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Resources

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

OMB Circulars/Code of Federal Regulations

Administrative Requirements	
OMB Circular A-102	“Grants and Cooperative Agreements With State and Local Governments.”
2 CFR Part 215	“Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations” (codified at 28 Code of Federal Regulations (CFR) Part 70) (formerly known as OMB Circular A-110)
Cost Principles	
2 CFR Part 220	“Cost Principles for Educational Institutions”(codified at 28 CFR Part 66, by reference) (formerly known as OMB Circular A-21)
2 CFR Part 225	“Cost Principles for State, Local, and Indian Tribal Governments” (codified at 28 CFR Part 66, by reference) (formerly known as OMB Circular A-87)
2 CFR Part 230	“Cost Principles for Non-Profit Organizations”(formerly known as OMB Circular A-122)
Audit Requirements	
OMB Circular A-133	“Audits of States, Local Governments, and Non-Profit Institutions” (codified at 28 CFR Parts 66 and 70).

Government-wide Common Rules

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

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

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

For additional information on grants management and to obtain copies of current circulars, please visit the [OMB Web site](#).

Office of the Inspector General (OIG) Fraud Hotline

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

Other Available Resources

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

Conflict of Interest

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

Advice

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

Appearance

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

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

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

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

Retention and Access Requirements for Records

Retention of Records

All financial records, supporting documents, statistical records, and all other records pertinent to the award shall be retained by each organization for AT LEAST 6 YEARS following notification by the GMB that the grant has been programmatically and fiscally closed OR at least 6 years following the closure of its audit report covering the entire award period, whichever is later. Retention is required for purposes of Federal and State examination and audit. Records may be retained in an automated format. **State or local governments may impose record retention and maintenance requirements in addition to those prescribed.**

1. **Coverage.** The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of all awards, applications, and required sub-recipient financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under the award, whether they are employed full time or part time. Time and effort reports are also required for consultants.
2. **Retention Period.** The 6-year retention period starts from the date of notification by the GMB that the grant has been programmatically and fiscally closed OR the submission of the closure of the single audit report which covers the entire award period, whichever event occurs later. If any litigation, claim, negotiation, audit, or other action involving the records have started before the expiration of the 6-year period, the records must be retained until completion of the action and resolution of all issues which arise from it or until the end of the regular 6-year period, whichever is later.

Maintenance of Records

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

Access to Records

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

However, only under extraordinary and rare circumstances would such access include review of the true name of confidential informants or victims of crime. When access to the true name of confidential informants or victims of crime is necessary, appropriate steps to protect this sensitive information must and will be taken by the sub-recipient and awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by both the OJP Program Office Head and the Chief Financial Officer.

Standards for Financial Management Systems

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

Sub-recipients shall expend and account for grant funds in accordance with State laws and procedures for expending and accounting for their own funds, unless prior approval has been given by the GMB. Sub-recipients of States shall follow the financial management requirements imposed on them by States. (State and local procedures must ensure that sub-recipients comply with the financial management standards found at 28 CFR Parts 66 and 70.)

Accounting System

The sub-recipient is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself. An acceptable and adequate accounting system:

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

The various financial requirements and formulas of the awarding agency's programs, as well as the need for sub-recipients to separately account for individual awards, require a special program account structure extending beyond normal classification by type of receipts, expenditures, assets, and liabilities.

Total Cost Budgeting and Accounting

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

Commingling of Funds

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

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

Sub-recipient Accounting Responsibilities

1. **Reviewing Financial Operations.** The Sub-recipient is responsible for the maintenance of current financial data, to include but not limited to, financial operations, records, systems, and procedures.
2. **Recording Financial Activities.** The sub-recipient is responsible for recording award or contract obligation, as well as cash advances and other financial activities, in the books of the sub-recipient in detail form.
3. **Budgeting and Budget Review.** The sub-recipient is required to prepare an adequate budget on which its award commitment will be based. The detail of each project budget should be maintained on file by the sub-recipient.
4. **Accounting for Non-Federal Contributions.** Sub-recipients will ensure that the requirements, limitations, and regulations pertinent to non-Federal contributions are applied.
5. **Audit Requirements.** Sub-recipients must ensure that they have met the necessary audit requirements contained in the OJP Financial Guide (Part III, Chapter 19: Audit Requirements).
6. **Reporting Irregularities.** Sub-recipients are responsible for promptly notifying the GMB of any illegal acts, irregularities and/or proposed and actual actions. Illegal acts and irregularities include conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.
7. **Debarred and Suspended Organizations.** Sub-recipients must not permit any party which is debarred or suspended from participation in Federal assistance programs. For details regarding debarment procedures, see 28 CFR Part 67, Government-wide Debarment and Suspension (Non procurement) and 28 CFR Part 83 Government-wide Requirements for Drug-Free Workplace (Grants).
8. **Bonding.** The GMB may require adequate fidelity bond coverage where a sub-recipient lacks sufficient coverage to protect the Federal government interest (see 2 CFR Part 215, Subpart C, paragraph 21(c)).

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

Cash Depositories

In accordance with the administrative requirements for Government and nongovernmental entities, sub-recipients are encouraged to use minority banks (banks which are owned at least 50 percent by

minority group members). A list of minority-owned banks may be obtained from the Minority Business Development Agency, Department of Commerce, Washington, DC 20230.

Supplanting

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

Period of Availability of Funds

Availability of Awards

Awards made by the GMB are awarded for a specified time, and a particular award period is established for each award.

Obligation of Funds

An obligation occurs when funds are encumbered, such as in a valid purchase order or requisition to cover the cost of purchasing an authorized item on or after the begin date and up to the last day of the grant period in the award. Any funds not properly obligated by the sub-recipient within the grant award period will lapse and revert to the awarding agency. The obligation deadline is the last day of the grant award period unless otherwise stipulated. (**Example:** If the award period is 10/1/06 to 9/30/07, the obligation deadline is 9/30/07). Sub-recipients must also complete performance during the obligation period. No additional obligations can be incurred after the end of the grant.

Expenditure of Funds

Award funds which have been properly obligated by the end of the award period will have 30 days in which to be liquidated (expended). Any funds not liquidated at the end of the **30** day period will lapse and revert to the awarding agency. (**Example:** If the award period is October 1, 2006 to September 30, 2007, the expenditure deadline is October 30, 2007).

Award Extension Criteria

Requests for a no-cost extension of a grant period must be submitted through the GMB. Sub-recipients are to use the Amendment Form to request the extension.

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

Extension requests will be considered only if the EXTENSION CRITERIAS established below are met by the sub-recipient at the time of the request. Modifications of the general extension policy stated above are at the discretion of the GMB.

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

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

Program Income

Program Income

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

Use of Program Income

Program income may be used to further program objectives or may be refunded to the Grants Management Bureau. Program income may only be used for allowable program costs and must be expended prior to the termination of award or it must be refunded to the Grants Management Bureau.

Accounting for Program Income

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

1. A discretionary project funded with 100 percent Federal funds must account for and report on 100 percent of the total program income earned. If the total program income

earned was \$20,000, the sub-recipient must account for and report the \$20,000 as program income on the Financial Status Report.

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

Examples of Program Income

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

to members that are separate and distinct from grant-funded services, the membership fees need not be reported as program income.

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

Procedures for Recovery of Costs Incurred

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

Awarding Agency Funds: If the information/investigation is performed with awarding agency funds, the reimbursement received from the IRS is considered to be program income and subject to the guidelines discussed above.

Adjustments to Awards

Amendments

An Amendment is used to request project changes and/or correction for any programmatic, administrative, or financial change associated with a grant award. All Amendments **must be requested in writing by the grant sub-recipient** on the proper Amendment form and have attached the proper documentation. For further assistance, please contact your GMB management analyst.

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

- **Budget Revision.** Sub-recipients may request modification to the approved budget in order to reallocate dollar amounts within the existing award amount. The original award amount may not be increased by this procedure; however, it can be decreased.
- **Program Description Change.** Changes in scope, duration, activities, or other significant areas are changes that require prior approval from the bureau or program office through a grant adjustment notice. These changes specifically include:
 1. Altering programmatic activities;

2. Affecting the purpose of the project;
3. Changing the project site;
4. Changes to the organization with primary responsibility for implementation of the grant, contracting out, sub-granting, (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purpose of the award; and
5. Changes in scopes that affect a sub-recipient's budget, which must follow the budget revision procedure.

Date Changes. A grant adjustment notice is required for a change to the grant period, such as an extension of the project period end date and/or an extension of the expenditure deadline (no cost extension). A sub-recipient may request a no cost extension at any time after accepting the award, but no later than 60 days prior to the award end date. The sub-recipients may request an extension no more than 12 months beyond the original end date.

Notification

Sub-recipients must give prompt notification through an amendment to the GMB of events or proposed changes which may require an adjustment/notification. In requesting an adjustment, the sub-recipient must set forth the reasons and basis for the proposed change and any other data deemed helpful for the GMB to review.

Property and Equipment

Acquisition of Property and Equipment

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

Screening

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

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

The GMB must ensure that the screening referenced above takes place and that the sub-recipient has an effective system for property management.

Sub-recipients are hereby informed that if the GMB or Federal awarding agency is made aware that the Sub-recipient does not employ an adequate property management system, project costs associated with the acquisition of the property may be disallowed.

Loss, Damage, or Theft of Equipment

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

Equipment Management

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

1. **Title.** The Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. §3789, et seq., Section 808, requires that the title to all equipment and supplies purchased with funds made available under the Crime Control Act shall vest in the criminal justice agency or nonprofit organization that purchased the property, if it provides written certification to the State office that it will use the property for criminal justice purposes. If such written certification is not made, title to the property shall vest in the State office, which shall seek to have the equipment and supplies used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.
2. **Use and Management.** A sub-recipient or State shall use and manage equipment in accordance with its procedures as long as the equipment is used for criminal justice purposes.
3. **Disposition.** When equipment is no longer needed for criminal justice purposes, a State shall dispose of equipment (for both the State and sub-recipients), in accordance with State procedures, with no further obligation to the awarding agency.

Federal Equipment

In the event a sub-recipient is provided federally owned equipment, the following requirements apply:

1. **Title** remains vested in the Federal Government.
2. **Sub-recipients shall manage the equipment** in accordance with the awarding agency's rules and procedures and submit an annual inventory listing.
3. **When the equipment is no longer needed**, the sub-recipient shall request disposition instructions from the GMB.

Replacement of Property (Equipment and Nonexpendable Personal Property)

When an item of property is no longer efficient or serviceable but the sub-recipient continues to need the property in its criminal justice system, the sub-recipient may replace the property through

trade-in or sale and subsequent purchase of new property, provided the following conditions are met:

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

Retention of Property Records

Records for equipment, nonexpendable personal property, and real property shall be retained for a period of 6 years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. If any litigation, claim, or audit is started before the expiration of the 6-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

Supplies

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

Copyrights

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

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

Patents, Patent Rights, and Inventions

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

Allowable Costs

Background

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

Compensation for Personal Services

1. **Limit on use of Grant Funds for Sub-grant Sub-recipient’s Employees Salaries.** No portion of these federal grant funds shall be used towards any part of the annual cash compensation of any employee of the sub-recipient whose total annual cash compensation exceeds 110% of the maximum salary payable to a member of the Federal government’s Senior Executive Service at an agency with a Certified SES Performance Appraisal System for that year.
2. **Two or More Federal Grant Programs.** Where salaries apply to execution of two or more grant programs, cost activities, project periods, and/or overlapping periods, proration of costs to each activity must be made based on time and/or effort reports. In cases where two or more grants constitute one identified activity or program, salary charges to one grant may be allowable after written permission is obtained from the awarding agency. Salary supplements, including severance provisions and other benefits with non-Federal funds, are prohibited without approval of the awarding agency. (Refer to 2 CFR Part 220, 2 CFR Part 225, Attachment B, and 2 CFR Part 230)
3. **Extra Work.** A State or local government employee may be employed by a sub-recipient, in addition to his or her full-time job, provided the work is performed on the employee’s own time and:
 - a. The compensation is reasonable and consistent with that paid for similar work in other activities of State or local government;
 - b. The employment arrangement is approved and proper under State or local regulations (e.g., no conflict of interest); and
 - c. The time and/or services provided are supported by adequate documentation

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

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

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

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

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

Conferences and Workshops

Allowable costs may include:

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

All OJP-funded contracts for events that include 30 or more participants (both Federal and non-Federal) lodging costs for any number of attendees requiring lodging must not exceed the Federal per diem rate for lodging. In the event the lodging rate is not the Federal per diem rate or less, none of the lodging costs associated with the event would be allowable costs to the award. As a result, the sub-recipient would be required to pay for all lodging costs for the event, not just the amount in excess of the Federal per diem. For example, if the Federal per diem for lodging is \$78 per night, and the event lodging rate is \$100 per night, the sub-recipient must pay the full \$100 per night with non-grant funds, not just the difference of \$22 per night.

Food and Beverages

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

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

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

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

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

- The sub-recipient adheres to the applicable definitions for food and beverages contained in the [Financial Guide Glossary](#).

NOTE: In order for a meal to be incidental to a work-related event the employee must not be free to take his or her meals elsewhere without being absent from essential discussion, lectures, or speeches concerning the purpose of the meeting, training sessions or conference.

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

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

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

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

For example:

Example A. A sub-recipient-sponsored event is held at the L'Enfant Plaza Hotel to discuss policy topics. The event includes a working lunch with a speaker and breaks at which food and beverages are offered. Federal agency employees, as well as employees of the sub-recipient and non-agency persons, are invited.

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

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

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

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

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

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

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

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

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

1. **Provide a speaker at a lunch or dinner.**
2. **Support the event with a formal agenda.**
3. **The event must be mandatory for all participants.**
4. **Do not pay for bar charges using registration fees (i.e., program income).**
5. **Do not make alcohol available at the event.**
6. **Provide appropriate break foods. (Refer to the [Glossary](#) for definition of break foods.)**
7. **Surrounding events (both before and after food/beverages are served) must provide several hours of substantive information.**
8. **Do not end events with a meal and/or break.**
9. **Costs must be reasonable.**
10. **As a participant, reduce per diem appropriately.**

NOTE: Exhibits are not deemed substantive information.

Travel

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

1. **Domestic Travel.** Sub-recipients of States must follow their State’s established travel policies. If a State does not have established travel policy, the sub-recipient must abide by the Federal travel policy including per diem rates.

2. **Foreign Travel.** This includes any travel outside of Canada and the United States and its territories and possessions; however, for a sub-recipient located outside Canada and the United States and its territories and possessions, foreign travel means travel outside that country. Prior approval is required for all foreign travel (see Part III, Chapter 15: Costs Requiring Prior Approval).

Space

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

- The total cost of space may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality.
 - The cost of space procured for program usage may not be charged to the program for periods of non-occupancy without authorization of the GMB.
1. **Rental Cost.** The rental cost of space in a privately owned building is allowable. Rent cannot be paid if the building is owned by the sub-recipient or if the sub-recipient has a financial interest in the property. However, the cost of ownership is an allowable expense. Similar costs for a publicly owned building are allowable where “rental rate” systems, or equivalent systems that adequately reflect actual costs, are employed.

Such charges must be determined on the basis of actual cost (including depreciation based on the useful life of the building, operation and maintenance, and other allowable costs). Where these costs are included in rental charges, they may not be charged elsewhere. No costs will be included for purchases or construction that was originally financed by the Federal Government.

2. **Maintenance and Operation.** The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and maintenance, and the like are allowable to the extent they are not otherwise included in rental or other charges for space.
3. **Rearrangements and Alterations.** Costs incurred for rearrangement and alteration of facilities required specifically for the award program, or those that materially increase the value or useful life of the facility, are allowable when specifically approved by the awarding agency.
4. **Depreciation and Use Allowances on Publicly Owned Buildings.** Depreciation or a use allowance on idle or excess facilities is NOT ALLOWABLE, except when specifically authorized by the Federal awarding agency.
5. **Occupancy of Space Under Rental-Purchase or a Lease with Option-to-Purchase Agreement.** The cost of space procured under such arrangements is allowable when specifically approved by the awarding agency. This type of arrangement may require application of special matching share requirements under construction programs.

Printing

Printing shall be construed to include and apply to the process of composition, plate making, presswork, binding, and microfilm; the equipment, as classified in the tables in Title II of the Government Printing and Binding Regulations, published by the Joint Committee on Printing,

Congress of the United States, and as used in such processes; or the end items produced by such processes and equipment. Pursuant to the Government Printing and Binding Regulations, no project may be awarded primarily or substantially for the purpose of having material printed for the awarding agency. The Government Printing and Binding Regulations allow:

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

Publication

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

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

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

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

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

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

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

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

Duplication

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

Production

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

Other Allowable Costs

1. **Software development.** This is an allowable cost and may be expensed in the period incurred with no dollar limitation.
2. **Depreciation.** This is an allowable cost and an accelerated method should not be used.
3. **Postemployment benefits.** These are allowable costs if funded in accordance with actuarial requirements. Funds must be paid within 6 months of recordation.
4. **Technology awards.** These are allowable costs and the drawdown of funds may be prohibited until the State Information Technology Point of Contact person has received written notification of the project and a GAN has been issued by the awarding agency.
5. **Contingency Fee Contracts for Recovery of Improper Payments.** In accordance with 2 CFR Part 225, costs of contingency fee contracts incurred by State and local governments for recovery of erroneous and improper payments charged against Federal programs are allowable costs. State and local governments may use a portion of the recovered

erroneous or fraudulent payments from Federal programs to pay for recovery contracts. The portion used to pay for such contingency fees should be claimed as administrative costs.

Confidential Funds

Confidential funds are those monies allocated to:

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

These funds should only be allocated when:

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

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

Confidential Funds Certification

A signed certification that the Project Director has read, understands, and agrees to abide by these provisions is required from all projects that are involved with confidential funds from either Federal or matching funds.

Written Procedures

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

1. **Imprest Fund.** The funds authorized will be established in an imprest fund which is controlled by a bonded cashier.
2. **Advance of Funds.** The supervisor of the unit to which the imprest fund is assigned must authorize all advances of funds for the purchase of information. Such authorization must specify the information to be received, the amount of expenditures, and the assumed name of the informant.

3. **Informant Files.** Informant files are confidential files of the true names, assumed names, and signatures of all informants to whom payments of confidential expenditures have been made. To the extent possible, pictures and/or fingerprints of the informant payee should also be maintained. In the RISS program, the informant files are to be maintained at the member agencies only. Project Headquarters may maintain case files.
4. **Cash Receipts.**
 - a. The cashier shall receive from the agent or officer authorized to make a confidential payment, a receipt for cash advanced to him/her for such purposes.
 - b. The agent or officer shall receive from the informant payee a receipt for cash paid to him/her.
5. **Receipt for P/I.** An informant payee receipt shall identify the exact amount paid to and received by the informant payee on the date executed. Cumulative or anticipatory receipts are not permitted. Once the receipt has been completed, **no alteration is allowed.** The agent shall prepare an informant payee receipt containing the following information:
 - a. The jurisdiction initiating the payment;
 - b. A description of the information/evidence received;
 - c. The amount of payment, both in numerical and word format;
 - d. The date on which the payment was made;
 - e. The signature of the informant payee;
 - f. The signature of the case agent or officer making payment;
 - g. The signature of at least one other officer witnessing the payment; and
 - h. The signature of the first-line supervisor authorizing and certifying the payment.
6. **Review and Certification.** The signed receipt from the informant payee with a memorandum detailing the information received shall be forwarded to the agent or officer in charge. The agent or officer in charge shall compare the signatures. He/she shall also evaluate the information received in relation to the expense incurred and enter his/her evaluation remarks in the report of the agent or officer who made the expenditure from the imprest fund. The certification will be witnessed by the agent or officer in charge on the basis of the report and informant payee's receipt.
7. **Reporting of Funds.** Each Project Director shall prepare a reconciliation report on the imprest fund on a quarterly basis. Information to be included in the reconciliation report will be the assumed name of the informant given and to what extent this informant contributed to the investigation. Sub-recipient shall retain the reconciliation report in their files and have it available for review. Sub-recipients shall retain the reconciliation report in their files and have it available for review unless the State agency requests that the report be submitted to them on a quarterly basis.
8. **Record and Audit Provisions.** Each Project Director and member agency must maintain specific records of each confidential fund transaction. At a minimum, these records must consist of all documentation concerning the request for funds, processing (should include the review and approval/disapproval), modifications, closure or impact material, and receipts

and/or other documentation necessary to justify and track all expenditures. Refer to the documentation under "Informant Files" below for a list of documents which should be included in the informant files. In projects where grant funds are used for confidential expenditures, it will be understood that all of the above records are subject to the record retention requirements and audit provisions of the awarding agency and program legislation. However, only under extraordinary and rare circumstances would such access include a review of the true name of confidential informants. When access to the true name of confidential informants is necessary, appropriate steps to protect this sensitive information must and will be taken by the sub-recipient, awarding agency, and auditing agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by both the OJP Program Office Head and the Chief Financial Officer.

Informant Files

1. **Security.** A separate file should be established for each informant for accounting purposes. Informant files should be kept in a separate and secure storage facility, segregated from any other files, and under the exclusive control of the office head or an employee designated by him/her. The facility should be locked at all times when unattended. Access to these files should be limited to those employees who have a necessary legitimate need. An informant file should not leave the immediate area, except for review by a management official or the handling agent, and should be returned prior to the close of business hours. Sign-out logs should be kept indicating the date, informant number, time in and out, and the signature of the person reviewing the file.
2. **Documentation.** Each file should include the following information:
 - a. Informant Payment Record kept on top of the file. This record provides a summary of informant payments.
 - b. Informant Establishment Record, including complete identifying and locating data, plus any other documents connected with the informant's establishment.
 - c. Current photograph and fingerprint card (or Federal Bureau of Investigation [FBI]/State Criminal Identification Number).
 - d. Agreement with cooperating individual.
 - e. Receipt for P.I.
 - f. Copies of all debriefing reports (except for the Headquarters case file).
 - g. Copies of case initiation reports bearing on the utilization of the informant (except for the Headquarters case file).
 - h. Copies of statements signed by the informant (unsigned copies will be placed in appropriate investigative files).
 - i. Any administrative correspondence pertaining to the informant, including documentation of any representations made on his behalf or any other nonmonetary considerations furnished.
 - j. Any deactivation report or declaration of an unsatisfactory informant.

Program Procedures

1. **Processing Procedures.**

- a. **Request of Funds.** Any member agency requesting funds from the project will do so in writing. The request must contain the amount needed, the purpose of the funds, and a statement that the funds requested are to be used in furtherance of the project's objectives. Additionally, the agency must provide a statement agreeing to establish control, accounting, and reporting procedures consistent with the procedures outlined in this chapter.
- b. **Processing the Request.** The Project Director, or his/her designee when appropriate, will approve or disapprove the request. If approved, the request will be forwarded to the project cashier who will record the request and transmit the monies, along with a receipt form, to the member agency. Upon receipt of the monies, the member agency will immediately sign and return the receipt form to the cashier.
- c. **Records.** For all transactions involving P/I each Project Director must maintain on file the assumed name and signature of all informants to whom member agencies make payments from project funds.
- d. **Processing the Informant Payee Receipt.** The original signed informant payee receipt, with a summary of the information received, will be forwarded to the Project Director by the member agency. The Project Director will then authenticate the receipt by comparing the signature of the informant payee on the receipt with the signature maintained by the project in a confidential file. If discrepancies exist, the Project Director, or his/her designee, will take immediate steps to notify the member agency and ascertain the reason(s) for the discrepancies. The member agency must forward written justification to address the discrepancies of the Project Director. If satisfactory, the justification will be attached to the informant payee receipt.

2. **Informant Management and Utilization.** All persons who will be utilized as informants should be established as such. The specific procedures required in establishing a person as an informant may vary from jurisdiction to jurisdiction but, at a minimum, should include the following:

- a. Assignment of an informant code name to protect the informant's identity.
- b. Creation of an informant code book controlled by the office head or his/her designee containing:
 - 1. Informant's code name;
 - 2. Type of informant (i.e., informant, defendant/informant, restricted-use informant);
 - 3. Informant's true name;
 - 4. Name of establishing law enforcement officer;
 - 5. Date the establishment is approved; and
 - 6. Date of deactivation.
- c. Establishment of each informant's files in accordance with Documentation, Item 2, under Informant Files.

- d. Review of all active status informant files on a quarterly basis to assure they contain all relevant and current information. Where a MATERIAL fact that was earlier reported on the Establishment Record is no longer correct (e.g., a change in criminal status, means of locating him/her, etc.), a supplemental establishing report should be submitted with the correct entry.
- e. A search of all available criminal indices for informants being established. If a verified FBI number is available, request a copy of the criminal records from the FBI. Where a verified FBI number is not available, the informant should be fingerprinted, with a copy sent to the FBI and appropriate State authorities for analysis. The informant may be utilized on a provisional basis while awaiting a response from the FBI.

3. Payment to Informants.

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

Accounting and Control Procedures

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

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

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

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

Procurement Under Awards of Federal Assistance

Procurement Standards

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

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

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

Professional Services

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

Reporting Requirements

Background

Award sub-recipients are required to submit both financial and program reports. These reports describe the status of the funds, the status of the project, comparison of actual accomplishments to the objectives, or other pertinent information. The specific requirements, reporting periods, and submission deadlines are identified in the Sub-grant Agreement.

Requests for Reimbursement

Sub-recipients are required to submit, at a minimum, a quarterly Request for Reimbursement (RFR) with corresponding documentation to include Program Income and a Revenue Expenditure Report no later than 15 days after the end of each calendar quarter.

- One (1) original Request for Reimbursement shall be submitted to the Bureau for review and approval no later than fifteen (15) days after the end of each calendar quarter.
- One (1) original Final Request for Reimbursement shall be submitted to the Bureau for review and approval no later than thirty (30) days after the termination date of the award.

All payments shall be made upon an actual cost reimbursement basis. The Sub-recipient shall submit a completed Request for Reimbursement Form along with all appropriate supporting documentation. The final Request for Reimbursement is due to the Bureau within thirty (30) days of the date of Sub-grant termination date. Failure to submit the final reimbursement request within the timeframe established will result in non-reimbursement of expenses.

Program Reports

These reports present information relevant to the performance of a plan, program, or project, and are due at the intervals identified in the Sub-grant Agreement. Unless otherwise noted, the final report is due within 30 days after the end date of the award.

The GMB will provide Sub-recipient with reporting format.

Government Performance and Results Act

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

Sanctions

If a sub-recipient materially fails to comply with the terms and conditions of an award, including civil rights requirements, whether stated in a Federal statute, regulation, assurance, application, or sub-grant agreement, the GMB may take one or more actions, as appropriate in the circumstances.

1. Temporarily withhold cash payments pending correction of the deficiency by the sub-recipient;
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the current award;

4. Withhold further awards for the project, program or organization; and
5. Take other remedies that may be legally available.

Costs Requiring Prior Approval

Procedures for Requesting Prior Approval

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

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

Costs Requiring Prior Approval

1. **Automatic Data Processing Equipment and Software.** Awards may include provisions for procurement of ADP equipment. The application will be written in a manner consistent with maximum, open, free and fair competition in the procurement of hardware and services. Brand names will not normally be specified such ADP equipment includes the following types and requirements:
 - a. Digital, analog, or hybrid computer equipment and automated fingerprint equipment.
 - b. Auxiliary or accessorial equipment, such as data communications terminals, source data automation recording equipment (e.g., optical character recognition equipment and other data acquisition devices) and data output equipment (e.g., digital plotters, computer output microfilms, etc.), to be used in support of digital, analog, or hybrid computer equipment, whether cable connected, wire connected, radio connected, or self-standing, and whether selected or acquired with a computer or separately.
 - c. Data transmission or communications equipment that is selected and acquired solely or primarily for use with a configuration of ADP equipment which includes an electronic computer.
 - d. Qualification and Exclusions.
 1. Analog computers are covered only when being used as equipment peripheral to a digital computer.
 2. Items of ADP equipment that are (a) physically incorporated in a weapon or (b) manufactured under a development contract ARE EXCLUDED from the above definition.
 3. Accessories, such as tape cleaners, tape testers, magnetic tapes, paper tapes, disk packs, and the like ARE EXCLUDED.

2. **Criminal Justice Information and Communication Systems** that are to be funded shall be designed and programmed to maximize the use of standard and readily available computer equipment and programs. (Identification of such systems will be made on a case-by-case basis.) Applicants involved in the development of criminal justice information systems should utilize the past experience of those agencies which have successfully implemented such systems. A detailed requirements analysis should be performed and a search for existing software that could meet the identified requirements should be made before new software is developed. If new software is developed, it shall be designed and documented so that other criminal justice agencies will be able to use it with minor modifications and at minimum cost. A sub-recipient or sub-recipient shall request approval prior to arranging for patent of computer software and programs.
 - a. Prior approval is NOT REQUIRED for the LEASE or RENTAL of such equipment; nevertheless, assurance must be provided that leases or rentals greater than \$100,000 are obtained in accordance with Federal procurement standards.
 - b. Where the amount of the acquisition exceeds \$100,000, prior approval from the awarding agency is REQUIRED for the acquisition of equipment (outright purchase, lease-purchase agreement, or other method of purchase).
 - c. A review of ADP equipment procurement shall be REQUIRED and should include a review of the description of the equipment to be purchased. This review shall be documented in writing for the file and shall require the awarding agency to certify that the procurement is consistent with the following requirements:
 1. The ADP equipment of the type to be purchased was identified within the award applications, and is necessary and sufficient to meet the project goals.
 2. The ADP equipment procurement is in compliance with existing Federal agency, State, and local laws and regulations.
 3. A purchase/lease comparison has been conducted demonstrating that it is more advantageous to purchase rather than lease the ADP equipment under consideration.
 4. If software development is involved, it has been demonstrated that computer software already produced and available will not meet the needs of the award.
 5. If the ADP equipment procurement is to be sole source and that procurement is more than \$100,000, then documentation must have been submitted to justify the action.
3. **Equipment and Other Capital Expenditures.** Equipment and other capital assets, including repairs which materially increase their useful life, are allowable if the sub-recipient has received prior approval.
 - a. Where expenditures for equipment are not fully justified by the budget and budget narrative, the awarding agency may require that the type, quantity estimated, unit, or other information be provided through the issuance of special conditions to the award.

b. In reviewing equipment acquisition budgets and proposals, the following principles should be adhered to:

1. No other equipment owned by the sub-recipient is suitable for the effort.
2. No requests for luxury vehicles will be approved. Vehicle requests should be reasonable, and sub-recipients shall usually follow IRS guidelines for vehicles for business use. Vehicles purchased via State or local central procurement activities as part of a unit of Government fleet are generally accepted as reasonable.
3. Federal funds are not used to provide reimbursement for the purchase of equipment already owned by the sub-recipient.

Exception: Equipment that has been purchased for a common pool and will be charged to the award at cost value is ALLOWABLE. Equipment that has already been purchased and charged to other activities of the organization would NOT be an ALLOWABLE expense to the award.

4. Equipment purchased and used commonly for two or more programs should be appropriately prorated to each activity.

4. **Pre-agreement Costs.** Prior approval is required for pre-agreement costs.

5. **Proposal Costs.** Costs to projects for preparing proposals for potential Federal awards require PRIOR APPROVAL for:

- a. The obligation or expenditure of funds or
- b. The performance or modification of an activity under an award project, where such approval is required.

6. **Consultant Rates.** Compensation for individual consultant services is to be reasonable and consistent with that paid for similar services in the marketplace. Consideration will be given to compensation including fringe benefits for those individuals whose employers do not provide such benefits. In addition, when the rate exceeds \$450 (excluding travel and subsistence costs) for an 8-hour day, a written PRIOR APPROVAL is required from the awarding agency. Prior approval requests require additional justification. An 8-hour day may include preparation, evaluation, and travel time in addition to the time required for actual performance. Please note, however, that this does not mean that the rate can or should be \$450 for all consultants. Rates should be developed and reviewed on a case-by-case basis and must be reasonable and allowable in accordance with OMB cost principles. Approval of consultant rates, in excess of \$450 a day, that are part of the original application with appropriate justification and supporting data will be approved on a case-by-case basis. The following is the policy in regard to compensation of various classifications of consultants who perform like-type services. If consultants are hired through a competitive bidding process (not sole source), the \$450 threshold does not apply.

- a. **Consultants Associated with Educational Institutions.** The maximum rate of compensation that will be allowed is the consultant's academic salary projected for 12 months, divided by 260. These individuals normally receive fringe benefits which include sick leave for a full 12-month period even though they normally only work 9 months per year in their academic positions.

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

Unallowable Costs

Land Acquisition

The funding legislation specifies that no Federal award involving the renting, leasing, or construction of buildings or other physical facilities shall be used for land acquisition. Accordingly, land acquisition costs are unallowable.

Compensation of Federal Employees

Salary payments, consulting fees, or other remuneration of full-time Federal employees are unallowable costs.

Travel of Federal Employees

Generally, costs of transportation, lodging, subsistence, and related travel expenses of any Federal employees are unallowable charges, except with prior written approval from OJP.

Bonuses or Commissions

The sub-recipient is prohibited from paying any bonus or commission to any individual or organization for the purpose of obtaining approval of an application for award assistance. Bonuses to officers or board members of profit or nonprofit organizations are determined to be a profit or fee and are unallowable.

Military-Type Equipment

Costs for such items as armored vehicles, explosive devices, and other items typically associated with the military arsenal, excluding automatic weapons, are unallowable. Exceptions MAY be made by the awarding agency upon a written request and justification from the sub-recipient.

Lobbying

All sub-recipients must comply with the provisions of the government-wide Common Rule on Restrictions on Lobbying, as appropriate. Refer to Part II, Chapter 1: Application Process, for more specifics about these provisions.

In addition, the lobbying cost prohibition applicable to all sub-recipients of funding states that no funds may be used for the purposes of:

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

effect of legislation, when such activities are carried out in support of or in knowing preparation for an effort to engage in unallowable lobbying or

7. Paying a publicity expert.
8. The Anti-Lobbying Act, 18 U.S.C. '1913, recently was amended to expand significantly the restriction on use of appropriated funding for lobbying. This expansion also makes the anti-lobbying restrictions enforceable via large civil penalties, with civil fines between \$10,000 and \$100,000 per each individual occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by 31 U.S.C. '1352.

All sub-recipients must understand that no federally appropriated funding made available under the grant program may be used, either directly or indirectly, to support the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of Government, without the express approval of OJP. Any violation of this prohibition is subject to a minimum \$10,000 fine for each occurrence. This prohibition applies to all activity, even if currently allowed within the parameters of the existing OMB circulars.

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

Fundraising

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

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

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

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

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

Corporate Formation

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

State and Local Sales Taxes

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

Other Unallowable Costs

Unallowable costs include:

- Entertainment;
- Sporting events;
- Fines & penalties- (except when incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding agency);
- Visa fees;
- Passport charges;
- Tips;
- Bar charges/Alcoholic beverages;
- Conferences and Workshops. Lodging costs in excess of Federal per diem. For events of 30 or more participants that are funded with an OJP award, if lodging costs exceed the Federal per diem rate, none of the lodging costs are allowable. (When Federal grant funds are expended for grant conferences for more than 30 attendees and zero hotel rooms are being billed to Federal grants, the award sub-recipients must still ensure that lodging rates are within Federal per diem rates).
- Membership fees to organizations whose primary activity is lobbying; and
- Premium pay. Sub-recipients should not pay premium cost solely because they are using Federal funds. Any premium pay must be authorized in advance through written approval from the award.

Costs Incurred Outside the Project Period

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

Administrative Costs

Unless otherwise noted, sub-recipients shall limit total administrative expenses to no more than five percent (5%) of their grant award. The cost of operating and maintaining facilities, and administrative salaries are examples of administrative costs.

Closeout

Background

It is the responsibility of the sub-recipient to initiate the closeout process of his/her awards by sending the GMB a close out letter. Unless otherwise noted, all award sub-recipients have 30 days after the end date of the award to close out the award. However, sub-recipients should start the closeout process as soon as the program is completed and all monies have been spent.

Closeout of Awards

1. **Cash Reconciliation.** The sub-recipient must perform a financial reconciliation at closeout. The total cost of the project must be determined. If there was a requirement for the sub-recipient to provide a share of the project costs, match must be calculated based on the actual total cost of the project. The sub-recipient should prepare a final Request for Reimbursement for any funds due to cover expenditures and obligations (incurred prior to the grant expiration date and liquidated no more than 30 days after the grant expiration date) at award closeout.
2. **Sub-recipient Closeout Requirements.** Within 30 days after the end date of the award or any approved extension thereof (revised end date), the following must be submitted by the sub-recipient to the GMB:
 - a. **Final Request for Reimbursement.**
 - b. **Final Progress Report.** This report should be prepared in accordance with instructions provided in the Sub-grant Agreement.

NOTE: The GMB will not close out the award until all audit requirements have been met. Please see the Sub-grant Agreement for audit requirements.

Refund of Federal Grant Monies and/or Program Income at Closeout

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

- a check made payable to the New Mexico Department of Public Safety;
- a cover letter or voucher containing the grant award number for the refund, the unobligated balance, and an itemization of funds (e.g., the amount to be applied to excess payments, interest income, program income, questioned costs and so forth).

Initiation of the Closeout Process

The sub-recipient must ensure that all programmatic conditions and requirements have been met, and then the sub-recipient can initiate the closeout process.

Failure to Remit Funds Owed

If the award sub-recipient fails to remit funds owed to the DPS, failure to remit funds due to DPS may result in withholding or freezing of funds on all other grants awarded to the sub-recipient's organization, and may impact future financial integrity reviews affecting future grant applications.

Audit Requirements

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

Audit Objectives

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

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

Audit Reporting Requirements

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

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

All awarding agency personnel have the responsibility to inform the OCFO, DOJ's Office of General Counsel, the Office of the Inspector General, and State and local law enforcement agencies or

prosecuting authorities, as appropriate, of any known violations of the law within their respective area of jurisdiction.

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

Failure to Comply

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

Audit Threshold

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

Due Dates for Audit Reports

Unless otherwise noted, audits are due no later than six (6) months after the close of each fiscal year during the term of the award.

Audit Compliance

Techniques used to determine sub-recipient compliance with Federal requirements when an organization wide audit has not been conducted include:

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

Resolution of Audit Reports

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

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

Top 10 Audit Findings

1. Financial Status Reports not submitted timely;
2. Accounting procedures need improvement;
3. Suspension and Debarment Certifications not obtained;
4. Programmatic reporting requirements not met;
5. Fixed assets not adequately monitored;
6. Grant management procedures need improvement;
7. Segregation of duties not adequate;
8. Cash management procedures need improvement; and
9. Procurement procedures need improvement

Full-Scope Auditing

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

1. Are resources managed and used economically and efficiently?
2. Are desired results and objectives achieved effectively?
3. Is the organization's accounting system and system of internal controls acceptable prior to the receipt of awarding agency funds?

4. Are the organization's systems and controls adequate to detect fraud, waste, and abuse?

Commercial (For-Profit) Organizations

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

Distribution of Audit Reports

Completed audit reports should not be submitted to the New Mexico Department of Public Safety, Grants Management Bureau, 4491 Cerrillos Road, P.O. Box 1628, Santa Fe, NM 87504-1628.

Glossary of Terms

Accrual Basis is the method of recording revenues in the period in which they are earned, regardless of when cash is received, and reporting expenses in the period when the charges are incurred, regardless of when payment is made.

Administrative Requirements are set forth at 28 CFR Parts 66 for State and local units of government and 70 for nongovernmental organizations.

Amusement/social event is an informal gathering which is not mandatory for all participants to attain the necessary information. An indicator of a social/amusement event is a cash bar.

Awarding agency is the Federal Government or the next highest authority, that is, the State agency administering the formula award or the Federal agency administering the discretionary award.

Awards may include funding mechanisms, such as grants, cooperative agreements, interagency agreements, contracts, and/or other agreements.

Block/formula awards are awarded to the States to provide assistance to State and local units of government for programs in accordance with legislative requirements.

Break foods consist of cookies, sodas, and fruits or other snack items, and may be served at a training program, a meeting, or a conference.

Breaks are short pauses in an ongoing informational program at trainings, meetings, conferences, or retreats. Typically, an all-day event may include one break during a morning session and one break during an afternoon session.

Budget Period is the period for which a budget is approved for an award. The budget period may be equal to or shorter than the project period for an award, but cannot be longer than the project period.

Cash Basis is the method of reporting revenues and expenses when cash is actually received or paid out.

Closeout is a process in which the awarding agency determines that all applicable administrative actions and all required work of the award have been completed by the recipient and the awarding agency.

Cognizant Federal agency is the Federal agency that generally provides the most Federal financial assistance to the recipient of funds. Cognizance is assigned by OMB. Cognizant agency assignments for the largest cities and counties are published in the Federal Register. The most recent publication was dated January 6, 1986.

Conference or meeting is a formal event involving topical matters of general interest, (i.e., matters that will contribute to improved conduct, supervision, or management of the agency's functions or activities), to Federal agency and non-Federal agency participants, rather than a routine business meeting primarily involving day-to-day agency operations and concerns. "Meeting" includes other designations, such as a conference, congress, convention, seminar, symposium, training for grantees or contractors, and workshop. See 5 U.S.C. 4110 (1994).

Consultant is an individual who provides professional advice or services.

Continental breakfast means a light breakfast that may include a selection of coffees, teas, juices, fruits, and assorted pastries, and is allowable provided several hours of substantive material directly follows the continental breakfast. Grant recipients are reminded that the least expensive of the available selections should be chosen.

Contracts are entered into by the awarding agency, recipients or subrecipients, and commercial (profit-making) and nonprofit organizations. With the exception of a few justified sole-source situations, contracts are awarded via competitive processes to procure a good or service.

Cooperative agreements are awarded to States, units of local government, or private organizations at the discretion of the awarding agency. Cooperative agreements are utilized when substantial involvement is anticipated between the awarding agency and the recipient during performance of the contemplated activity.

Discretionary awards are made to States, units of local government, or private organizations at the discretion of the awarding agency. Most discretionary awards are competitive in nature in that there are limited funds available and a large number of potential recipients.

Domestic travel includes travel within and between Canada and the United States and its territories and possessions.

Equipment is tangible, nonexpendable personal property having a useful life of more than 1 year and an acquisition cost of \$5,000 or more per unit. A recipient/subrecipient may use its own definition of equipment provided that such definition would at least include all equipment defined above.

Federal contractor is a person or entity that contracts with the Federal Government to provide supplies, services, or experimental, developmental, or research work. Entities may include commercial organizations, educational institutions, construction and architect-engineer companies, State and local governments, and nonprofit organizations. See 48 CFR 31.103-105, 31.107-108 (1995).

Federal employees are those persons employed in or under an agency of the United States Federal Government or the District of Columbia. See 5 U.S.C. 4101 (1994).

Federal grantee means the component of a State, local, or federally recognized Indian tribal government, educational institution, hospital, or a for-profit or nonprofit organization which is responsible for the performance or administration of all or some part of a Federal award. See 2 CFR Part 225, Attachment A and 2 CFR Part 215, Attachment A.

Focus group means a gathering of Federal Government employees to discuss results and improvements of programs in the field. The focus group should follow a prepared agenda, be led by an expert in the subject matter, and serve to educate the Federal employees.

Food and/or beverages retain their common meanings. Food or beverages are considered in the context of formal meals and in the context of refreshments served at short, intermittent breaks during an activity. Beverages do not include alcoholic drinks.

Foreign travel includes any travel outside of Canada and the United States and its territories and possessions. For an organization located in a foreign country, this means travel outside that country.

Formal agenda provides a list of all activities that shall occur during the event, using an hour-by-hour timeline. It must specifically include the times during the event when food and beverages will be provided.

Grants are awarded to States, units of local government, or private organizations at the discretion of the awarding agency or on the basis of a formula. Grants are used to support a public purpose.

High risk is a determination made by the awarding agency of a recipient's ability to financially administer Federal project funds. Additional reporting requirements are imposed on high-risk recipients.

Incidental means relating to a formal event where full participation by participants mandates the provision of food and beverages.

Interagency agreements and purchase of service arrangements are usually entered into by two governmental units or agencies. Such funding arrangements are negotiated by the entities involved.

Match is the recipient share of the project costs. Match may either be "in-kind" or "cash." In-kind match includes the value of donated services. Cash match includes actual cash spent by the recipient and must have a cost relationship to the Federal award that is being matched. (Example: Match on administrative costs should be other administrative costs, not other matching on program costs).

Nonexpendable personal property includes tangible personal property having a useful life of more than 1 year and an acquisition cost of \$5,000 or more per unit. A recipient may use its own definition of nonexpendable personal property provided that the definition would at least include all tangible personal property as defined below.

Obligation means a legal liability to pay under a grant, subgrant, and/or contract determinable sums for services or goods incurred during the grant period.

Pass through is an obligation on the part of the States to make funds available to units of local governments, combinations of local units, or other specified groups or organizations.

Personal property means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence, such as patents, inventions, and copyrights).

Pre-agreement costs are defined as those costs which are considered necessary to the project but occur prior to the starting date of the award period.

Prior approval means written approval by the authorized official (the next highest authority except for sole source) evidencing consent prior to a budgetary or programmatic change in the award.

Program income means gross income earned by the recipient during the funding period as a direct result of the award. Direct result is defined as a specific act or set of activities that are directly attributable to grant funds and which are directly related to the goals and objectives of the project. Determinations of "direct result" will be made by the awarding agency for discretionary grants and by the State for block/formula sub-awards. Fines/penalties are not considered program income. Program income may be used only for allowable program expenses.

Project Period is the period for which implementation of a project is authorized. The project period may be equal to or longer than the budget period for an award, but cannot be shorter than the budget period.

Purchase of evidence (P/E) is the purchase of evidence and/or contraband, such as narcotics and dangerous drugs, firearms, stolen property, counterfeit tax stamps, and so forth, required to determine the existence of a crime or to establish the identity of a participant in a crime.

Purchase of services (P/S) includes travel or transportation of a non-Federal officer or an informant; the lease of an apartment, business front, luxury-type automobiles, aircraft or boat, or similar effects to create or establish the appearance of affluence; and/or meals, beverages, entertainment, and similar expenses (including buy money and flash rolls, etc.) for undercover purposes, within reasonable limits.

Purchase of specific information (P/I) includes the payment of monies to an informant for specific information. All other informant expenses would be classified under P/S and charged accordingly.

Real property means land, land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

Reasonable means those costs that a prudent person would have incurred under the circumstances prevailing at the time the decision to incur the cost was made. Costs to consider when making judgments about reasonableness include the cost of food and beverage, total cost of the event, and costs incurred relative to costs in the geographical area. The exception to this definition is lodging costs for events of 30 or more participants, when the event is funded with an OJP award. For these events, reasonable is defined as the Federal per diem rate for lodging.

Reception means an informal gathering which is not mandatory for all event participants to obtain necessary information. Indicators of a reception include a cash bar, inadequate seating for the entire group, food items from a reception menu (such as finger foods), and a longer break (than utilized throughout the day) between the substantive meetings and the reception. Receptions are expressly prohibited and are considered to be an unallowable cost with Federal funds.

Recipient is an individual and/or organization that receive Federal financial assistance directly from the Federal agency.

Social event is any event with alcohol beverages served, available, or present.

Stipend is an allowance for living expenses. Examples of these expenses include, but are not limited to, rent, utilities, incidentals, etc.

Sub-award is an award of financial assistance in the form of money to an eligible sub-recipient or a procurement contract made under an award by a recipient.

Sub-recipient is an individual and/or organization that receives Federal financial assistance from the direct recipient of Federal funds. This may include entities receiving funds as a result of block or formula awards.

Supplanting is to deliberately reduce State or local funds because of the existence of Federal funds. For example, when State funds are appropriated for a stated purpose and Federal funds are awarded for that same purpose, the State replaces its State funds with Federal funds, thereby reducing the total amount available for the stated purpose.

Working dinner means a formal and mandatory dinner necessary for all participants to have full participation in the conference or event. A working dinner must include a formal agenda including a program or speakers that will impart necessary information important for full understanding of the subject matter of the conference. There should be several hours of informative sessions providing

substantive information scheduled both before and after a working dinner. Indicators of a working dinner include seating for all participants. A cash bar is expressly prohibited.

Working lunch is a formal and mandatory lunch necessary for all participants to have full participation in the conference or event. A working lunch must include a formal agenda including a program or speakers that will impart necessary information important for full understanding of the subject matter of the conference. There should be several hours of informative sessions providing substantive information scheduled both before and after a working lunch (exhibits are not included). Indicators of a working lunch include seating for all participants. A cash bar is expressly prohibited.

Work-related event is a conference or meeting involving a topical matter of interest within the purview of the agency's mission and function.

This publication has been copied in part from the Financial Guide, Grantor was replaced by sub-recipient.

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