color, national origin, sex, religion, or disability.

Because an OJP award (that is, an OJP grant or cooperative agreement) is a form of "federal financial assistance," the recipient of an OJP award (and any "subrecipient" at any tier) must comply with additional civil-rights-related requirements above and beyond those that otherwise would apply.

In general, these additional requirements fall into one of two categories:

1. Civil rights laws (sometimes referred to as "cross-cutting" federal civil rights statutes). These apply to essentially any entity that receives an award of federal financial assistance -- regardless of which federal agency awards the grant or cooperative agreement -- and encompass the "program or activity" funded in whole or in part with the federal financial assistance.
2. Nondiscrimination provisions. These are requirements or restrictions that apply to certain OJP awards -- in addition to the civil rights laws -- because they are set out in a statute that applies specifically to one or more particular OJP grant programs,

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or to OJP awards made under a particular legal authority. Much like the civil rights laws, these provisions apply variously to the programs, activity, or undertaking funded in whole or in part by OJP, and are described herein.

- a. Such nondiscrimination provisions apply to some, but not all, OJP grant programs.
- b. The nondiscrimination provisions that apply to an OJP award (above and beyond the requirements in "cross-cutting" civil rights laws) may vary from award to award, even for awards made during the same fiscal year.
- c. Typically, no more than one of these nondiscrimination provisions will apply to any particular OJP award.

General information on the civil rights laws that apply to every OJP award, and on the nondiscrimination provisions that apply to some OJP awards, is available at <https://ojp.gov/about/ocr/statutes.htm>

NOTE: As discussed in more detail below, if a civil rights law or nondiscrimination provision prohibits discrimination in employment on the basis of religion, the prohibition is read together with the provisions of the Religious Freedom Restoration Act of 1993.

B. Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with DOJ 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). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website <http://www.lep.gov>.

C. Ensuring Equal Treatment for Faith-Based Organizations

The DOJ regulation, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38, prohibits faith-based organizations from using financial assistance from the DOJ to fund inherently (or explicitly) religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must hold them separately from the program funded by the DOJ, and recipients cannot compel beneficiaries to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the DOJ 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 the OCR's website at http://www.ojp.usdoj.gov/about/ocr/equal_fbo.htm.

Faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, [42 U.S.C. § 3789d\(c\)](#); the Victims of Crime Act of 1984, as amended, 42 U.S.C. § 10604(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, [42 U.S.C. § 5672\(b\)](#); and VAWA, Pub. L. No. 113-4, sec. 3(b)(4), 127 Stat. 54, 61-62 (to be codified at [42 U.S.C. § 13925\(b\)\(13\)](#)) contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the

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Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment.

Revision 10/25/17:

- Section 3789 was editorially reclassified as section 10228 of Title 34, Crime Control and Law Enforcement.
- Section 13925 was editorially reclassified as section 12291 of Title 34, Crime Control and Law Enforcement. Replace 42 USC 13925(a) with 34 USC 12291(a).
- Section 5672 was editorially reclassified as section 11182 of Title 34, Crime Control and Law Enforcement.

D. Ensuring Access to Federally Assisted Programs

Federal laws that apply to recipients of financial assistance from the DOJ prohibit discrimination on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in employment but also in the delivery of services or benefits. A federal law also prohibits recipients from discriminating on the basis of age in the delivery of services or benefits.

In March of 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. The statute amends the Violence Against Women Act of 1994 (VAWA) by including a nondiscrimination grant condition that prohibits discrimination based on actual or perceived race, color, national origin, religion, sex, disability, sexual orientation, or gender identity. The new nondiscrimination grant condition applies to certain programs funded after October 1, 2013. The OCR and the OVW have developed answers to some frequently asked questions about this provision to assist recipients of VAWA funds to understand their obligations. The Frequently Asked Questions are available at <http://ojp.gov/about/ocr/vawafaqs.htm>.

E. 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 prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the 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 opportunity standards.

F. Using Arrest and Conviction Records in Making Employment Decisions

The OCR issued an advisory document for recipients on the proper use of arrest and conviction records in making hiring decisions. See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and

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Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at http://www.ojp.usdoj.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf. Recipients should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory, recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOPs) (see below).

G. Complying with the Safe Streets Act

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEOP (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)).

H. Meeting the EEOP Requirement

If your organization has less than fifty employees or receives an award of less than \$25,000 or is a nonprofit organization, a medical institution, an educational institution, or an Indian tribe, then it is exempt from the EEOP requirement. To claim the exemption, your organization must complete and submit Section A of the Certification Form, which is available online at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

If your organization is a government agency or private business and receives an award of \$25,000 or more, but less than \$500,000, and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form), but it does not have to submit the report to the OCR for review. Instead, your organization has to maintain the Utilization Report 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 the OCR. The Certification Form is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

If your organization is a government agency or private business and has received an award for \$500,000 or more and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form) and submit it to the OCR for review within sixty days from the date of this letter. For assistance in developing a Utilization Report, please consult the OCR's website at <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>. In addition, your organization has to complete Section C of the Certification Form and return it to the OCR. The Certification Form is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

To comply with the EEOP requirements, you may request technical assistance from an EEOP specialist at the OCR by telephone at (202) 307-0690, by TTY at (202) 307-2027, or by e-mail at EEOsubmit@usdoj.gov.

I. Meeting the Requirement to Submit Findings of Discrimination

If in the three years prior to the date of the grant award, your organization has received an adverse finding of discrimination based on race, color, national origin, religion, or sex, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the OCR.

J. Ensuring the Compliance of Subrecipients/Subgrantees

SAs must have standard assurances to notify subrecipients of their civil rights obligations, written procedures to address discrimination complaints filed against subrecipients, methods to monitor subrecipients' compliance with civil rights requirements, and a program to train subrecipients on applicable civil rights laws. In addition, SAs must submit to the OCR every three years written Methods of Administration (MOA) that summarize the policies and procedures that they have implemented to ensure the civil rights compliance of subrecipients. For more information on the MOA requirement, see http://www.ojp.usdoj.gov/funding/other_requirements.htm.

If the OCR can assist you in any way in fulfilling your organization's civil rights responsibilities as a recipient of federal financial assistance, please contact us.