

**Edward Byrne Memorial Justice Assistance Grant (JAG)  
Program Fiscal Year 2019 State Solicitation**

June 18, 2019

This solicitation has been changed to correct an appendix reference. Thank you for your attention to this update.

U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance



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## Edward Byrne Memorial Justice Assistance Grant (JAG) Program Fiscal Year 2019 State Solicitation

CFDA #16.738

Solicitation Release Date: April 23, 2019

Application Deadline: 11:59 p.m. eastern time on June 25, 2019

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The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#) (OJP), [Bureau of Justice Assistance](#) (BJA) is seeking applications for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting state, local, and tribal law enforcement efforts to prevent or reduce crime and violence.

This solicitation incorporates the [OJP Grant Application Resource Guide](#) by reference. The OJP Grant Application Resource Guide provides guidance to applicants for the preparation and submission to OJP of applications for funding. **If this solicitation expressly modifies any provision in the OJP Grant Application Resource Guide, the applicant is to follow the guidelines in this solicitation as to that provision.**

This solicitation expressly modifies the OJP Grant Application Resource Guide by not incorporating the "Limitation on Use of Award Funds for Employee Compensation; Waiver" provisions in the "Financial Information" section of the OJP Grant Application Resource Guide.

### Eligibility

Only states may apply under this solicitation. By law, for purposes of the JAG Program, the term "states" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa. (Throughout this solicitation, each reference to a "state" or "states" includes all 56 jurisdictions.)

A JAG application is not complete, and a state may not access award funds, unless the chief executive of the applicant state (e.g., the governor) properly executes, and the state submits, the "Certifications and Assurances by the Chief Executive of the Applicant Government" attached to this solicitation as [Appendix A](#).

The expected allocations by state for the fiscal year (FY) 2019 JAG Program can be found at: <https://www.bja.gov/funding/FY18-State-JAG-Web-Allocations.pdf>.

All recipients and subrecipients (including any for-profit organization) must forgo any profit or management fee.

## Contact information

For technical assistance with submitting an application, contact the Grants Management System (GMS) Support Hotline at 888-549-9901, option 3, or via email at [GMS.HelpDesk@usdoj.gov](mailto:GMS.HelpDesk@usdoj.gov). The GMS Support Hotline operates 24 hours a day, 7 days a week, including on federal holidays.

An applicant that experiences unforeseen GMS technical issues beyond its control that prevent it from submitting its application by the deadline must email the National Criminal Justice Reference Service (NCJRS) Response Center at [grants@ncjrs.gov](mailto:grants@ncjrs.gov) **within 24 hours after the application deadline** in order to request approval to submit its application after the deadline. For information on reporting technical issues, see “Experiencing Unforeseen GMS Technical Issues” under **How to Apply (GMS)** in the [OJP Grant Application Resource Guide](#).

For assistance with any other requirement of this solicitation, applicants may contact the NCJRS Response Center by telephone at 1-800-851-3420; via TTY at 301-240-6310 (hearing impaired only); by email at [grants@ncjrs.gov](mailto:grants@ncjrs.gov); by fax to 301-240-5830; or by web chat at <https://webcontact.ncjrs.gov/ncjchat/chat.jsp>. The NCJRS Response Center hours of operation are 10:00 a.m. to 6:00 p.m. eastern time, Monday through Friday, and 10:00 a.m. to 8:00 p.m. eastern time on the solicitation close date. Applicants also may contact the appropriate BJA [State Policy Advisor](#).

## Post-Award Legal Requirements Notice

If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with all award conditions, and all applicable requirements of federal statutes and regulations (including applicable requirements referred to in the assurances and certifications executed in connection with award acceptance). OJP strongly encourages prospective applicants to review information on post-award legal requirements and common OJP award conditions **prior** to submitting an application.

For additional information on these legal requirements, see the “Administrative, National Policy, and Other Legal Requirements” section in the [OJP Grant Application Resource Guide](#).

## Deadline details

Applicants must register in the OJP Grants Management System (GMS) at <https://grants.ojp.usdoj.gov/> prior to submitting an application under this solicitation. All applicants must register, even those that previously registered in GMS. Select the “Apply Online” button associated with the solicitation title. All registrations and applications are due by 11:59 p.m. eastern time on June 25, 2019.

For additional information, see the “**How to Apply (GMS)**” section in the [OJP Grant Application Resource Guide](#).

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# Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2019 State Solicitation CFDA #16.738

## A. Program Description

### Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to states and units of local government. BJA will award JAG Program funds to eligible states under this FY 2019 JAG Program State Solicitation. (BJA will issue a separate solicitation for applications from units of local government.)

**Statutory Authority:** The JAG Program is authorized by Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law No. 90-351) (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a).

### Program-specific Information

#### Permissible uses of JAG Funds – In general

In general, JAG funds awarded to a state under this FY 2019 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for **criminal justice**, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs

Additionally, JAG funds awarded to a state under this FY 2019 solicitation may be used for any purpose indicated in [Appendix D](#).

In connection with the all of the above purposes (including those indicated in the appendix), it should be noted that the statute defines “criminal justice” as “activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not

limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency.”

### **Limitations on the use of JAG funds**

Prohibited uses of funds – JAG funds may not be used (whether directly or indirectly) for any purpose prohibited by federal statute or regulation, including those purposes specifically prohibited by the JAG Program statute as set out at 34 U.S.C. § 10152.

JAG funds may not be used (directly or indirectly) for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety. Additionally, **JAG funds may not be used (directly or indirectly) to pay for any of the following items unless the BJA Director certifies that extraordinary and exigent circumstances exist**, making them essential to the maintenance of public safety and good order:

- Vehicles, vessels, or aircraft\*
- Luxury items
- Real estate
- Construction projects (other than penal or correctional institutions)
- Any similar items

\*Police cruisers, police boats, and police helicopters are allowable vehicles under JAG and do not require BJA certification.

**For information about requesting BJA certification for a listed prohibited item (including UA, UAV and/or UAS purchases) or for examples of allowable vehicles that do not require BJA certification, refer to the [JAG FAQs](#).**

**Cap on use of JAG award funds for administrative costs** – Up to 10 percent of a JAG award, including up to 10 percent of any earned interest, may be used for costs associated with administering the award.

**Prohibition of supplanting; prohibition on use of JAG funds as match** – JAG funds may not be used to supplant state or local funds but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities. See the [JAG FAQs](#) for examples of supplanting.

Although supplanting is prohibited, as discussed under [What An Application Should Include](#), leveraging of federal funding is encouraged.

Absent specific federal statutory authority to do so, JAG award funds may not be used as a match for the purposes of other federal awards.

**Other restrictions on use of funds** – If a state chooses to use its FY 2019 JAG funds for particular, defined types of expenditures, it must satisfy certain preconditions.

- Body-Worn Cameras (BWCs) – A state that proposes to use FY 2019 JAG award funds to purchase BWC equipment or to implement or enhance BWC programs, must provide to OJP a certification(s) that each state law enforcement agency receiving the equipment or

implementing the program has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, and training. The certification form related to BWC policies and procedures can be found at <https://www.bja.gov/Funding/BodyWornCameraCert.pdf>.

A state that proposes to use JAG funds for BWC-related expenses will have funds withheld until the required certification is submitted and approved by OJP. If the state proposes to change project activities to utilize JAG funds for BWC-related expenses after the award is accepted, the state must submit the signed certification to OJP at that time.

Further, before making any subaward for BWC-related expenses, the state JAG recipient must collect a completed BWC certification from the proposed subrecipient. Any such certifications must be maintained by the state JAG recipient and made available to OJP upon request.

**The BJA [BWC Toolkit](#) provides model BWC policies and best practices to assist criminal justice departments in implementing BWC programs.**

Apart from the JAG Program, BJA provides funds under the Body-Worn Camera Policy and Implementation Program (BWC PIP). BWC PIP allows jurisdictions to develop and implement policies and practices required for effective program adoption, and to address program factors including the purchase, deployment, and maintenance of camera systems and equipment; data storage and access; and privacy considerations. Interested states may wish to refer to the [BWC Program web page](#) for more information. States should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BWC Program.

- **Body Armor** – Body armor purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the following requirements are met: The body armor must have been tested and found to comply with the latest applicable National Institute of Justice (NIJ) ballistic or stab standards. In addition, body armor purchased must be made in the United States. Finally, body armor purchased with JAG funds must be “uniquely fitted vests,” which means protective (ballistic or stab-resistant) armor vests that conform to the individual wearer to provide the best possible fit and coverage, through a combination of: (1) correctly sized panels and carrier, determined through appropriate measurement and (2) properly adjusted straps, harnesses, fasteners, flaps, or other adjustable features. The requirement that body armor be “uniquely fitted” does not necessarily require body armor that is individually manufactured based on the measurements of an individual wearer. In support of OJP’s efforts to improve officer safety, the American Society for Testing and Materials (ASTM) International has made available the [Standard Practice for Body Armor Wearer Measurement and Fitting of Armor](#) (Active Standard ASTM E3003) available at no cost. The [Personal Armor Fit Assessment checklist](#) is excerpted from ASTM E3003.

A state that proposes to use FY 2019 JAG award funds to purchase body armor must provide OJP with a certification(s) that each state law enforcement agency receiving body armor has a written “mandatory wear” policy in effect. See 34 U.S.C. § 10202(c).

The certification form related to mandatory wear can be found at [www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf](http://www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf).

A state that proposes to use JAG funds to purchase body armor will have funds withheld until the required certification is submitted and approved by OJP. If the state proposes to change project activities to utilize JAG funds to purchase body armor after the award is accepted, the state must submit the signed certification to OJP at that time.

Further, before making any subaward for the purchase of body armor, the state JAG recipient must collect a completed mandatory wear certification from the proposed subrecipient. Any such certifications must be maintained by the state JAG recipient and made available to OJP upon request.

A mandatory wear concept and issues paper and a model policy are available at the BVP Customer Support Center, at [vests@usdoj.gov](mailto:vests@usdoj.gov) or toll free at 1-877-758-3787. Additional information and FAQs related to the mandatory wear policy and certifications can be found at <https://www.bja.gov/Funding/JAGFAQ.pdf>.

Apart from the JAG Program, BJA provides funds under the Bulletproof Vest Partnership (BVP) Program. The BVP Program is designed to provide a critical resource to state and local law enforcement agencies for the purchase of ballistic-resistant and stab-resistant body armor. For more information on the BVP Program, including eligibility and application, refer to the [BVP web page](#). States should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BVP Program.

- Interoperable Communications – States (and any subrecipients) that use FY 2019 JAG funds to support emergency communications activities (including the purchase of interoperable communications equipment and technologies such as Voice over Internet Protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission [FCC] Waiver Order) should review current SAFECOM guidance at: <https://www.dhs.gov/safecom>. This guidance is updated annually to provide current information on emergency communications policies, eligible costs, best practices, and technical standards for state, local, tribal, and territorial grantees investing federal funds in emergency communications projects. Additionally, emergency communications projects funded with FY 2019 JAG funds should support the Statewide Communication Interoperability Plan (SCIP) and be coordinated with the full-time statewide interoperability coordinator (SWIC) in the state of the project. As the central coordination point for a state's interoperability effort, the SWIC plays a critical role and can serve as a valuable resource. SWICs are responsible for the implementation of SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office of Emergency Communications maintains a list of SWICs for each of the states and territories. Contact [OEC@hq.dhs.gov](mailto:OEC@hq.dhs.gov) for more information. All communications equipment purchased with FY 2019 JAG Program funding should be identified during quarterly performance metrics reporting.

Further, information-sharing projects funded with FY 2019 JAG funds must comply with DOJ's [Global Justice Information Sharing Initiative](#) guidelines, as applicable, in order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community. Recipients (and subrecipients) must

conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https://it.ojp.gov/gsp\\_grantcondition](https://it.ojp.gov/gsp_grantcondition). Recipients (and subrecipients) will be required to document planned approaches to information sharing and describe compliance with GSP and an appropriate privacy policy that protects shared information or provide detailed justification for why an alternative approach is recommended.

For JAG applicants considering implementing communications technology projects, it is worthwhile to consider the First Responder Network Authority (FirstNet) Program. The Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. §§ 1401 *et seq.*) established FirstNet as an independent authority within the National Telecommunications and Information Administration (NTIA). FirstNet's statutory mission is to take all actions necessary to ensure the establishment of a nationwide public safety broadband network (NPSBN). NPSBN will use the 700 MHz D block spectrum to provide Long-Term Evolution (LTE)-based broadband services and applications to public safety entities. The network is based on a single, national network architecture that will evolve with technological advances and initially consist of a core network and radio access network. While mission critical voice communications will continue to occur on land mobile radio (LMR), in time, FirstNet is expected to provide public safety entities with mission critical broadband data capabilities and services including, but not limited to: messaging, image sharing, video streaming, group text, voice, data storage, applications, location-based services, and quality of service, priority, and preemption. This reliable, highly secure, interoperable, and innovative public safety communications platform will bring 21<sup>st</sup> century tools to public safety agencies and first responders, allowing them to get more information quickly and helping them to make faster and better decisions. For more information on FirstNet services, the unique value of the FirstNet network to public safety, and how to subscribe for the FirstNet service, should your state or territory opt in, visit [www.FirstNet.gov](http://www.FirstNet.gov). To learn about FirstNet's programs and activities, including its consultation and outreach with public safety, the state plan's process, FirstNet's history and promise and how it plans to ensure that the FirstNet network meets the needs of public safety, visit [www.FirstNet.gov](http://www.FirstNet.gov) or contact [info@firstnet.gov](mailto:info@firstnet.gov).

- DNA Testing of Evidentiary Materials and Uploading DNA Profiles to a Database— If JAG Program funds are to be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the Federal Bureau of Investigation [FBI]) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior expressed written approval from BJA.

In addition, funds may not be used to purchase DNA equipment and supplies when the resulting DNA profiles from such technology are not acceptable for entry into CODIS.

- Entry of Records into State Repositories – As appropriate and to the extent consistent with law, a condition will be imposed that would require the following: with respect to any “program or activity” that receives federal financial assistance under this solicitation that is likely to generate or upgrade court dispositions or other records that are relevant to National Instant Background Check System (NICS) determinations (which includes any dispositions or records whatsoever that involve any “alien [who] is illegally or unlawfully in the United States” (18

U.S.C. § 922(g)(5)(A) (generally prohibiting any such alien to possess any firearm or ammunition)), a system must be in place to ensure that all such NICS-relevant dispositions or records that are generated or upgraded are made available in timely fashion to state repositories/databases that are accessed by NICS.

### **State obligations regarding use of JAG funds and units of local government**

A state that applies for and receives an FY 2019 JAG award must:

- Pass through a predetermined percentage of funds to units of local government. (For purposes of the JAG Program, a “unit of local government” includes a city, county, township, town, and certain federally recognized Indian tribes.) This predetermined percentage (often referred to as the “variable pass-through” or “VPT”) is calculated by OJP’s Bureau of Justice Statistics (BJS), based on the total criminal justice expenditures by a state and its units of local government. The variable pass-through percentages that will apply to an FY 2019 award to a recipient state can be found at: <https://www.bja.gov/jag/pdfs/VPT-for-SAs-updated-June-2017.pdf>. (If a state believes the VPT percentage has been calculated incorrectly, the state may provide pertinent, verifiable data to BJA and ask OJP to reconsider.)
- Appropriately use or distribute the amount of funds that are **added** to the state’s FY 2019 award because certain units of local government within the state are ineligible for a direct FY 2019 award of JAG funds due to their small size. (These small size units of local government are referred to as “less-than-\$10,000 jurisdictions.”) The state must provide these additional funds included in its FY 2019 award to state police departments that provide criminal justice services to the “less-than-\$10,000 jurisdictions” within the state and/or subaward the funds to such jurisdictions.

### **Required compliance with applicable federal laws**

By law, the chief executive (e.g., the governor) of each state that applies for an FY 2019 JAG award must certify that the state will “comply with all provisions of [the JAG program statute] and all other applicable Federal laws.” To satisfy this requirement, each state applicant must submit a properly executed certification, using the form shown in [Appendix A](#).

All applicants should understand that OJP awards, including certifications provided in connection with such awards, are subject to review by DOJ, including by OJP and by the DOJ Office of the Inspector General. Applicants also should understand that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in a certification submitted to OJP in support of an application may be the subject of criminal prosecution, and also may result in civil penalties and administrative remedies for false claims or otherwise. Administrative remedies that may be available to OJP with respect to an FY 2019 award include suspension or termination of the award, placement on the DOJ high-risk grantee list, disallowance of costs, and suspension or debarment of the recipient.

### **National Incident-Based Reporting System (NIBRS) 3 Percent Set-aside**

In FY 2016, the FBI formally announced its intention to sunset the Uniform Crime Reporting (UCR) Program’s traditional Summary Reporting System (SRS) and replace it with the UCR Program’s National Incident-Based Reporting System (NIBRS). By January 1, 2021, the FBI intends for NIBRS to be the law enforcement crime data reporting standard for the nation.

By statute, JAG Program awards are calculated using summary Part 1 violent crime data from the FBI's UCR Program. (See 34 U.S.C. § 10156.) Once SRS has been replaced by NIBRS, JAG award amounts will be calculated using NIBRS data. In preparation for the FBI's 2021 NIBRS compliance deadline, beginning in FY 2018, BJA requires, through the application of a special condition, direct JAG award recipients not certified by the FBI as NIBRS compliant to dedicate 3 percent of their JAG award toward achieving full compliance with the FBI's NIBRS data submission requirements under the UCR Program. The 3 percent requirement will assist state and local jurisdictions in working toward compliance, to ensure they continue to have critical criminal justice funding available through JAG when SRS is replaced by NIBRS in FY 2021.

The requirement for a NIBRS set-aside will not be applied to subawards from states. Rather, state JAG recipients must ensure that at least 3 percent of the total award amount is used toward NIBRS compliance, unless the FBI has certified that the state is already NIBRS compliant. States must clearly indicate in their application narratives and budgets what projects will be supported with this 3 percent set-aside.

The following are examples of costs and projects that relate to NIBRS implementation at the state or local level that could be funded under the JAG Program: software, hardware, and labor that directly support or enhance a state or agency's technical capacity for collecting, processing, and analyzing data reported by local law enforcement (LE) agencies and then submitting NIBRS data to the FBI; training personnel responsible for the state's Incident Based Reporting (IBR) program on receiving, processing, analyzing, and validating incident-based data from local LE agencies in their state; training local agencies in how to collect and submit NIBRS data; and technical assistance for LE agency personnel responsible for (1) managing the agency's crime incident data, (2) processing and validating the data, and (3) extracting and submitting IBR data to the state UCR Program according to the states and/or directly to the FBI according to the NIBRS standard.

BJA will waive the set-aside requirement for states that have been certified as NIBRS compliant by the FBI as of the posting date of this solicitation. States that achieve full compliance with NIBRS after receiving an award should email evidence of NIBRS compliance (written documentation from the FBI that certifies NIBRS compliance) to their State Policy Advisor listed in OJP's Grants Management System (GMS). Upon review of the documentation submitted, BJA will confirm the NIBRS compliance and then issue a Grant Adjustment Notice (GAN) to clear any withholding special condition associated with the NIBRS set-aside requirement. States must retain documentation on file that demonstrates the FBI certification of NIBRS compliance. Such documentation must be made available for BJA review, upon request. If approved, states will not be subject to the 3 percent set-aside requirement.

Note: In FY 2018, U.S. Territories and tribal jurisdictions were not subject to the 3 percent set-aside for NIBRS compliance to allow the territories and tribal jurisdictions to plan for the change in funding direction and provide BJA with time to coordinate or provide any necessary technical assistance. **In FY 2019 and forward, this requirement is applicable, meaning U.S. Territories and tribal jurisdictions must set aside the 3 percent for NIBRS compliance.**

### Potential statutory funding reductions

- Prison Rape Elimination Act of 2003 (PREA) – In 2012, DOJ published the National

PREA Standards, which were promulgated to prevent, detect, and respond to sexual victimization and abuse in confinement settings. The PREA Standards are set out at 28 C.F.R. Part 115, and apply to confinement facilities, including adult prisons and jails, juvenile facilities, and police lockups.

Under PREA, if a state's chief executive (e.g., governor) does not certify full compliance with the National PREA Standards, the state is subject to the loss of 5 percent of certain DOJ grant funds, including JAG award funds, unless: (1) the chief executive submits an assurance to DOJ that no less than 5 percent of such funds will be used solely for the purpose of enabling the state to achieve and certify full compliance with the PREA Standards in future years; or (2) the chief executive requests that the affected funds be held in abeyance by DOJ. See 34 U.S.C. § 30307(e)(2).

A reduction of a FY 2019 JAG award to a state under the provisions of PREA will **not** affect the portion of the JAG award that is reserved for local jurisdictions.

For additional information concerning PREA implementation, send inquiries to the PREA Management Office at [PREACompliance@usdoj.gov](mailto:PREACompliance@usdoj.gov) and/or review the [PREA FAQs](#).

- Sex Offender Registration and Notification Act (SORNA) – SORNA, which is Title I of the Adam Walsh Child Protection and Safety Act of 2006, mandates a 10 percent reduction in a JAG award to a state that has failed to substantially implement SORNA. Further, states that have substantially implemented SORNA have an ongoing obligation to maintain that status each year. A JAG reduction is applied for each year a jurisdiction has failed to have substantially implemented SORNA.

A reduction of a FY 2019 JAG award to a state under the provisions of SORNA will **not** affect the portion of the JAG award that is reserved for local jurisdictions.

**IMPORTANT NOTICE**

Be advised that beginning in FY 2020, OJP will calculate the 10 percent SORNA penalty on the initial allocation to the state (i.e., State's initial allocation x 10% = SORNA penalty).

For additional information regarding SORNA implementation, including requirements and a list of states that will be affected in FY 2019 by the 10 percent reduction to the JAG award, send inquiries to [AskSMART@usdoj.gov](mailto:AskSMART@usdoj.gov). Additional SORNA guidance can be found within the [SORNA FAQs](#).

**Death in Custody Reporting Act (DCRA)**

Beginning in FY 2019, BJA will require reporting from states pursuant to the Death in Custody Reporting Act (DCRA). The Death in Custody Reporting Act requires states and federal law enforcement agencies to report certain information to the Attorney General regarding the death of any person occurring during interactions with law enforcement officers or while in custody. All reporting for DCRA will be submitted via the BJA Performance Management Tool (PMT), located at <https://bjapmt.ojp.gov>.

For each quarter in a fiscal year, states must either (1) identify all reportable deaths that occurred in

their jurisdictions during the corresponding quarter and provide basic information about the circumstances of the death, or (2) affirm that no reportable death occurred in the state during the reporting period.

A state must complete the required questions related to deaths in custody in the PMT and submit it by the reporting deadline. The reporting deadline to submit the Quarterly Summary is the last day of the month following the close of the quarter. For each quarter, BJA will send two reminders prior to the reporting deadline.

For each reportable death, a state must enter into the PMT:

- The decedent's name, date of birth, gender, race, and ethnicity
- The date, time, and location of the death
- The law enforcement or correctional agency involved
- Manner of death

States must answer all questions in the PMT before they can submit their quarterly reports. If the state does not have sufficient information to complete one of the questions, then the state may select the "unknown" answer, if available, and then identify when the information is anticipated to be obtained.

**A state that fails to comply may, *at the discretion of the Attorney General*, be subject to not more than a 10-percent reduction of the funds that would otherwise be allocated for that fiscal year to the state under the Byrne JAG program. The Department will review the implementation of the penalty in future years.**

### **BJA Areas of Emphasis**

BJA recognizes that many state and local criminal justice systems currently face challenging fiscal environments and that an important, cost-effective way to relieve those pressures is to share or leverage resources through cooperation among federal, state, and local law enforcement. BJA intends to focus much of its work on the areas of emphasis described below, and encourages each state recipient of an FY 2019 JAG award to join federal law enforcement agencies across the board in addressing these challenges.

Reducing Violent Crime – Recognizing that crime problems, including felonious possession and use of a firearm and/or gang violence, illegal drug sales and distribution, human trafficking, and other related violent crime, vary from community to community, BJA encourages states to tailor their programs to the local crime issues, and to be data-informed in their work. States should consider investing JAG funds in programs to combat illegal firearms violence, and to improve the process for ensuring that persons prohibited from purchasing firearms (see, e.g., 18 U.S.C. § 922(g)) are prevented from doing so, by using technology such as eTrace and NIBIN to analyze evidence and by enhancing complete, accurate, and timely reporting to the FBI's NICS. States are also encouraged to coordinate with the United States Attorneys and Project Safe Neighborhood (PSN) grantees in order to leverage funding for violence reduction projects, and to coordinate their law enforcement activities with those of federal law enforcement agencies such as the FBI, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Drug Enforcement Administration, the United States Marshals Service, and the Department of Homeland Security.

Officer Safety and Wellness – The issue of law enforcement safety and wellness is an important priority for BJA and DOJ. According to the [2018 Preliminary End-of-Year Law Enforcement Fatalities Report](#), released by the National Law Enforcement Officers Memorial Fund (NLEOMF), 2018 saw 144 law enforcement line-of-duty deaths nationwide. This is a 12 percent increase over 2017, which had 129 line-of-duty deaths. Firearms-related deaths were the leading cause of law enforcement deaths (52) – a 13 percent increase when compared to 2017. Among those deaths, 14 occurred during an attempt to arrest a suspect, 8 while conducting an investigative activity, 6 while responding to a domestic or public disturbance, and 5 as a result of being ambushed. Additionally, there were 50 traffic-related deaths. Forty-two officers died due to circumstances other than firearms or traffic, the majority being job-related illnesses.

Based on the latest report (2017) from the [FBI's Law Enforcement Officers Killed and Assaulted \(LEOKA\) data](#), there appeared to be a continuing increase in assaults against law enforcement officers between 2016 and 2017. In 2017 there were 60,211 assaults versus 57,180 assaults in 2016. Of those assaulted, 17,476 were injured compared to 16,535 injured in 2016. The 2017 LEOKA data show that 21 officers died as a result of investigative or enforcement duties—6 during pursuits, and 5 were ambushed.

BJA sees a vital need to continue to focus on tactical officer safety concerns and on the health and wellness of law enforcement as they may have a direct effect on officer performance and safety. It is important for law enforcement to have the necessary tactical skills, and also be physically and mentally well, to perform, survive, and be resilient in the face of the demanding duties of the profession. BJA encourages states to use JAG funds to address these needs by providing training, and paying for tuition and travel expenses related to attending trainings such as those available through the [BJA VALOR Initiative](#) and soon to be available through the National Officer Safety Initiatives Program, and funding for health and wellness programs for law enforcement officers. JAG funding may also be used for attendance to officer safety and wellness conferences to enhance law enforcement education and awareness with the goal of preventing officer injury and/or death.

Southwest Border Rural Law Enforcement – Securing U.S. borders (and internationally accessible waterways and airports) is critically important to the reduction, intervention, and prevention of transnational drug-trafficking networks, gangs, and combating all forms of human trafficking and related sexual assaults within the United States (including sex and labor trafficking of foreign nationals and U.S. citizens of all sexes and ages). Smuggling and trafficking operations to, from, and within the United States contribute to a significant increase in violent crime and U.S. deaths, to include law enforcement. BJA encourages states using JAG funds to support law enforcement hiring, training, and technology enhancement and information sharing, cooperation, and coordination among federal, state, local, tribal, and territorial law enforcement agencies to help address these problems.

Responding to the Opioid Crisis – The opioid crisis is a public health emergency and responding to the crisis is one of DOJ's top priorities. In 2017, more than 72,000 Americans lost their lives to drug overdoses, according to the Centers for Disease Control and Prevention. In 2016, 63,632 Americans died from fatal drug overdoses and 52,404 died in 2015 (CDC). The majority of these deaths can be attributed to opioids. Law enforcement

plays a vital role in efforts to stem overdoses, save lives, and fight illegal opioid distribution and abuse. BJA encourages local governments to use JAG funds to support law enforcement actions to fight the opioid epidemic such as addressing the supply of both diverted prescription drugs and illegal drugs, and supporting first responders when encountering overdoses. JAG funds can also be used for training and safety measures to prepare for potential encounters with synthetic opioids such as fentanyl. This may include covering the cost of providing naloxone to all officers and the cost of fentanyl detection testing.

### **Objectives**

In general, the FY 2019 JAG Program is designed to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. Although the JAG Program provides assistance directly to states, through pass-through (and similar) requirements, the JAG Program also is designed to assist units of local government with respect to criminal justice.

As discussed in more detail in the [General Information about Post-federal Award Reporting Requirements](#) discussion, a state that receives an FY 2019 JAG award will be required to produce various types of reports and to submit data related to performance measures and accountability. The objectives and deliverables are directly related to the JAG Program accountability measures described at <https://bjapmt.ojp.gov/help/jagdocs.html>.

The Objectives are directly related to the performance measures that demonstrate the results of the work completed, as discussed under [What an Application Should Include](#).

### **Evidence-based Programs or Practices**

OJP strongly emphasizes the use of data and evidence in policy making and program development in criminal justice, juvenile justice, and crime victim services. For additional information and resources on evidence-based programs or practices, see the [OJP Grant Application Resource Guide](#).

A useful matrix of evidence-based policing programs and strategies is available through the BJA-supported [Matrix Demonstration Project](#). It offers a number of program models designed to effectively implement promising and evidence-based strategies through the BJA Innovation Suite of programs including Innovations in Policing, Prosecution, Supervision, Reentry, and others (see <https://www.bja.gov/Programs/CRPPE/innovationssuite.html>). BJA encourages states to use JAG funds to support these crime innovation strategies, including effective partnerships with universities and research partners and with nontraditional criminal justice partners.

### **Information Regarding Potential Evaluation of Programs and Activities**

Applicants should note OJP may conduct or support an evaluation of the programs and activities funded under this solicitation. For additional information, see the [OJP Grant Application Resource Guide](#) section, entitled, "Information Regarding Potential Evaluation of Programs and Activities."

### **BJA Success Stories**

The BJA-sponsored [Success Stories](#) web page features projects that have demonstrated success or shown promise in reducing crime and positively impacting communities. This web

page is a valuable resource for states, localities, territories, tribes, and criminal justice professionals who seek to identify and learn about JAG and other successful BJA-funded projects linked to innovation, crime reduction, and evidence-based practices. **BJA strongly encourages the submission of success stories annually (or more frequently).**

If a state has a success story it would like to submit, it may be submitted through the [My BJA account](#), using “Add a Success Story” and the Success Story Submission form. Register for a My BJA account using this [registration](#) link.

## B. Federal Award Information

Maximum number of awards BJA expects to make	56
Estimated maximum dollar amount for each award	up to \$18,056,180
Total amount anticipated to be awarded under solicitation	\$176,700,000
Period of Performance start date	October 1, 2018
Period of Performance duration	4 years

Recipients have the option to request a one-time, up to 12 month extension. An extension beyond this period may be made on a case-by-case basis, at the discretion of BJA, and must be justified by circumstances beyond the control of the recipient. The extension must be requested via GMS no fewer than 30 days prior to the end of the period for performance.

The expected allocations by state for the FY 2019 JAG program can be found at: <https://www.bja.gov/funding/FY18-State-JAG-Web-Allocations.pdf>.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by statute.

### Type of Award<sup>2</sup>

BJA expects to make any award under this solicitation in the form of a grant. See the “Administrative, National Policy, and Other Legal Requirements” section of the [OJP Grant Application Resource Guide](#) for a brief discussion of important statutes, regulations, and award conditions that apply to many (or in some cases, all) OJP grants (and cooperative agreements).

JAG awards are based on a statutory formula as described below:

Once each fiscal year’s overall JAG Program funding level is determined, BJA works with BJS to begin a four-step grant award calculation process, which, in general, consists of:

- (1) Computing an initial JAG allocation for each state, based on its share of violent crime and population (weighted equally).
- (2) Reviewing the initial JAG allocation amount to determine if the state allocation is less than the minimum award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state is funded at the minimum level, and the funds required

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<sup>2</sup> For purposes of this solicitation, the phrase “pass-through entity” includes any recipient or subrecipient that provides a subaward (“subgrant”) to carry out part of the funded award or program.

for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on its share of violent crime and population.

(3) Dividing each state's final award amount (except for the territories and District of Columbia) between the state and its units of local governments at a rate of 60 and 40 percent, respectively.

(4) Determining unit of local government award allocations, which are based on their proportion of the state's 3-year violent crime average. If the "eligible award amount" for a particular unit of local government, as determined on this basis, is \$10,000 or more, then the unit of local government is eligible to apply directly to OJP (under the JAG Local solicitation) for a JAG award. If the "eligible award amount" to a particular unit of local government, as determined on this basis, would be less than \$10,000, however, the funds are not made available for a direct award to that particular unit of local government, but instead are added to the amount that otherwise would have been awarded to the state. (The state's obligations with respect to this additional amount for the "less-than-\$10,000 jurisdictions" are summarized [above](#).)

### **Financial Management and System of Internal Controls**

Award recipients and subrecipients (including recipients or subrecipients that are pass-through entities) must, as described in the Part 200 Uniform Requirements<sup>3</sup> as set out at 2 C.F.R. 200.303, comply with standards for financial and program management. See [OJP Grant Application Resource Guide](#) for additional information.

### **Budget Information**

Trust Fund – State administering agencies (SAAs) may draw down JAG funds either in advance or on a reimbursement basis. Nonfederal entities must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 CFR 200.305(b)(8)). Subrecipients that draw down JAG funds in advance are subject to the same requirement and must first establish an interest-bearing account.

Tracking and reporting regarding JAG funds used for state administrative costs – As indicated earlier, up to 10 percent of a JAG award, including up to 10 percent of any earned interest, may be used for costs associated with administering the award. Administrative costs (when utilized) must be tracked separately; a recipient must report in separate financial status reports (SF-425) those expenditures that specifically relate to each particular JAG Award during any particular reporting period.

No commingling – Both the state recipient and all subrecipients of JAG funds are prohibited from commingling funds on a program-by-program or project-by-project basis. **For this purpose, use of the administrative JAG funds to perform work across all active awards in any one year is not considered commingling.**

### **Cost Sharing or Match Requirement**

The JAG Program does not require a match. However, if a successful application proposes a

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<sup>3</sup> The "Part 200 Uniform Requirements" means the DOJ regulation at 2 C.F.R Part 2800, which adopts (with certain modifications) the provisions of 2 C.F.R. Part 200.

voluntary match amount, and OJP approves the budget, the total match amount incorporated into the approved budget becomes mandatory and subject to audit.

For additional cost sharing and match information, see the [DOJ Grants Financial Guide](https://ojp.gov/financialguide/DOJ/index.htm) at <https://ojp.gov/financialguide/DOJ/index.htm>.

### **Pre-agreement Costs (also known as Pre-award Costs)**

Pre-agreement costs are costs incurred by the applicant prior to the start date of the period of performance of the federal award.

OJP does **not** typically approve pre-agreement costs. An applicant must request and obtain the prior written approval of OJP for any such costs. All such costs incurred prior to award and prior to approval of the costs are incurred *at the sole risk* of the applicant. (Generally, no applicant should incur project costs **before** submitting an application requesting federal funding for those costs.) Should there be extenuating circumstances that make it appropriate for OJP to consider approving pre-agreement costs, the applicant may contact the point of contact listed on the title page of this solicitation for the requirements concerning written requests for approval. If approved in advance by OJP, award funds may be used for pre-agreement costs, consistent with the recipient's approved budget and applicable cost principles. See the section on "Costs Requiring Prior Approval" in the [DOJ Grants Financial Guide](https://ojp.gov/financialguide/DOJ/index.htm) at <https://ojp.gov/financialguide/DOJ/index.htm> for more information.

### **Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs**

OJP strongly encourages every applicant that proposes to use award funds for any conference-, meeting-, or training-related activity (or similar event) to review carefully—before submitting an application—the OJP and DOJ policy and guidance on approval, planning, and reporting of such events. See [OJP Grant Application Resource Guide](#) for information.

### **Costs Associated with Language Assistance (if applicable)**

See the [OJP Grant Application Resource Guide](#) for information on costs associated with language assistance that may be allowable.

## **C. Eligibility Information**

For eligibility information, see the title page.

For information on cost sharing or match requirements, see [Section B. Federal Award Information](#).

## **D. Application and Submission Information**

### **What an Application Should Include**

See the "Application Elements and Formatting Instructions" section of the OJP Grant Application Resource Guide for information on, among other things, what happens to an application that does not contain all the specified elements. (This solicitation expressly modifies the "Application Elements and Formatting Instructions" section of the OJP Grant Application Resource Guide by not incorporating paragraph two of that section (referring to nonresponsive applications or applications missing critical elements not "[proceeding] to peer review").)

## 1. Complete the Application for Federal Assistance (Standard Form (SF)-424)

The SF-424 is a required standard form used as a cover sheet for submission of pre-applications, applications, and related information. See the [OJP Grant Application Resource Guide](#) for additional information on completing the SF-424.

### Intergovernmental Review:

This solicitation ("funding opportunity") is subject to [Executive Order 12372](#). An applicant may find the names and addresses of State Single Points of Contact (SPOCs) at the following website: [https://www.whitehouse.gov/wp-content/uploads/2017/11/Intergovernmental\\_-\\_Review-SPOC\\_01\\_2018\\_OFFM.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/Intergovernmental_-_Review-SPOC_01_2018_OFFM.pdf). If the applicant's state appears on the SPOC list, the applicant must contact the State SPOC to find out about, and comply with, the state's process under E.O. 12372. In completing the SF-424, an applicant whose state appears on the SPOC list is to make the appropriate selection in response to question 19, once the applicant has complied with its State E.O. 12372 process. (An applicant whose state does not appear on the SPOC list should answer question 19 by selecting the response that the: "Program is subject to E.O. 12372, but has not been selected by the State for review.").

## 2. Project Identifiers

Applications should identify at least three and no more than 10 project identifiers that would be associated with the proposed project activities. The list of identifiers can be found at [www.bja.gov/funding/JAGIdentifiers.pdf](http://www.bja.gov/funding/JAGIdentifiers.pdf).

## 3. Program Narrative

The following sections **should** be included as part of the program narrative<sup>3</sup>:

(a) Description of the Issue – Identify the state's strategy/funding priorities for the FY 2019 JAG funds, the subgrant award process and timeline, and a description of the programs to be funded over the 4-year grant period. States are strongly encouraged to prioritize the funding of evidence-based projects, the data used to determine these priorities, and data needed for comprehensive planning efforts. The state should describe any barriers to accessing these data, opportunities to improve cross system information sharing, and progress or challenges the state has faced in NIBRS implementation.

(b) Project Design and Implementation – Describe the state's process for engaging stakeholders from across the justice continuum and how that input informs priorities. This should include a description of how local communities are engaged in the planning process, how state and local planning efforts are coordinated, and the challenges faced in coordination. The applicant should identify the stakeholders representing each purpose area who are participating in the strategic planning process, the gaps in the state's needed resources for

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<sup>3</sup> For information on subawards (including the details on proposed subawards that should be included in the application), see "Budget and Associated Documentation" under [Section D. Application and Submission Information](#).

criminal justice purposes, plans to improve the administration of the criminal justice system, and how JAG funds will be coordinated with state and related justice funds. States are strongly encouraged to use an evidence-informed approach to funding decisions and evidence-informed approaches to addressing and preventing violent crime. This includes providing support to subrecipients as they develop data-driven practices and programs.

- (c) Capabilities and Competencies – Describe any additional strategic planning/coordination efforts in which the state participates with other criminal justice criminal/juvenile justice agencies in the state. Please provide an overview of any evidence-informed programs that have been implemented successfully and how those programs might inform implementation of plan priorities.
- (d) Plan for Collecting the Data Required for this Solicitation's Performance Measures – OJP will require each successful applicant to submit specific performance data that demonstrate the results of the work carried out under the award. The performance data directly relate to the objectives identified under " Objectives" in [Section A. Program Description](#).

Post award, recipients will be required to submit quarterly performance metrics through BJA's PMT, located at <https://bjapmt.ojp.gov>. The application should describe the applicant's plan for collection of all of the performance measures data listed in the JAG Program accountability measures at: <https://bjapmt.ojp.gov/help/jagdocs.html>.

Applicants should visit OJP's performance measurement page at [www.ojp.gov/performance](http://www.ojp.gov/performance) for an overview of performance measurement activities at OJP.

The application should demonstrate the applicant's understanding of the performance data reporting requirements for this grant program and detail how the applicant will gather the required data should it receive funding.

Please note that applicants are not required to submit performance data with the application. Performance measures information is included as an alert that successful applicants will be required to submit performance data as part of the reporting requirements under an award.

#### **Note on Project Evaluations**

An applicant that proposes to use award funds through this solicitation to conduct project evaluations should follow the guidance under Note on Project Evaluations in the [OJP Grant Application Resource Guide](#).

#### **4. Budget Information and Associated Documentation**

See the Budget Preparation and Submission Information section of the [OJP Grant Application Resource Guide](#) for details on the Budget Detail Worksheet, and on budget information and associated documentation, such as information on proposed subawards, proposed procurement contracts under awards, and pre-agreement costs. **Please note that the budget narrative should include a full description of all costs, including funds set aside for NIBRS project(s) and administrative costs (if applicable).**

General requirement for federal authorization of any subaward; statutory authorizations of subawards under the JAG Program statute.

Generally, a recipient of an OJP award may not make subawards ("subgrants") unless the recipient has specific federal authorization to do so. Unless an applicable statute or DOJ regulation specifically authorizes (or requires) particular subawards, a recipient

must have authorization from OJP before it may make a subaward.

**JAG subawards that are required or specifically authorized by statute (see 34 U.S.C. § 10152(a) and 34 U.S.C. § 10156) do not require prior approval to authorize subawards. This includes subawards made by states under the JAG Program.**

A particular subaward may be authorized by OJP because the recipient included a sufficiently detailed description and justification of the proposed subaward in the application as approved by OJP. If, however, a particular subaward is not authorized by federal statute or regulation, and is not sufficiently described and justified in the application as approved by OJP, the recipient will be required, post-award, to request and obtain written authorization from OJP before it may make the subaward.

If an applicant proposes to make one or more subawards to carry out the federal award and program, and those subawards are not specifically authorized (or required) by statute or regulation, the applicant should: (1) identify (if known) the proposed subrecipient(s), (2) describe in detail what each subrecipient will do to carry out the federal award and federal program, and (3) provide a justification for the subaward(s), with details on pertinent matters such as special qualifications and areas of expertise. Pertinent information on subawards should appear not only in the Program Narrative but also in the Budget Detail Worksheet and budget narrative.

**5. Indirect Cost Rate Agreement (if applicable)**

See the Budget Preparation and Submission Information section of the [OJP Grant Application Resource Guide](#) for information.

**6. Financial Management and System of Internal Controls Questionnaire (including applicant disclosure of high-risk status)**

Every OJP applicant (other than an individual applying in his or her personal capacity) is required to download, complete, and submit the OJP Financial Management and System of Internal Controls Questionnaire (Questionnaire) at <https://ojp.gov/funding/Apply/Resources/FinancialCapability.pdf> as part of its application. See the [OJP Grant Application Resource Guide](#) for additional information and submission instructions for this Questionnaire.

**7. Disclosure of Lobbying Activities**

Each applicant must complete and submit this information. See the [OJP Grant Application Resource Guide](#) for additional information and submission instructions for this disclosure.

**8. Certifications and Assurances by the Chief Executive of the Applicant Government A**

A JAG application is not complete, and a state may not access award funds, unless the chief executive of the applicant state (e.g., the governor) properly executes, and the state submits, the “Certifications and Assurances by the Chief Executive of the Applicant Government” attached to this solicitation as [Appendix A](#).

Please note that this certification takes the place of the review narrative attachment and contains assurances that the governing body notification and public comment requirements, which are required under the JAG statute (at 34 U.S.C. § 10153(a)(2)), have been satisfied.

OJP will not deny an application for an FY 2019 award for failure to submit these “Certifications and Assurances by the Chief Executive of the Applicant Government” by the application deadline, but a state will not be able to access award funds (and its award will include a condition that withholds funds) until it submits these certifications and assurances, properly executed by the chief executive of the state (e.g., the governor).

## **9. Applicant Disclosure of Pending Applications**

Each applicant is to disclose whether it has (or is proposed as a subrecipient under) any pending applications for federally funded grants or cooperative agreements that (1) include requests for funding to support the same project being proposed in the application under this solicitation, and (2) would cover any identical cost items outlined in the budget submitted to OJP as part of the application under this solicitation. For additional information on the submission requirements for this disclosure, see the [OJP Grant Application Resource Guide](#).

## **10. Applicant Disclosure and Justification – DOJ High Risk Grantees<sup>4</sup> (if applicable)**

An applicant that is designated as a DOJ High Risk Grantee is to submit in GMS, as a separate attachment to its application, information that OJP will use, among other pertinent information, to determine whether it will consider or select the application for an award under this solicitation. The file should be named “DOJ High Risk Grantee Applicant Disclosure and Justification.” (See, also, “Review Process,” below, under Section E. Application Review Information, for a brief discussion of how such information may be considered in the application review process.) See the [OJP Grant Application Resource Guide](#) for additional information and submission instructions for this disclosure.

## **11. Research and Evaluation Independence and Integrity**

If an application proposes research (including research and development) and/or evaluation, the applicant must demonstrate research/evaluation independence and integrity, including appropriate safeguards, before it may receive award funds. For additional information regarding demonstrating research/evaluation independence and integrity, including appropriate safeguards, see the [OJP Grant Application Resource Guide](#).

## **12. Additional Attachments**

### **(a) Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)**

Each applicant must provide responses to the following questions as an attachment to the application:

- (1) Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE?
- (2) Is your jurisdiction subject to any laws from a superior political entity (e.g., a state law that binds a city) that meet the description in question 1?
- (3) If yes to either:
  - Please provide a copy of each law or policy.
  - Please describe each practice.

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<sup>4</sup> A “DOJ High Risk Grantee” is a recipient that has received a DOJ High-Risk designation based on a documented history of unsatisfactory performance, financial instability, management system or other internal control deficiencies, or noncompliance with award terms and conditions on prior awards, or that is otherwise not responsible.

- Please explain how the law, policy, or practice complies with 8 U.S.C. § 1373. See [Appendix C](#) for a template that applicants may use to prepare this attachment.

Note: Responses to these questions must be provided by the applicant as part of the application. Further, the requirement to provide this information applies to all tiers of funding and for all subawards made to state or local government entities, including public institutions of higher education. All subrecipient responses must be collected and maintained by the direct recipient of funding and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.

OJP will not deny an application for an FY 2019 award for failure to submit these required responses by the application deadline, but a recipient will not receive award funds (and its award will include a condition that withholds funds) until it submits these responses.

**(b) State Governing Body Review**

Applicants must submit a properly executed Certification and Assurances by the chief executive (see [Appendix A](#)), which documents that the JAG application was made available for review by the governing body of the state, or to an organization designated by that governing body, for a period that was not less than 30 days before the application was submitted to BJA. The same Chief Executive Certification will also specify that an opportunity to comment on this application was provided to citizens prior to the application submission to the extent applicable law or established procedures make such opportunity available. In the past, applicants were required to submit specific review dates; now, OJP will only accept a governor's certification to attest to these facts. States may continue to submit actual dates of review, should they wish to do so, in addition to the submission of the Chief Executive Certification.

**(c) State Strategic Plan and Annual Report (required for FY 2019)**

For 2019, states must submit a comprehensive Statewide Strategic Plan with their application. Additionally, in any year in which the Statewide Strategic Plan is not fully updated, states must also submit a brief "Annual Report" with their application.

The Statewide Strategic Plan, which must be updated at least every 5 years, should:

- Be designed in consultation with local governments and representatives of all segments of the criminal justice system, including judges, prosecutors, law enforcement personnel, corrections personnel, and providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services.
- Include details of how grants will be used to improve the administration of the criminal justice system.
- Include a description of how the state will allocate funding within and among each of the JAG Program areas.
- Describe the process used by the state for gathering data and developing and using evidence-based and evidence-gathering approaches in support of funding decisions.
- Describe the barriers at the state and local levels for accessing data and implementing evidence-based approaches to preventing and reducing crime and recidivism.

The Annual Report (required in the years between full Statewide Strategic Plan updates), intended to provide a summary update of program implementation efforts as detailed in the Statewide Strategic Plan, should:

- Discuss changing circumstances in the state, if any, since the strategic plan was adopted.
- Describe how the state plans to adjust funding within and among each of the JAG Program areas.
- Provide an ongoing assessment of need.
- Discuss the accomplishment of goals identified in the strategic plan.
- Reflect how the plan influenced funding decisions in the previous year.

States that submit incomplete or minimal Statewide Strategic Plans with their applications will be recommended by BJA for training and technical assistance. If no plan is attached, an annual report is missing, or a submitted strategic plan or annual report clearly fails to discuss the required elements described above, technical assistance will be required and funds may be withheld until a minimally sufficient strategic plan and/or annual report is submitted.

Training and technical assistance (TTA) is available from The National Criminal Justice Association to assist states with the development of their strategic planning processes and plans. To help ensure that states consider the impact of JAG funding decisions across the entire criminal justice system, BJA strongly encourages each state to involve all criminal justice system stakeholders in the strategic planning process. The strategic planning process should reflect input from all segments of the criminal justice system including local governments, judges, prosecutors, law enforcement and corrections personnel, providers of indigent defense services, victim services, juvenile justice and delinquency prevention programs, parole and probation services, and reentry services. For more information, see the National Criminal Justice Association Justice Planning website at <http://www.ncja.org/ncja-services>.

### **How to Apply**

An applicant must submit its application through the [Grants Management System \(GMS\)](#), which provides support for the application, award, and management of awards at OJP. Find information, registration and submission steps on how to apply in GMS in response to this solicitation under **How to Apply (GMS)** in the [OJP Grant Application Resource Guide](#).

## **E. Application Review Information**

### **Review Process**

OJP is committed to ensuring a fair and open process for making awards. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. See the [OJP Grant Application Resource Guide](#) for information on the application review process for this solicitation.

In addition, if OJP anticipates that an award will exceed \$250,000 in federal funds, OJP also must review and consider any information about the applicant that appears in the non-public segment of the integrity and performance system accessible through SAM (currently, the Federal Awardee

Performance and Integrity Information System, FAPIIS).

**Important note on FAPIIS:** An applicant, at its option, may review and comment on any information about itself that currently appears in FAPIIS and was entered by a federal awarding agency. OJP will consider any such comments by the applicant, in addition to the other information in FAPIIS, in its assessment of the risk posed by the applicant.

Absent explicit statutory authorization or written delegation of authority to the contrary, the Assistant Attorney General will make all final award decisions.

## F. Federal Award Administration Information

### Federal Award Notices

See the [OJP Grant Application Resource Guide](#) for information on award notifications and instructions.

### Administrative, National Policy, and Other Legal Requirements

OJP strongly encourages prospective applicants to review information on post-award legal requirements and common OJP award conditions **prior** to submitting an application. See the [OJP Grant Application Resource Guide](#) for additional information on administrative, national policy, and other legal requirements.

### Information Technology (IT) Security Clauses

An application in response to this solicitation may require inclusion of information related to information technology security. See the [OJP Grant Application Resource Guide](#) for information on information technology security.

### Statutory and Regulatory Requirements; Award Conditions

If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with award conditions and all applicable requirements of federal statutes and regulations (including applicable requirements referred to in the assurances and certifications executed at the time of award acceptance).

OJP strongly encourages prospective applicants to review information on post-award legal requirements generally applicable to FY 2019 OJP awards and common OJP award conditions **prior** to submitting an application.

Individual FY 2019 awards made pursuant to this solicitation will, as appropriate and to the extent consistent with law, include conditions that will require the recipient (and any subrecipient) that accepts the award to do various things, with respect to the “program or activity” that would receive federal financial assistance thereunder. **Although the specific terms of each of those conditions are what will govern the awards**, included among such conditions will be some that, **generally speaking**, will require the recipient (and any subrecipient) that accepts the award to do some or all of the following:

- Not to violate 8 U.S.C. § 1373 (prohibiting restrictions on—
  - (1) communication to/from the Department of Homeland Security (“DHS”) of information regarding the citizenship or immigration status of any individual; and

- (2) maintaining, or exchanging with any government entity, information regarding the immigration status of any individual).
- Not to violate 8 U.S.C. § 1644 (prohibiting restrictions on communication to/from DHS of information regarding the immigration status of an alien).
  - Not to publicly disclose federal law enforcement information in an attempt to conceal, harbor, or shield certain individuals from detection, including in violation of 18 U.S.C. §§ 1071 or 1072, or 8 U.S.C. § 1324(a).
  - Not to impede the exercise of the authority of the Federal government under 8 U.S.C. § 1266(a) & (c) (authorizing arrest and detention of certain aliens and providing that the federal government “shall take into custody” certain criminal aliens “when the alien is released”) and 8 U.S.C. § 1231(a)(4) (relating to removal from the United States of aliens after detention/confinement at the federal, state, and local level), specifically by requiring such recipients to provide (where feasible) at least 48 hours’ advance notice to DHS regarding the scheduled release date and time of an alien in the recipient’s custody when DHS requests such notice in order to take custody of the alien pursuant to the Immigration and Nationality Act.
  - Not to impede the exercise by DHS agents, “anywhere in or outside the United States” (8 C.F.R. § 287.5(a)(1)), of their authority under 8 U.S.C. § 1357(a)(1) to “interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States,” specifically by requiring such recipients to permit DHS agents to have access to any correctional facility in order to meet with an alien (or an individual believed to be an alien) and inquire as to his right to be or remain in the United States.

The reasonable costs (to the extent not reimbursed under any other federal program) of complying with these conditions, including honoring any duly authorized request from DHS that is encompassed by these conditions, will be allowable costs under the award.

### **General Information about Post-federal Award Reporting Requirements**

In addition to the objectives described in [Section A. Program Description](#), any recipient of an award under this solicitation will be required to submit the following reports and data.

Required reports. Recipients typically must submit quarterly financial status reports, semi-annual progress reports, final financial and progress reports, and, if applicable, an annual audit report in accordance with the Part 200 Uniform Requirements or specific award conditions. Future awards and fund drawdowns may be withheld if reports are delinquent. (In appropriate cases, OJP may require additional reports.)

See the [OJP Grant Application Resource Guide](#) for additional information on specific post-award reporting requirements, including performance measures data.

Accountability metrics data must be submitted through BJA’s Performance Measurement Tool (PMT), available at <https://bjapmt.ojp.gov>. The accountability measures are available at: <https://bjapmt.ojp.gov/help/jagdocs.html>. (Note that if a law enforcement agency receives JAG funds from a state, the state must submit quarterly accountability metrics data related to training that officers have received on use of force, racial and ethnic bias, de-escalation of conflict, and

constructive engagement with the public.)

OJP may restrict access to award funds if a recipient of an OJP award fails to report required performance measure data in a timely manner.

## **G. Federal Awarding Agency Contact(s)**

For OJP contact(s), see page 2 of this solicitation.

For contact information for GMS, see page 2.

## **H. Other Information**

### **Freedom of Information and Privacy Act (5 U.S.C. § 552 and 5 U.S.C. § 552a)**

All applications submitted to OJP (including all attachments to applications) are subject to the federal Freedom of Information Act (FOIA) and to the Privacy Act. See the [OJP Grant Application Resource Guide](#) for information on DOJ and OJP processes with regard to application information requested pursuant to FOIA.

### **Provide Feedback to OJP**

To assist OJP in improving its application and award processes, OJP encourages applicants to provide feedback on this solicitation, the application submission process, and/or the application review process. See the [OJP Grant Application Resource Guide](#) for information on providing solicitation feedback to OJP

## Appendix A

### Certifications and Assurances by the Chief Executive of the Applicant Government

#### Template for use by the chief executive of the state (e.g., the governor)

Visit <https://www.bja.gov/Funding/FY2019StateJAGCEOCertification.pdf> to download the most up-to-date version.

**Note:** By law, for purposes of the JAG Program, the term “states” includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa.

**U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS**

**Edward Byrne Justice Assistance Grant Program FY 2019 State Solicitation**

**Certifications and Assurances  
by the Chief Executive of the Applicant Government**

On behalf of the applicant "State" named below, in support of that State's application for an award under the FY 2019 Edward Byrne Justice Assistance Grant ("JAG") Program, and further to 34 U.S.C. § 10153(a), I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief executive of the applicant State named below, and I have the authority to make the following representations on my own behalf as chief executive and on behalf of the applicant State. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant State.
2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.
3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the State (*e.g.*, the State legislature), or to an organization designated by that governing body, not less than 30 days before the date of this certification.
4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.
5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant State will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require.
6. I have carefully reviewed 34 U.S.C. § 10153(a)(5), and, with respect to the programs to be funded by the award (if any), I hereby make the certification required by section 10153(a)(5), as to each of the items specified therein.

\_\_\_\_\_  
Signature of Chief Executive of the Applicant "State"

\_\_\_\_\_  
Date of Certification

\_\_\_\_\_  
Printed Name of Chief Executive

\_\_\_\_\_  
Title of Chief Executive

\_\_\_\_\_  
Name of Applicant State

## Appendix B

### Certain relevant federal laws, as in effect on April 8, 2019

#### U.S.C. § 1373

##### **Communication between government agencies and the Immigration and Naturalization Service**

###### **(a) In general**

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

###### **(b) Additional authority of government entities**

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1)** Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2)** Maintaining such information.
- (3)** Exchanging such information with any other Federal, State, or local government entity.

###### **(c) Obligation to respond to inquiries**

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

#### 8 U.S.C. § 1644

##### **Communication between State and local government agencies and Immigration and Naturalization Service**

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

#### 8 U.S.C. § 1226(a) & (c)

##### **Apprehension and detention of aliens**

###### **(a) Arrest, detention, and release**

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General--

- (1) may continue to detain the arrested alien; and
  - (2) may release the alien on--
    - (A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
    - (B) conditional parole; but
  - (3) may not provide the alien with work authorization (including an “employment authorized” endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.
- (c) Detention of criminal aliens

(1) Custody

The Attorney General shall take into custody any alien who--

- (A) is inadmissible by reason of having committed any offense covered in section 1182(a)(2) of this title,
- (B) is deportable by reason of having committed any offense covered in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of this title,
- (C) is deportable under section 1227(a)(2)(A)(i) of this title on the basis of an offense for which the alien has been sentenced to a term of imprisonment of at least 1 year, or
- (D) is inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B) of this title,

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

(2) Release

The Attorney General may release an alien described in paragraph (1) only if the Attorney General decides pursuant to section 3521 of Title 18 that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation, and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding. A decision relating to such release shall take place in accordance with a procedure that considers the severity of the offense committed by the alien.

**8 U.S.C. § 1231(a)(4)**

- (a) Detention, release, and removal of aliens ordered removed
- \*\*\*

**(4) Aliens imprisoned, arrested, or on parole, supervised release, or probation**

**(A) In general**

Except as provided in section 259(a) of title 42 and paragraph (2), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

**(B) Exception for removal of nonviolent offenders prior to completion of sentence of imprisonment**

The Attorney General is authorized to remove an alien in accordance with applicable procedures under this chapter before the alien has completed a sentence of imprisonment-

- (i) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense related to smuggling or harboring of aliens or an offense described in section 1101(a)(43)(B), (C), (E), (I), or (L) of this title and (II) the removal of the alien is appropriate and in the best interest of the United States; or
- (ii) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense described in section 1101(a)(43)(C) or (E) of this title), (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

**(C) Notice**

Any alien removed pursuant to this paragraph shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens removed under subparagraph (B).

**(D) No private right**

No cause or claim may be asserted under this paragraph against any official of the United States or of any State to compel the release, removal, or consideration for release or removal of any alien.

**8 U.S.C. § 1324(a)**

**Bringing in and harboring certain aliens**

**(a) Criminal penalties**

(1)(A) Any person who—

- (i) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;
- (ii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;
- (iii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;

(iv) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or

- i. (v)(I) engages in any conspiracy to commit any of the preceding acts, or
- ii. (II) aids or abets the commission of any of the preceding acts, shall be punished as provided in subparagraph (B).

(B) A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

- (i) in the case of a violation of subparagraph (A)(i) or (v)(I) or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain, be fined under title 18, imprisoned not more than 10 years, or both;
- (ii) in the case of a violation of subparagraph (A)(ii), (iii), (iv), or (v)(II), be fined under title 18, imprisoned not more than 5 years, or both;
- (iii) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) during and in relation to which the person causes serious bodily injury (as defined in section 1365 of title 18) to, or places in jeopardy the life of, any person, be fined under title 18, imprisoned not more than 20 years, or both; and
- (iv) in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life, fined under title 18, or both.

(C) It is not a violation of clauses (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each alien in respect to whom a violation of this paragraph occurs-

(A) be fined in accordance with title 18 or imprisoned not more than one year, or both; or

(B) in the case of-

- (i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,
- (ii) an offense done for the purpose of commercial advantage or private financial gain, or
- (iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined under title 18 and shall be imprisoned, in the case of a first or second violation of subparagraph (B)(iii), not more than 10 years, in the case of a first or second violation of

subparagraph (B)(i) or (B)(ii), not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years.

(3)(A) Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be fined under title 18 or imprisoned for not more than 5 years, or both.

- (B) An alien described in this subparagraph is an alien who-
- (i) is an unauthorized alien (as defined in section 1324a(h)(3) of this title), and
  - (ii) has been brought into the United States in violation of this subsection.

(4) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if-

- (A) the offense was part of an ongoing commercial organization or enterprise;
- (B) aliens were transported in groups of 10 or more; and
- (C)(i) aliens were transported in a manner that endangered their lives; or
- (ii) the aliens presented a life-threatening health risk to people in the United States.

## **8 U.S.C. § 1357(a)**

### **Powers of immigration officers and employees**

(a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

- (1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;
  - (2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;
  - (3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;
  - (4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States; and
  - (5) to make arrests-
- (A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,

if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.

### **8 U.S.C. § 1366(1) & (3)**

#### **Annual report on criminal aliens**

Not later than 12 months after September 30, 1996, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

\*\*\*

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to removal; . . . .

## Appendix C

### Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)

Each applicant must provide responses to the following questions as an attachment to the application:

- (1) Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE?
- (2) Is your jurisdiction subject to any laws from a superior political entity (e.g., a state law that binds a city) that meet the description in question 1?
- (3) If yes to either:
  - Please provide a copy of each law or policy;
  - Please describe each practice; and
  - Please explain how the law, policy, or practice complies with section 1373.

**Note:** Responses to these questions must be provided by the applicant to BJA as part of the JAG application. Further, the requirement to provide this information applies to all tiers of JAG funding, for all subawards made to state or local government entities, including public institutions of higher education. All subrecipient responses must be collected and maintained by the direct recipient of JAG funding and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.

## Appendix D

Additional purposes for which JAG funds awarded to a state under this FY 2019 solicitation may be used:

(a) To enforce state and local laws that establish offenses similar to offenses established in 21 U.S.C. § 801 et seq., to improve the functioning of the **criminal justice** system, with emphasis on violent crime and serious offenders, by means including providing additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of persons who violate these laws, and to assist the victims of such crimes (other than compensation), including—

- (1) demand-reduction education programs in which law enforcement officers participate;
  - (2) multi-jurisdictional task-force programs that integrate federal, state, and local drug-law-enforcement agencies and prosecutors for the purpose of enhancing inter-agency co-ordination and intelligence, and facilitating multi-jurisdictional investigations;
  - (3) programs designed to target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations;
  - (4) providing community and neighborhood programs that assist citizens in preventing and controlling crime, including special programs that address the problems of crimes committed against the elderly and special programs for rural jurisdictions;
  - (5) disrupting illicit commerce in stolen goods and property;
  - (6) improving the investigation and prosecution of white-collar crime, organized crime, public-corruption crimes, and fraud against the government, with priority attention to cases involving drug-related official corruption;
  - (7) (A) improving the operational effectiveness of law enforcement through the use of crime-analysis techniques, street-sales enforcement, schoolyard-violator programs, and gang-related and low-income-housing drug-control programs; and  
(B) developing and implementing anti-terrorism plans for deep-draft ports, international airports, and other important facilities;
  - (8) career-criminal prosecution programs, including the development of proposed model drug-control legislation;
  - (9) financial investigative programs that target the identification of money-laundering operations and assets obtained through illegal drug trafficking, including the development of proposed model legislation, financial investigative training, and financial information-sharing systems;
  - (10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender, and judicial resources, and implementing court-delay-reduction programs;
  - (11) programs designed to provide additional public correctional resources and improve the corrections system, including treatment in prisons and jails, intensive-supervision programs, and long-range corrections and sentencing strategies;
- providing prison-industry projects designed to place inmates in a realistic

- working and training environment that will enable them to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;
- (12) providing programs that identify and meet the treatment needs of adult and juvenile drug-dependent and alcohol-dependent offenders;
- (13) developing and implementing programs that provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;
- (15)(A) developing programs to improve drug-control technology, such as pretrial drug-testing programs, programs that provide for the identification, assessment, referral to treatment, case-management and monitoring of drug-dependent offenders, and enhancement of state and local forensic laboratories; and
- (B) developing programs to improve **criminal justice** information systems (including automated fingerprint identification systems) to assist law enforcement, prosecution, courts, and corrections organizations;
- (16) innovative programs that demonstrate new and different approaches to enforcement, prosecution, and adjudication of drug offenses and other serious crimes;
- (17) addressing the problems of drug trafficking and the illegal manufacture of controlled substances in public housing;
- (18) improving the criminal and juvenile justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly;
- (19) drug-control evaluation programs that the state and units of local government may utilize to evaluate programs and projects directed at state drug-control activities;
- (20) providing alternatives to prevent detention, jail, and prison for persons who pose no danger to the community;
- (21) programs of which the primary goal is to strengthen urban enforcement and prosecution efforts targeted at street drug sales;
- (22) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles;
- (23) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-old juveniles, in courts with jurisdiction over adults, for the crimes of—
- (A) murder in the first degree;
- (B) murder in the second degree;
- (C) attempted murder;
- (D) armed robbery when armed with a firearm;
- (E) aggravated battery or assault when armed with a firearm;
- (F) criminal sexual penetration when armed with a firearm;
- and
- (G) drive-by shootings as described 18 U.S.C. § 36;
- (24) law-enforcement and prevention programs relating to gangs or to youth who are involved or at risk of involvement in gangs;
- (25) developing or improving, in a forensic laboratory, a capability to analyze DNA for identification purposes; and

- (b)** developing and implementing anti-terrorism training programs and procuring equipment for use by local law-enforcement authorities; and To reduce crime and improve public safety, including but not limited to, the following:
- (1)(A) hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel;
  - (B) paying overtime to presently-employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel; and
  - (C) procuring equipment, technology, and other material directly related to basic law-enforcement functions;
- (2) enhancing security measures—
- (A) in and around schools; and
  - (B) in and around any other facility or location that is considered by the unit of local government to have a special risk for incidents of crime;
- (3) establishing crime-prevention programs that may, though not exclusively, involve law-enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood-watch and citizen-patrol programs, sexual-assault and domestic-violence programs, and programs intended to prevent juvenile crime;
- (4) establishing or supporting drug courts;
- (5) establishing early-intervention and -prevention programs for juveniles, in order to reduce or eliminate crime;
- (6) enhancing the adjudication process of cases involving violent offenders, including violent juvenile offenders;
- (7) enhancing programs under **(a)**, above;
- (8) establishing co-operative task forces between adjoining units of local government to work co-operatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug- or gang-related involvement; and establishing a multi-jurisdictional task force, particularly in rural areas, composed of law-enforcement officials representing units of local government, that works with federal law-enforcement officials to prevent and control crime.

## Appendix E Application Checklist

### Edward Byrne Memorial Justice Assistance Grant (JAG) Program: FY 2019 State Solicitation

This application checklist has been created as an aid in developing an application.

#### What an Applicant Should Do:

##### *Prior to Registering in GMS:*

\_\_\_\_\_ Acquire a DUNS Number (see the [OJP Grant Application Resource Guide](#))

\_\_\_\_\_ Acquire or renew registration with SAM (see the [OJP Grant Application Resource Guide](#))

##### *To Register with GMS:*

\_\_\_\_\_ For new users, acquire a GMS username and password\* (see the [OJP Grant Application Resource Guide](#))

\_\_\_\_\_ For existing users, check GMS username and password\* to ensure account access  
(see the [OJP Grant Application Resource Guide](#))

\_\_\_\_\_ Verify SAM registration in GMS (see the [OJP Grant Application Resource Guide](#))

\_\_\_\_\_ Search for correct funding opportunity in GMS (see the [OJP Grant Application Resource Guide](#))

\_\_\_\_\_ Select correct funding opportunity in GMS (see the [OJP Grant Application Resource Guide](#))

\_\_\_\_\_ Register by selecting the “Apply Online” button associated with the funding opportunity title (see the [OJP Grant Application Resource Guide](#))

\_\_\_\_\_ Read OJP policy and guidance on conference approval, planning, and reporting available at [ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm](http://ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm)  
(see page 18)

\_\_\_\_\_ If experiencing technical difficulties in GMS, contact the NCJRS Response Center  
(see page 2)

\*Password Reset Notice – GMS users are reminded that while password reset capabilities exist, this function is only associated with points of contact designated within GMS at the time the account was established. Neither OJP nor the GMS Help Desk will initiate a password reset unless requested by the authorized official or a designated point of contact associated with an award or application.

#### Overview of Post-Award Legal Requirements:

\_\_\_\_\_ Review the “[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2018 Awards](#)” in the OJP Funding Resource Center at <https://ojp.gov/funding/index.htm>.

#### Scope Requirement:

\_\_\_\_\_ The federal amount requested is within the allowable limit(s) of the FY 2019 JAG Allocations List as listed on BJA's [JAG web page](#).

**Eligibility Requirement:**

Only states may apply under this solicitation. By law, for purposes of the JAG Program, the term “states” includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa. (Throughout this solicitation, each reference to a state or states includes all 56 jurisdictions.)

**What an Application Should Include:**

- \_\_\_\_\_ Application for Federal Assistance (SF-424) (see page 18)
- \_\_\_\_\_ Intergovernmental Review (see page 18)
- \_\_\_\_\_ Program Narrative (see page 19)
- \_\_\_\_\_ Budget Detail Worksheet (see page 20)
- \_\_\_\_\_ Budget Narrative (see page 20)
- \_\_\_\_\_ Indirect Cost Rate Agreement (if applicable) (see page 21)
- \_\_\_\_\_ Financial Management and System of Internal Controls Questionnaire (see page 21)
- \_\_\_\_\_ Disclosure of Lobbying Activities ([SF-LLL](#)) (if applicable) (see page 21)
- \_\_\_\_\_ Certifications and Assurances by Chief Executive (see page 21)
- \_\_\_\_\_ Applicant Disclosure of Pending Applications (see page 21)
- \_\_\_\_\_ Applicant Disclosure and Justification – DOJ High Risk Grantees (if applicable) (see page 22)
- \_\_\_\_\_ Research and Evaluation Independence and Integrity (if applicable) (see page 29)

**Additional Attachments**

- \_\_\_\_\_ Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE) (see page 22)
- \_\_\_\_\_ State Governing Body Review (see page 22)
- \_\_\_\_\_ State Strategic Plan (if applicable) (see page 23)