

2018 – Project Safe Neighborhoods (PSN) Special Conditions

The following program specific requirements are imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements. These requirements apply to Grantees and must be passed on to subgrant award recipients.

1. The grantee agrees to submit to DCJ for review and approval any curricula, training materials, proposed publications, reports, or any other written materials that will be published, including web-based materials and web site content, through funds from this grant at least thirty (30) working days prior to the targeted dissemination date. Any written, visual, or audio publications, with the exception of press releases, whether published at the grantee's or government's expense, shall contain the following statements: "This project was supported by Grant No. **2018-GP-BX-0037** awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice." The current edition of the DOJ Grants Financial Guide provides guidance on allowable printing and publication activities.
2. The grantee agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.
3. With respect to this award, federal funds may not be used to pay cash compensation (salary plus bonuses) to any employee of the award grantee at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award grantee may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.)

This limitation on compensation rates allowable under this award may be waived on an individual basis at the discretion of DCJ.

4. Verification and updating of Project Officials

Grantee must maintain its Project Director, Financial Manager, and Authorized Representative (Signature Authority), including telephone number and e-mail address. If any information is incorrect or has changed, a Change in Project Official (DCJ Form 4-B) must be submitted to DCJ within 15 days of project official change.

5. A Grantee understands and agrees that it must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through GMS (<https://grants.ojp.usdoj.gov>), and that it must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (<https://bjapmt.ojp.gov/>). For more detailed information on reporting and other requirements, refer to BJA's website. Failure to submit required reports by established deadlines may result in the freezing of grant funds and High Risk designation.
6. Required attendance at BJA-sponsored events

The grantee (and its subgrantees at any tier) must participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon DCJ's and/or BJA's request.

7. Cooperating with DCJ and OJP Monitoring

The grantee agrees to cooperate with the Division of Criminal Justice (DCJ) and/or Federal Office of Justice Programs (OJP) monitoring of this award pursuant to DCJ's and/or OJP's guidelines, protocols, and procedures, and to cooperate with DCJ and/or OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The grantee agrees to provide to DCJ and/or OJP all documentation necessary for DCJ and/or OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the grantee agrees to abide by reasonable deadlines set by DCJ and/or OJP for providing the requested documents. Failure to cooperate with DCJ and/or OJP's monitoring activities may result in actions that affect the grantee's DCJ and/or DOJ awards, including, but not limited to: withholdings and/or other restrictions on the grantee's access to award funds; referral to the DOJ OIG for audit review; designation of the grantee as a DCJ and/or DOJ High Risk grantee; or termination of an award(s).

8. The award grantee agrees to participate in a data collection process measuring program outputs and outcomes. The data elements for this process will be outlined by the Office of Justice Programs.

9. Protection of human research subjects

The grantee (and any subgrantee at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

10. Confidentiality of data

The grantee (and any subgrantee at any tier) must comply with all confidentiality requirements of 42 U.S.C. 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The grantee further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

11. Copyright; Data rights

The grantee acknowledges that DCJ and OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward (at any tier); and (2) any rights of copyright to which a grantee or subgrantee (at any tier) purchases ownership with Federal support.

The grantee acknowledges that DCJ and OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under any such award or subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data - General).

It is the responsibility of the grantee (and of each subgrantee (at any tier), if applicable) to ensure that the provisions of this condition are included in any subaward (at any tier) under this award.

The grantee has the responsibility to obtain from subgrantees, contractors, and subcontractors (if any) all rights and data necessary to fulfill the grantee's obligations to the Government under this award. If a proposed subgrantee, contractor, or subcontractor refuses to accept terms affording the Government such rights, the grantee shall promptly bring such refusal to the attention of the DCJ program manager for the award and not proceed with the agreement in question without further authorization from DCJ.

12. Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service:

"This Web site is funded **[insert "in part," if applicable]** through a grant from the **[insert name of OJP component]**, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)."

The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.

13. Applicants must certify that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP).

To ensure compliance with Title VI and the Safe Streets Act, grantees are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them comply with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov.

14. PSN Conflict of Interest

The grantee agrees to secure and maintain on file signed statements by each member of the selection committee appointed by the United States Attorney or the PSN Task Force indicating that in making recommendations or decisions regarding contracts or subgrants paid for by this grant, the member had no conflict of interest. Such statements must include all of the language included in the PSN Conflict of Interest Certification, however, the grantee may use a different format or may add other related certifications of their own.

15. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by DCJ prior to obligation or expenditure of such funds

16. The grantee agrees to submit to DCJ for review and approval, any proposal or plan for Project Safe Neighborhoods media-related outreach. DCJ approval must be received prior to any obligation or expenditure of grant funds related to the development of media-related outreach projects.

17. Required monitoring of subawards

The grantee must monitor subawards under this JAG award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the grantee is responsible for oversight of subgrantee spending and monitoring of specific outcomes and benefits attributable to use of award funds by subgrantees. The grantee agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

18. Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373; ongoing compliance

1. With respect to the "program or activity" funded in whole or part under this award (including any such program or activity of any subgrantee at any tier), throughout the period of performance, no State or local government entity, - agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in 8 U.S.C. 1373(b). Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. Certifications from subgrantees. The grantee may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the government or educational institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Also, the grantee must require that no subgrantee (at any tier) may make a further subaward to a State, a local government, or a public institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the government or institution that would receive the further subaward, using the appropriate OJP form.

3. The grantee's monitoring responsibilities include monitoring of subgrantee compliance with the requirements of this condition.

4. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the grantee, or any subgrantee at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

5. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means under 8 U.S.C. 1373; and terms defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa (cf. 34 U.S.C. 10251(a)(2)).

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any grantee, any subgrantee at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.

IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to DCJ, before award acceptance.

19. Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement (8 U.S.C. 1373); unallowable costs; notification

1. If the grantee is a "State," a local government, or a "public" institution of higher education:

A. The grantee may not obligate award funds if, at the time of the obligation, the "program or activity" of the grantee (or of any subgrantee at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. Any drawdown of award funds by the grantee shall be considered, for all purposes, to be a material representation by the grantee to DCJ that, as of the date the grantee requests the drawdown, the grantee and each subgrantee (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and ongoing compliance."

C. The grantee must promptly notify DCJ (in writing) if the grantee, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the grantee, or of any subgrantee at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subgrantee that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward, should the subgrantee have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subgrantee that is a State, a local government, or a public institution of higher education must provide that the subgrantee may not obligate award funds if, at the time of the obligation, the program or activity of the subgrantee (or of any further such subgrantee at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the grantee at the time of a subgrantee's minor and transitory non-compliance, which was unknown to the grantee despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the grantee that demonstrates diligent monitoring of subgrantee compliance with the requirements set out in the "Noninterference ... 8 U.S.C. 1373 and ongoing compliance" award condition.

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... 8 U.S.C. 1373 and ongoing compliance" award condition.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... 8 U.S.C. 1373 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.

20. Categorical Exclusion for Colorado Department of Public Safety

The FY18 Project Safe Neighborhoods Initiative, represents a strategic approach that brings more “science” into criminal justice operations by leveraging innovative applications of analysis, technology, and evidence-based practices with the goal of improving performance and effectiveness while containing costs while addressing crime associated with gun crime and gang violence. Awards under this program will implement the five core elements of PSN— partnerships, strategic planning and research integration, training and technical assistance outreach, and accountability, data analysis, and data-informed efforts —to address specific gun crime and gang violence problems in that district.

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

- 1) New construction;
- 2) Any renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year flood plain;
- 3) A renovation which will change the basic prior use of a facility or significantly change its size;
- 4) Research and technology whose anticipated and future application could be expected to have an effect on the environment; or
- 5) Implementation of a program involving the use of chemicals.

Consequently, the subject federal action meets OJP's criteria for a categorical exclusion as contained in paragraph 4(b) of Appendix D to Part 61 of the Title 28 of the Code of Federal Regulations. Additionally, the proposed action is neither a phase nor a segment or a project which when viewed in its entirety would not meet the criteria for a categorical exclusion.

21. Grantees agree to fully cooperate with the Colorado Project Safe Neighborhoods (PSN) research partner.