DEPARTMENT OF JUSTICE

ASSISTANCE LISTING 16.034 CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING

I. PROGRAM OBJECTIVES

The Coronavirus Emergency Supplemental Funding (CESF) program provides funding to assist eligible states, units of local government, and federally recognized tribal governments in preventing, preparing for, and responding to the coronavirus. Allowable projects and purchases include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

II. PROGRAM PROCEDURES

States, US territories, the District of Columbia, units of local government, and federally recognized tribal governments that were identified as eligible for funding under the fiscal year (FY) 2019 state and local Edward Byrne Memorial Justice Assistance Grant (JAG) program are eligible to apply under Coronavirus Emergency Supplemental Funding Program Solicitation. The solicitation is located at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/bja-2020-18553.pdf.

Note: Only the state administering agency (SAA) that applied for FY 2019 JAG funding for a state/territory may apply for the state allocation of CESF funding.

In general, CESF allocations were calculated by proportionally increasing the allocations available under the FY 2019 JAG program to align with the CESF appropriation amount. The JAG-specific provision requiring “disparate jurisdictions” to choose a single fiscal agent to apply on behalf of each of the disparate jurisdictions does not apply to the CESF program. Instead, each “disparate” unit of local government under FY 2019 JAG (including those that were identified as “zero-county disparates”) will be eligible for a direct award under CESF. In order to ensure that zero-county disparates receive funding under CESF, the portion of funds for units of local government that were eligible to receive less than $10,000 under FY 2019 JAG (an amount that is added to state awards under JAG) was divided equally among the zero-county disparates. The DOJ Grants Financial Guide, which contains information on allowable costs, methods of payment, procurement, audit requirements, accounting systems, and financial records, is available on the Office of Justice programs (OJP) web site at https://www.ojp.gov/funding/financialguidedoj/overview.

Source of Governing Requirements
The CESF program is authorized by Division B of HR 748, Pub. L. No. 116-136 (Emergency Appropriations for Coronavirus Health Response and Agency Operations), 28 USC 530C.

Availability of Other Program Information
Program guidance, including program statutes and other general information about the program, is posted to the Bureau of Justice Assistance (BJA) web page (https://www.bja.gov), specifically at https://bja.ojp.gov/program/cesf/overview. In addition, the BJA FY 2020 Coronavirus Emergency Supplemental Funding Program Frequently Asked Questions (FAQs) document at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/cesf-faqs.pdf provides guidance on allowable costs and other topics. The DOJ Grants Financial Guide, which contains information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records, is available on the Office of Justice Programs (OJP) web site at http://ojp.gov/financialguide/DOJ/index.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status Discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Funds awarded under the CESF program must be utilized to prevent, prepare for, or respond to the coronavirus. Allowable projects and purchases include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, and sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

See the CESF solicitation at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/bja-2020-18553.pdf, as well as the BJA CESF FAQs at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/cesf-faqs.pdf for more detailed information about activities allowed.

2. *Activities Unallowed*

In addition to the unallowable costs that are identified in the DOJ Grants Financial Guide at http://ojp.gov/financOMBialguide/DOJ/index.htm, the use of BJA grant funds for unmanned aircraft systems (UAS), including unmanned aircraft vehicles (UAV), and all accompanying accessories to support UAS or UAV is unallowable.

C. Cash Management

Eligible states (or SAAs) or units of local government may draw down funds either in advance or on a reimbursable basis. To draw down in advance, funds must be placed in an interest-bearing account, unless one of the exceptions in 2 CFR section 200.305(b)(8) apply. This interest-bearing account must allow for sufficient tracking and traceability of CESF program award funds (see, e.g., 2 CFR 200.302). It is not necessary that the interest-bearing account be a “trust fund.”

Special Condition #40 of each award states, “Establishment of interest-bearing account. If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish an interest-bearing account dedicated specifically to this award. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts unless regulatory exclusions apply (2 CFR 200.305(b)(8)). The award funds, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Coronavirus Emergency Supplemental Funding (CESF) program. The recipient also agrees to obligate the award funds in the account (including any interest earned) during the period of performance for the award and expend within 120 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.”

G. Matching, Level of Effort, Earmarking

Funds may not be used for direct administrative costs that exceed 10 percent of the total award amount, and funds may not be used to supplant state or local funds, but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available.

I. Procurement and Suspension and Debarment

Individual items costing $500,000 or more require prior approval.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF JUSTICE

ASSISTANCE LISTING 16.710 PUBLIC SAFETY PARTNERSHIP AND COMMUNITY POLICING GRANTS

I. PROGRAM OBJECTIVES

The Office of Community Oriented Policing Services (COPS Office) grant programs provide state, local, territorial, and tribal law enforcement agencies, as well as other public, private, and nonprofit entities, with resources to address law enforcement needs with a focus on advancing public safety through the implementation of community policing strategies. These strategies are focused on three primary elements of community policing: (1) developing community/law enforcement partnerships; (2) developing problem solving and innovative approaches to crime issues; and (3) implementing organizational transformation to build and strengthen community policing capacity.

II. PROGRAM PROCEDURES

A. Overview

COPS Office awards are made to law enforcement agencies, large and small, across the country as well as other public, private, and nonprofit entities. The overall intent of the grant programs is to help support and develop community policing capacity and practices that will advance public safety.

COPS Office awards provide funds for personnel, technology, equipment, training and technical assistance, and innovative community policing strategies. The two main categories of awards are hiring and non-hiring.

B. Subprograms/Program Elements

1. *Hiring Awards*

There are two types of hiring awards actively managed within the COPS Office:

a. COPS Hiring Program (CHP) awards, which provide funding directly to state, local, territorial, and tribal law enforcement agencies to hire new and/or rehire full-time career law enforcement officers to increase their community policing capacity and crime prevention efforts.

b. Tribal Resources Grant Program – Hiring (TRGP-Hiring) awards, which provide funds to tribal law enforcement agencies for newly hired or rehired full-time sworn career law enforcement officers and village public safety officers to improve crime-fighting capabilities in Indian country.

2. *Non-Hiring Grants*

There are nine types of non-hiring awards actively managed within the COPS Office:

a. Anti-Heroin Task Force Program (AHTF), which provides funds to locate and investigate illicit activities through statewide collaboration related to the distribution of heroin, fentanyl, or carfentanil, or the unlawful distribution of prescription opioids.

b. COPS Anti-Methamphetamine Program (CAMP), which provides funds to locate and investigate illicit activities related to the manufacture and distribution of methamphetamine.

c. Tribal Resources Grant Program-Equipment/Training (TRGP-E/T), which provides funds to tribal law enforcement agencies for equipment, training, and officer hiring to improve crime-fighting capabilities in Indian country.

d. Community Policing Development (CPD) program awards are used to develop the capacity of law enforcement to implement community policing strategies by providing guidance on promising practices through the development and testing of innovative strategies; building knowledge about effective practices and outcomes; and supporting new, creative approaches to preventing crime and promoting safe communities. These awards are currently focused on improving law enforcement capacity in the areas of de-escalation, crisis intervention teams, accreditation, microgrants, tolerance diversity and antibias.

e. Collaborative Reform Initiative for Technical Assistance (CRI-TA), which provides funding to advance the practice of community policing in law enforcement agencies by providing technical assistance to state, local, territorial, and tribal law enforcement agencies on a variety of topics that are tailored to meet their unique needs. This program provides practical "by the field, for the field" technical assistance from leading experts across a range of public safety, crime reduction, and community policing topics. The program also provides for comprehensive organizational assessments and after-action reviews and assistance to agencies following critical incidents.

f. Technology and Equipment Program (TEP), which provides funds for projects to develop and implement technologies that will advance community policing and help fight crime.

g. Preparing for Active Shooter Situations (PASS) training program, a competitive award program designed to increase law enforcement and public safety by providing funds to advance the practice of community policing in law enforcement agencies through nationally recognized, scenario-based training that prepares officers and other first responders to handle active shooter and other violent threats safely and effectively.

h. COPS Office STOP School Violence: School Violence Prevention Program (SVPP) provides funding directly to states, units of local government, Indian tribes, and public agencies to improve security at schools and on school grounds in the jurisdiction of the grantee through evidence-based school safety programs.

i. Law Enforcement Mental Health and Wellness Act (LEMHWA) helps law enforcement agencies establish or enhance mental health care services for their officers and deputies. The program initiates pilot programs that support peer mentoring, annual mental health checks, crisis hotlines, and the delivery of other critical mental health and wellness services. It also supports the development of resources for the mental health providers who deliver tailored, specific services to law enforcement based on the unique challenges they face.

Source of Governing Requirements

All programs (except for one) are authorized under the Omnibus Crime Control and Safe Streets Act of 1968 as amended by the Violent Crime Control and Law Enforcement Act of 1994, Title I, Part Q, Pub. L. No. 103-322, 34 USC 10381 et seq. COPS Office School Violence Prevention Program (SVPP) is authorized under the Students, Teachers, and Officers Preventing (STOP) School Violence Act of 2018 (34 USC 10551 et seq.).

Availability of Other Program Information

The DOJ-COPS home page, COPS Office (usdoj.gov), under the selection titled “Grants” provides information on regulations and other general information about each program.

Additional information about each program is found in the applicable Award Owner’s Manuals (AOM) and the Application Resource Guides (Guide) developed by the COPS Office. Grant recipients can access the Award Owner’s Manuals on the COPS Office home under the Grants tab by clicking Program Documents and Compliance and Reporting. In reference to the Application Resource Guide, this document describes the award terms, conditions, and additional requirements that applicants should be aware of before applying to COPS Office programs. Grant recipients can also access the Guide at the same location as the AOM.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	N	N	Y	N	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. *Hiring*- Hiring grants (CHP and TRGP–Hiring) may include programs, projects, and other activities to:

(1) Hire and train new, additional career law enforcement officers for deployment into community-oriented policing (34 USC 10381(b)(2));

(2) Rehire law enforcement officers who have been laid off or who are scheduled to be laid off on a specific future date as a result of state, local, and/or tribal budget reductions for financial reasons unrelated to the availability of COPS grant funds for deployment into community-oriented policing (34 USC 10381(b)(1)); and

Since FY 2015 CHP awards, the COPS Office has awarded additional consideration for CHP funding to applicants who commit to hiring or rehiring at least one military veteran (as defined in Appendix A).

b. *Non-Hiring Awards*

Non-hiring grants may include programs, projects, and other activities to obtain a wide variety of equipment, technology, civilian personnel, training, and technical, and technical assistance. These grants include programs and projects that are very specific in terms of allowable and unallowable activities. The individual grant must be evaluated to determine allowable activities, in accordance with program guidelines in the Awards Owner’s Manual 34 USC 10381(b) and (d)).

B. Allowable Costs/Cost Principles

All costs are subject to the requirements in 2 CFR 200 Subpart E – Cost Principles, and approved costs are limited to those included in the award package for each award.

The following apply to hiring grants only:

1. CHP and TRGP-hiring awards fund the approved entry-level salaries and fringe benefits of newly hired or rehired full-time officers. The approved entry-level salaries and fringe benefits are based on a grantee agency’s actual entry-level sworn officer salary and fringe benefit costs and are identified in the award package that is provided to the grantee agency. Any additional costs for higher than entry-level salaries and fringe benefits will be the responsibility of the recipient agency (34 USC 10381(b) and applicable Solicitation and Application Resource Guide.

2. Beginning with FY 2012, CHP recipient costs are limited to the approved entry-level salaries and fringe benefits of each newly hired and/or rehired full-time officer, with a maximum federal share of $125,000 per officer position (unless a local match waiver is approved by the COPS Office), over the three-year (36 month) period that the position is filled.

H. Period of Performance

The following apply to hiring grants only:

1. Beginning in FY2020, the TRGP-hiring awards period of performance was extended from 36 months to 60 months, but federal funding only covers 36 months of salary and fringe; the additional time is to allow for hiring delays.

2. Beginning in FY 2021, the period of performance for CHP awards is 60 months, but federal funding only covers 36 months of salary and fringe; the additional time is to allow for hiring delays.

G. Matching, Level of Effort, Earmarking

1. Matching

a. There is no match requirement for AHTF, CAMP, CSPP, CPD, CRI-TA, PASS, LEMHWA, TRGP-Hiring, TRGP-E/T, and TEP.

b. SVPP recipients must contribute a minimum of 25 percent of the allowable project costs (34 USC 10551(f)(1)). The COPS Office director may waive/alter the 25 percent required match in the case of a recipient with a demonstrated financial need (34 USC 10551(f)(3)).

c. Beginning with FY2015, CHP recipients must contribute a minimum of 25 percent of the allowable project costs (applicable Application Guide), unless a local match waiver is approved by the COPS Office (34 USC 10381(g)).

2. Level of Effort

Not Applicable

3. Earmarking

Technology and Equipment Program (TEP) distributes funding to support projects designated in the Consolidated Appropriations Act, 2022 (Pub. L. 117-103) and 2023 (Pub. L 117-328) for law enforcement technologies, interoperable communications, and public safety equipment. The joint explanatory statement accompanying Pub. L. No. 117-103 and Pub. L. 117-328 lists the designated projects, which is incorporated by reference into the Appropriations Act.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Report Title: *COPS Progress Report (OMB No. 1103-0102)*

Report Authority: 2 CFR 200.329

Reporting period/submission date/s: This report is required semi-annually during the life of the award for all COPS Office grants.

For additional information, please visit the Performance Reporting section on the [Compliance and Reporting](https://cops.usdoj.gov/complianceandreporting) page found on the COPS website. https://cops.usdoj.gov/complianceandreporting

Key Line Items – The following questions contain critical information:

1. *Question 1* – How many active COPS grant position(s) were filled/hired? Full-time and part-time.

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Auditors should be alert for additional requirements that may be included in the award package relevant to the requirements above noted as subject to audit, such as a restriction on the use of award funds to supplant existing personnel positions or the requirement to retain grant-funded positions for one year after the award period expires.

DEPARTMENT OF JUSTICE

ASSISTANCE LISTING 16.738 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

I. PROGRAM OBJECTIVES

The Edward Byrne Memorial Justice Assistance Grant (JAG) program, authorized under Title I of Pub. L. No. 90-351 (generally codified at 34 USC 10101–10726), including Subpart 1 of Part E (codified at 34 USC 10151–10158), is the leading source of federal justice funding to state and local jurisdictions. The JAG program provides states, tribes, and local governments with critical funding necessary to support personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings including for any one or more of the following programs: law enforcement, prosecution, indigent defense, courts, crime prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, and crime victim and witness initiatives, mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams, and implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to mental health courts; drug courts; veterans courts; and extreme risk protection order programs. It should be noted that the JAG statute defines “criminal justice” as “activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency.”

II. PROGRAM PROCEDURES

JAG grants are awarded to states, including the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa as well as eligible units of local government which, pursuant to statutory definition, includes tribes that perform law enforcement functions.

The JAG funding formula includes a state allocation consisting of a minimum base allocation with the remaining amount determined on population and violent crime statistics. States also have a variable percentage of the allocation that is required to be “passed-through” to units of local government. This amount, calculated by the Bureau of Justice Statistics (BJS), Department of Justice (DOJ), is based on each state’s crime expenditures. In addition, the formula calculates direct allocations for local governments within each state, based on their share of the total violent crime reported within the state. Local governments that are entitled to an award of at least $10,000 may apply directly to the Bureau of Justice Assistance (BJA) for local JAG funds. The

BJS Technical Report, which contains more information on the award calculation process, is available on BJA's JAG web page at https://bjs.ojp.gov/library/publications/justice-assistance-grant-jag-program-2021.

All JAG program guidance for states and units of local governments, including pass-through requirements, restrictions on funding usage, required certifications, and application checklists, can be found within the state and local program solicitations (application guidance), which are updated annually and posted to BJA's JAG web page at https://www.bja.gov/Jag/. The DOJ Grants Financial Guide, which contains information on allowable costs, methods of payment, procurement, audit requirements, accounting systems, and financial records, is available on the Office of Justice programs (OJP) web site at https://www.ojp.gov/funding/financialguidedoj/overview.

Source of Governing Requirements

Subpart 1 of Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (34 USC 10151–10158).

Availability of Other Program Information

Program guidance, including program statutes and other general information about the program, is posted to the BJA web page (https://www.bja.gov), specifically at https://www.bja.gov/Jag. In addition, the BJA JAG Frequently Asked Questions (FAQs) document at https://bja.ojp.gov/doc/jag-faqs.pdf provides guidance on allowable costs and other topics. Prior versions of the JAG FAQs are located at https://bja.ojp.gov/program/jag/archives. The DOJ Grants Financial Guide, which contains information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records, is available on the Office of Justice Programs (OJP) web site at http://ojp.gov/financialguide/DOJ/index.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment and Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement and Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	N	N	Y	Y	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Use of funds is restricted to the following broad program areas, consistent with 34 USC section 10152 (a)(1): law enforcement programs, prosecution and court programs, prevention and education programs, corrections and community corrections programs, drug treatment and enforcement programs, planning, evaluation, and technology improvement programs, crime victim and witness programs (other than compensation), mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams, and implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to mental health courts; drug courts; veterans courts; and extreme risk protection order programs.

See solicitations for specific program areas. Current fiscal year JAG solicitations are located at https://www.bja.gov/Jag, and prior year JAG solicitations are located at https://bja.ojp.gov/program/jag/archives.

2. *Activities Unallowed*

In addition to the unallowable costs identified in the DOJ Grants Financial Guide, the JAG statute, at 34 U.S.C. § 10152(d), specifically identifies a list of prohibited items. In addition, consistent with Executive Order 14074, “Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety,” the use of OJP grant funds for the purchase or transfer of certain equipment has been designated as prohibited or controlled starting with FY 2023 OJP grant funds. Details and associated procedures for requesting prior approval (waiver), where applicable, can be found in the JAG Prohibited and Controlled Equipment Guidance at https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/jagcontrolledpurchaselist.pdf. Lists of prohibited items, details, and associated procedures for requesting prior approval (waiver), where applicable, for JAG awards made prior to FY 2023 can be found at https://bja.ojp.gov/doc/jag-controlled-purchase-list-pre-2023.pdf.

L. Reporting

1. Financial Reporting

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF JUSTICE

ASSISTANCE LISTING 16.922 EQUITABLE SHARING PROGRAM

I. PROGRAM OBJECTIVES

The Department of Justice Asset Forfeiture Program is a nationwide law enforcement initiative that removes the tools of crime from criminal organizations, deters crime and deprives wrongdoers of their criminal proceeds, and recovers property that may be used to compensate victims. Equitable sharing further enhances the law enforcement mission by fostering cooperation among federal, state, and local law enforcement agencies. Federal law authorizes the Attorney General to share federally forfeited property with participating state and local law enforcement agencies. The exercise of this authority is discretionary and limited by statute. The Attorney General is not required to share property in any case.

II. PROGRAM PROCEDURES

State, local, and tribal law enforcement agencies can request federally forfeited funds through the Equitable Sharing Program (Program) based on their qualitative and quantitative contributions to a federal forfeiture. The Program is managed by the Money Laundering and Asset Recovery Section (MLARS), a section within the Department of Justice’s Criminal Division. Equitably shared funds must be used by law enforcement agencies for law enforcement purposes only. The Department of the Treasury also manages its own Program under Assistance Listing 21.016. Funds from each Program must be maintained and managed separately.

Source of Governing Requirements- The Program is authorized by the following statutes: 21 USC section 881(e)(1)(A); 18 USC section 981(e)(2); 19 USC section 1616a; 31 USC sections 9705(b)(4)(A) and (b)(4)(B); and 21 USC section 881(e)(3).

Availability of Other Information- Program policies and procedures are set forth in the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies (Guide)* (July 2018) as well as *Equitable Sharing Wires (Wires)*. *Wires* may be issued to address policy changes or Program updates without updating the *Guide*. These updates become policy and applicable Program requirements should be tested as part of the audit process. The *Guide* and *Wires* are available on the Department of Justice public website at https://www.justice.gov/criminal-mlars/equitable-sharing-program.

Equitable sharing funds are considered federal financial assistance as defined by 2 Code of Federal Regulations (CFR) Section 200.1 Equitable sharing payments are classified as “Direct Payments for Specified Use” in the System for Award Management.

As such, the funds are only subject to certain sections of the CFR, including Title 2, Subtitle A, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The applicable sections to the Program include Subpart A – Acronyms and Definitions; Subpart B – General Provisions (excluding sections 200.111–

200.113); Subpart D – Post Federal Award Requirements (sections 200.303 – Internal Controls and 200.331–333 – Subrecipient Monitoring); and Subpart F – Audit Requirements.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

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Y	Y	N	N	Y	Y	N	Y	N	Y	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

   a. The Guide and Wires are the authoritative criteria. Specifically, sharing funds may be used for permissible law enforcement purposes. As of the July 2018 Guide, equitable sharing funds may be used to support the following activities:

      (1) Law enforcement operations and investigations

      (2) Law enforcement training and education

      (3) Law enforcement, public safety, and detention facilities

      (4) Law enforcement equipment

(5) Joint law enforcement/public safety operations

(6) Contracts for services

(7) Law enforcement travel and per diem

(8) Law enforcement awards and memorials

(9) Drug, gang, and other prevention or awareness programs

(10) Matching grants

(11) Support of community-based organizations

b. Equitable sharing funds may not be used for salaries, except under certain provisions outlined in Section V.B.3 in the Guide, including the following:

(1) Allowable matching grants

(2) Overtime

(3) Federal task force replacement

(4) Specialized programs

2. *Activities Unallowed*

a. Similarly, the following are considered impermissible uses of funds and assets:

(1) Use of forfeited property by non-law enforcement personnel

(2) Creation of endowments or scholarships

(3) Uses contrary to state or local laws

(4) Personal or political use of shared assets

(5) Purchase of food and beverages

(6) Extravagant or wasteful expenditures and entertainment

(7) Cash on hand, secondary accounts, and stored value cards

(8) Transfers to other law enforcement agencies

(9) Purchase of items for other law enforcement agencies

(10) Costs related to lawsuits

(11) Loans

(12) Money laundering operations

For more information, consult the Guide for specific detail.

B. Allowable Costs/Cost Principles

The *Guide,* sections V.B.1, 2, and 3, detail allowable and unallowable uses of federal equitable sharing funds. Note that there may be specific exceptions for use of shared funds, so the *Guide* should be consulted for details. The *Guide's* policies on the use and administration of equitable sharing funds may also be updated at any time through the issuance of an *Equitable Sharing Wire*. For more detail, refer to the previous section.

F. Equipment and Real Property Management

Although 2 CFR sections 200.311 and 313 are not applicable, the *Guide*, Section VI, details the requirements for tangible property. Property purchased with equitable sharing funds, or obtained for official use, is subject to inventory control, log maintenance, and disposal requirements.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable.

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort* **–** Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

The *Guide,* Section V.A.1, states that agencies may supplement, not supplant, their appropriated funds.

3. Earmarking

The *Guide,* Section V.A.2, states that agencies may earmark funds already received and on hand but may not budget or commit funds not yet awarded or received.

I. Procurement and Suspension and Debarment

1.. Procurement – Although 2 CFR section 200.317-200.327 are not applicable, the *Guide,* Section VI.A.3, requires agencies to follow their jurisdiction's procurement policies.

2. Suspension and Debarment – 2 CFR section 180.200-225 Applicable.

L. Reporting

1. Financial Reporting

a. SF-270, *Request for Advance or Reimbursement* – Not Applicable

b. SF-271, Outlay *Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. SF-425, Federal *Financial Report* – Not Applicable

d. *Equitable Sharing Agreement and Certification* (OMB Number 1123-0011) – Applicable. The *Guide,* Section VII, details the annual reporting requirements for equitable sharing funds through the submission of the annual Equitable Sharing Agreement and Certification (ESAC). Agencies report on the ESAC the amount of funds received and how they were expended in general categories.

Key Line Items – The following sections contain critical information:

1. *Summary of Equitable Sharing Activity*
   - a. Beginning Equitable Sharing Fund Balance
   - b. Equitable Sharing Funds Received
   - c. Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force
   - d. Other Income
   - e. Interest Income
   - f. Total Equitable Sharing Funds Received
   - g. Equitable Sharing Funds Spent
   - h. Ending Equitable Sharing Funds Balance

2. *Summary of Shared Funds Spent*
   - a. Law Enforcement Operations and Investigations
   - b. Training and Education
   - c. Law Enforcement, Public Safety, and Detention Facilities
   - d. Law Enforcement Equipment
   - e. Joint Law Enforcement/Public Safety Equipment and Operations

f. Contracts for Services

g. Law Enforcement Travel and Per Diem

h. Law Enforcement Awards and Memorials

i. Drug, Gang, and Other Education or Awareness Programs

j. Matching Grants

k. Transfers to Other Participating Law Enforcement Agencies

l. Support of Community-Based Programs

m. Non-Categorized Expenditures

n. Salaries

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

Not Applicable

M. Subrecipient Monitoring

The 2 CFR sections 200.331–200.333 are applicable. The *Guide*, Section V.B.1.k, allows agencies to transfer equitable sharing funds to qualifying community-based organizations. The *Guide*, Section V.B.2.h, prohibits the transfer of equitable sharing funds to other Program participants unless a waiver is granted from MLARS. Subrecipient monitoring is applicable to any transfer of Program funds.