

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



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## Second Chance Act Pay for Success Initiative: Outcomes-based Contracting To Lower Recidivism and Address Substance Use Disorders Through Reentry and Housing Services FY 2020 Competitive Grant Solicitation

CFDA # 16.812

Grants.gov Solicitation Number: BJA-2020-17237

Solicitation Release Date: March 11, 2020

Application Deadline: 11:59 p.m. eastern time on June 9, 2020

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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 state, local, and tribal governments to enhance or implement outcomes-based contracts with reentry, permanent supportive housing, or recovery housing providers to reduce recidivism, and address the substance use disorders impacting formerly incarcerated people. This program furthers the Department's mission by reducing recidivism and building more effective service delivery systems that pay for outcomes.

This solicitation incorporates the [OJP Grant Application Resource Guide](#) by reference. It provides guidance to applicants on how to prepare and submit applications for funding to OJP. 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.

### **Eligibility** (Who may apply):

The following entities are eligible to apply:

- States
- Units of local government
- Federally recognized indian tribal governments (as determined by the secretary of the interior)

All recipients and subrecipients must forgo any profit or management fee.

### **Contact information**

For technical assistance with submitting an application, contact the Grants.gov Customer Support Hotline at 800-518-4726 or 606-545-5035, at <https://www.grants.gov/web/grants/support.html>, or at [support@grants.gov](mailto:support@grants.gov). The Grants.gov Support Hotline operates 24 hours a day, 7 days a week, except on federal holidays.

An applicant that experiences unforeseen Grants.gov technical issues beyond its control that prevent it from submitting its application by the deadline must email the contact identified below **within 24 hours after the application deadline** to request approval to submit its application after the deadline. Additional information on reporting technical issues appears under “Experiencing Unforeseen Grants.gov Technical Issues” in the How To Apply (Grants.gov) section in the [OJP Grant Application Resource Guide](#).

For assistance with any unforeseen Grants.gov technical issues beyond an applicant’s control that prevent it from submitting its application by the deadline, or any other requirement of this solicitation, contact the National Criminal Justice Reference Service (NCJRS) Response Center: toll-free at 800–851–3420; via TTY at 301–240–6310 (hearing impaired only); email [grants@ncjrs.gov](mailto:grants@ncjrs.gov); fax to 301–240–5830; or 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.

### **Deadline Details**

Applicants must register with Grants.gov [at https://www.grants.gov/web/grants/register.html](https://www.grants.gov/web/grants/register.html) prior to submitting an application. All applications are due by 11:59 p.m. eastern time on June 9, 2020.

To be considered timely, an application must be submitted by the application deadline using Grants.gov, and the applicant must have received a validation message from Grants.gov that indicates successful and timely submission. OJP urges applicants to submit applications at least 72 hours prior to the application due date, to allow time for the applicant to receive validation messages or rejection notifications from Grants.gov, and to correct in a timely fashion any problems that may have caused a rejection notification.

An applicant must use the **Add Attachment** button to attach a file to its application. Do not click the paperclip icon to attach files. This action will not attach the files to the application. After adding an attachment, select the **View Attachment** button to confirm you attached the correct file. To remove the file, select the **Delete Attachment** button.

OJP encourages all applicants to read this [Important Notice: Applying for Grants in Grants.gov](#).

For additional information, see the How to Apply (Grants.gov) section in the [OJP Grant Application Resource Guide](#).

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# **SECOND CHANCE ACT PAY FOR SUCCESS INITIATIVE: OUTCOMES-BASED CONTRACTING TO LOWER RECIDIVISM AND ADDRESS SUBSTANCE USE DISORDERS THROUGH REENTRY AND HOUSING SERVICES CFDA #16.812**

## **A. Program Description**

### **Overview**

Pay for success is outcomes-based programming that ties payment for services to reaching agreed upon goals. Under this program, services that may be purchased include permanent supportive and recovery housing, as well as other types of reentry services which are tailored to individuals leaving incarceration, particularly those with substance use disorders. Helping individuals successfully rejoin society after their release is a top priority for this Administration, the Attorney General, and the Department of Justice.

### **Statutory Authority:**

Any awards under this solicitation will be made under statutory authority provided by the Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat 2317, 2408.

### **Project-specific Information**

The overall goal of the FY 2020 Second Chance Act Pay For Success Initiative: Outcomes-based Contracting To Lower Recidivism (SCA OBC) and Address Substance Use Disorders Through Reentry and Housing Services is to enhance public safety, lower recidivism, and improve the lives of those coming out of the criminal justice system.

Up to \$200,000 of each award may be used to research, price, write, negotiate, and finalize the service contracts, and the rest must be used to fund the outcomes-based contracted services.

Please note that all grant recipients will be expected to work closely with BJA's training and technical assistance provider, the National Reentry Resource Center, to document progress and develop and deliver the required analyses, contracts, and reports as described below.

### **Objectives and Deliverables**

#### **Category 1: Enhancing Outcomes-based Contracting for Permanent Supportive Housing (PSH) or Reentry Services (Competition ID BJA-2020-17238)**

##### Objectives:

- Enhance already established outcomes-based contracts to provide individualized reentry services or PSH for people leaving incarceration who are identified through a validated risk tool as being at moderate to high risk to reoffend in the community.

- Manage the outcomes-based reentry service or PSH contract, including data and report collection, regular performance and outcome reviews between the governments and service provider, on and off-site monitoring, outcomes validation, and incentive payment approvals.
- Ensure government staff and service providers have adequate training on SCA OBC procurement, reentry services, PSH, data collection, and outcomes validation.

Deliverables:

- Analysis that demonstrates reentry service or PSH need and data indicating the number and needs of people to be served. Describe the mechanisms to ensure the intended size and target population are identified and provided with contracted services.
- Analysis that demonstrates the outcomes selected for payment. Contracts must include recidivism outcomes (rearrest, reconviction, reincarceration, revocation) and can also include time for reoffense and reduction in severity of offense.
- Analysis that demonstrates the grantee's decision about the outcomes-based contract structure (e.g., phased approach over the period of the contract, inclusion of a hold-harmless period, etc.), repayment strategy (e.g., unit of outcome achieved, weighted incentives, percent change in outcomes, tiered payment scheduled, bonus payments), and timing of payments.
- Revised contract term report.
- Close-out report, including outcomes achieved and payments made.

**Category 2: Outcomes-based Contracting to Provide Recovery Housing (Competition ID BJA-2020-17239)**

Objectives:

- Enter into outcomes-based contracts to provide evidence-based, high quality recovery housing to formerly incarcerated individuals who have a substance use disorder.
- Manage the outcomes-based recovery housing contract, including data and report collection, regular metric and outcome reviews between governments and service providers, on- and off-site monitoring, outcomes validation, and incentive payment approvals.
- Ensure government staff and service providers have adequate training on SCA OBC procurement, recovery housing, data collection, and outcomes validation.

Applicants that propose to enter into an outcomes-based contract to provide recovery housing should reference the following document developed by the Substance Abuse and Mental Health Services Administration (SAMHSA): *Recovery Housing: Best Practices and Suggested Guidelines*. As mandated by landmark legislation signed into law in October 2018 (the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities), these guidelines provide SAMHSA's official definition of recovery housing and identifies best practices for operating recovery housing. This document, along with more information about Recovery Housing, can be found [here](#).

Deliverables:

- Analysis that demonstrates recovery housing need and provision of services to the target population, including the following data: (1) jail and or prison (booking and release

dates, charging information, and unit/bed type) and (2) substance use disorder diagnosis, treatment, and menu of services.

- Analysis that demonstrates the outcomes selected for payment. Contracts must include appropriate functional outcomes, relevant system savings, and recidivism outcomes including jail bookings, length of stay, and charging information.
- Analysis that demonstrates the grantee's decision about the outcomes-based contract structure (e.g., phased approach over the period of the contract, inclusion of a hold-harmless period, etc.), repayment strategy (e.g., unit of outcome achieved, weighted incentives, percent change in outcomes, tiered payment scheduled, bonus payments), and timing of payments.
- First-year-of-contract term report.
- Close-out report, including outcomes achieved and payments made.

The Objectives and Deliverables are directly related to the performance measures that demonstrate the results of the work completed, as discussed in Section D. Application and Submission Information, under [Program Narrative](#).

### **OJP Policy Priority Areas**

In FY 2020, and in addition to executing any program-specific prioritization that may be applicable, OJP will give priority consideration to applications as follows:

- Applications from federally recognized tribes.
- Applications that address specific challenges that rural communities face.
- Applications that demonstrate that the individuals who are intended to benefit from the requested grant reside in high-poverty areas or persistent-poverty counties.
- Applications that offer enhancements to public safety in economically distressed communities (Qualified Opportunity Zones).
- Where the application is from a state or local government entity that operates at least one correctional facility (as defined at 34 U.S.C. 10251(a)(7)), applications that go to enhancing criminal justice and public safety by indicating agreement to comply with award conditions related to cooperation with federal law enforcement, as set forth in Appendix D.

To receive priority consideration under the rural priority, applicants must describe what makes the geographic service area rural (using U.S. Census or other appropriate government data; for assistance, applicants may wish to refer to <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html>), how isolated the area is from needed services, and how they will address specific challenges in rural communities.

To receive priority consideration under the poverty priority, the applicant must provide information to demonstrate that the individuals who are intended to benefit from the requested grant reside in high-poverty areas or persistent poverty counties. For purposes of this priority consideration, the term "high-poverty area" means any census tract with a poverty rate of at least 20 percent as measured by the 2013–2017 5-year data series available from the American

Community Survey of the Census Bureau (applicants may search by census tract at <https://www.census.gov/acs/www/data/data-tables-and-tools/narrative-profiles/2017/>) and the term “persistent poverty counties” means any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses and the most recent Small Area Income and Poverty Estimates (applicants may search by county at <https://www.census.gov/data/tables/time-series/dec/census-poverty.html> and at <https://www.census.gov/programs-surveys/saipe.html>).

To receive priority consideration under the Qualified Opportunity Zones priority, applicants must include information that specifies how the project will enhance public safety in the specified QOZs. For resources on QOZs, and for a current list of designated QOZs, see the U.S. Department of the Treasury’s resource webpage, accessible at <https://www.cdfifund.gov/pages/opportunity-zones.aspx>.

To receive priority consideration for enhancing criminal justice and public safety by agreeing to comply with award conditions related to cooperation with federal law enforcement, applicants must sign and submit the certification provided in Appendix D.

OJP Policy priority consideration will consist of receiving additional points in the application scoring process. Receipt of priority consideration does not guarantee that an application will be funded; nor will the failure to receive priority consideration necessarily mean that an application will not be funded.

### **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](#).

For information related to implementation science, applicants may wish to refer to the [National Implementation Research Network](#) website.

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

Applicants should note that 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 titled Information Regarding Potential Evaluation of Programs and Activities.

## **B. Federal Award Information**

### **Category 1**

Maximum number of awards BJA expects to make	1
Estimated maximum dollar amount for each award	up to \$1,500,000
Total amount anticipated to be awarded under this solicitation	\$1,500,000
Period of performance start date	October 1, 2020
Period of performance duration	54 months

## Category 2

Maximum number of awards BJA expects to make	2
Estimated maximum dollar amount for each award	up to \$2,500,000
Total amount anticipated to be awarded under this solicitation	\$4,900,000
Period of performance start date	October 1, 2020
Period of performance duration	54 months

The funding during the initial period (no longer than 12 months from the date of final budget approval) prior to service contract finalization should include only costs to support contract initialization and support planning activities followed by 36 months of implementation activities. Implementation may begin after BJA reviews and approves the contract and services begin. The final 6 months will be used to validate outcomes and develop and submit the final report.

BJA may, in certain cases, provide additional funding in future years to awards made under this solicitation, through continuation awards. OJP will consider, among other factors, OJP's strategic (programmatic and policy) priorities, a recipient's overall management of the award, and progress of award-funded work, when making continuation award decisions.

Under this solicitation, only one application by any particular applicant entity will be considered. An entity may, however, be proposed as a subrecipient (subgrantee) in more than one application.

BJA may elect to fund applications submitted under this FY 2020 solicitation in future fiscal years, dependent on, among other considerations, the merit of the applications and on the availability of appropriations.

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

### Type of Award

BJA expects to make awards under this category as grants. See the Administrative, National Policy, and Other Legal Requirements section of the [OJP Grant Application Resource Guide](#) for additional details.

### 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>1</sup> as set out at 2 C.F.R. 200.303, comply with standards for financial and program management. See the [OJP Grant Application Resource Guide](#) for additional information.

### Budget Information

In addition to the unallowable costs identified in the [DOJ Grants Financial Guide](#), award funds may not be used for the following:

- Prizes, rewards, entertainment, trinkets, or any type of monetary incentive
- Client stipends

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<sup>1</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.

- Gift cards
- Vehicles
- Food and beverage

For questions pertaining to budget and examples of allowable and unallowable costs, see the DOJ Grants Financial Guide.

### **Cost Sharing or Matching Requirement**

This solicitation does not require a match.

Please see the [OJP Grant Application Resource Guide](#) for information on the following:

[Pre-agreement Costs \(also known as Pre-award Costs\)](#)

[Limitation on Use of Award Funds for Employee Compensation; Waiver](#)

[Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs](#)

[Costs Associated with Language Assistance \(if applicable\)](#)

## **C. Eligibility Information**

For eligibility information, see title page.

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

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

This solicitation expressly modifies the OJP Grant Application Resource Guide by not incorporating the “Disclosure of Process Related to Executive Compensation” provisions in the “Application Attachments” section of the OJP Grant Application Resource Guide.

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

The following application elements MUST be included in the application submission for an application to meet the basic minimum requirements (BMR) to advance to peer review and receive consideration for funding: Program Narrative, Budget Detail Worksheet, Letter of Support from the Lead Agency Executive, Letter of Support from the Responsible Government Procurement Agency Executive, Disclosure of Proposed Subrecipients, Timeline, and Résumés/Curricula Vita of Key Personnel.

See the Application Elements and Formatting Instructions section of the [OJP Grant Application Resource Guide](#) for information on what happens to an application that does not contain all of the specified elements or that is nonresponsive to the scope of the solicitation.

### **1. Application for Federal Assistance (SF-424)**

The SF-424 is a required standard form used as a cover sheet for submission of preapplications, 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 not** subject to [Executive Order 12372](#). (In completing the SF-424, an applicant is to answer question 19 by selecting the response that the "Program is not covered by E.O. 12372.")

## 2. Project Abstract

Include a high quality project abstract that summarizes the proposed project in 400 words or less. Project abstracts should be:

- Written for a general public audience.
- Submitted as a separate attachment with "Project Abstract" as part of its file name.
- Single-spaced, using a standard 12-point Times New Roman font with 1-inch margins.
- **Clearly labeled, including the following information:**
  - Legal name of the grant recipient and the title of the project
  - Indicate whether the grantee jurisdiction has entered into any outcomes-based contracts within the past 5 years
  - Project's purpose, objectives, and deliverables

As a separate attachment, the project abstract will **not** count against the page limit for the program narrative.

## 3. Program Narrative

The program narrative should be double-spaced, using a standard 12-point Times New Roman font; have 1-inch margins; and should not exceed 15 pages. Pages should be numbered "1 of 15," "2 of 15," etc. If the program narrative fails to comply with these length-related restrictions, BJA may negatively consider such noncompliance in peer review and in final award decisions.

The following sections should be included as part of the program narrative:

- a. Description of the Issue
- b. Project Design and Implementation
- c. Capabilities and Competencies
- d. Plan for Collecting the Data Required for this Solicitation's Performance Measures

OJP will require each successful applicant to submit regular performance data that demonstrate the results of the work carried out under the award. The performance data directly relate to the objectives and deliverables identified under "Objectives and Deliverables" in [Section A. Program Description](#).

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.

Performance measures for this solicitation are listed in [Appendix B: Performance Measures Table](#). BJA will continue to develop and refine the performance measures for

this program, and they will be distributed to those receiving awards prior to the program start date.

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.

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](#).

Please see the [OJP Grant Application Resource Guide](#) for information on the following:

4. [Budget Information and Associated Documentation](#) in the Budget Preparation and Submission Information section.
5. [Indirect Cost Rate Agreement](#)
6. [Tribal Authorizing Resolution](#) (if applicable)
7. [Financial Management and System of Internal Controls Questionnaire \(including applicant disclosure of high-risk status\)](#)
8. [Disclosure of Lobbying Activities](#)
9. [Applicant Disclosure of Pending Applications](#)
10. [Applicant Disclosure and Justification – DOJ High Risk Grantees](#)<sup>2</sup> (if applicable)
11. [Research and Evaluation Independence and Integrity](#)
12. **Additional Attachments**
  - a. **Documentation of Rural Challenges (if applicable)**

As is mentioned above, OJP will give priority consideration in award decisions to applications that address specific challenges that rural communities face. Each applicant proposing to receive priority consideration under the rural priority should provide a sufficient narrative to include what makes the geographic service area rural (using U.S. Census or other appropriate government data), how isolated the area is from needed services, and how it will address specific challenges in rural communities.

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<sup>2</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.

**b. Documentation of High-Poverty Areas or Persistent-Poverty Counties (if applicable)**

As mentioned above, OJP will give priority consideration in award decisions to applications that demonstrate that the individuals who will benefit from the requested grant reside in high-poverty areas or persistent-poverty counties as defined above. Each applicant proposing to receive consideration under the High-Poverty Areas or Persistent Poverty Counties priority should provide a sufficient narrative explanation to identify each specific High-Poverty Area (by census tract number(s)) and/or each specific Persistent-Poverty County where individuals are intended to benefit from the requested grant and how the requested grant will address specific challenges in each such identified area and/or county.

**c. Documentation of Enhanced Public Safety in Qualified Opportunity Zones (if applicable)**

As is mentioned above, OJP will give priority consideration in award decisions to designated Qualified Opportunity Zones (QOZs). Each applicant proposing to receive priority consideration under the under the Qualified Opportunity Zones priority should provide a sufficient narrative explanation in order for OJP to identify clearly the public safety benefit the applicant anticipates that its project will have on a specified QOZ(s). The narrative and the list of affected QOZs (by census tract number) must be included as an attachment that is clearly labeled as addressing QOZs. The applicant may also include tables, charts, graphs, or other relevant illustrations that may be useful in comprehending the manner in which the proposed project is anticipated to benefit a QOZ(s).

**d. Certification Regarding Enhancing Criminal Justice and Public Safety through Cooperation with Federal Law Enforcement (if applicable)**

As is mentioned above, OJP will give priority consideration in award decisions to State or local government entity applicants that operate at least one correctional facility (as defined at 34 U.S.C. 10251(a)(7)), and agree to comply with award conditions related to cooperation with federal law enforcement, as set forth in Appendix D. Each such applicant proposing to receive priority consideration for such cooperation with federal law enforcement must sign and submit the certification provided in Appendix D.

**e. Letter From Lead Agency Executive** demonstrating agency commitment to the project. Note that the executive must also sign the Assurance in Appendix 2 that aggregate recidivism indicator data will be submitted as required.

**f. Letter From Responsible Government Procurement Agency Executive** demonstrating commitment to the project.

**g. Letters of Support From All Other Key Partners (if applicable)** detailing the commitment to work with the applicant to promote the mission of the project.

**h. Applicant Disclosure of Proposed Subrecipients.** Attach a list of proposed subrecipients of grant funding, if applicable, that includes the name, organizational affiliation, and location of the proposed subrecipient entity.

**i. Timeline/Project Plan** outlining key tasks, benchmarks, and persons or entities responsible.

- j. **Position Descriptions** for key roles. A position description should relate to the role on the proposed project, not the person's role within the applicant organization, and describes the critical competencies and expectations regarding the project responsibilities.
- k. **Résumés or Curricula Vita (CVs)** for key personnel. Applicants may combine position descriptions and résumés or CVs into a single document; however, please note that they are one of the critical elements for an application. Applications that do not include these will neither proceed to peer review nor receive further consideration by BJA.

### How To Apply

Applicants must register in and submit applications through [Grants.gov](https://www.Grants.gov), a primary source to find federal funding opportunities and apply for funding. Find information on how to apply in response to this solicitation in the [OJP Grant Application Resource Guide](#).

### Registration and Submission Steps

Applicants will need the following identifying information when searching for the funding opportunity on Grants.gov.

1. **CDFA #16.812, Second Chance Act Reentry Initiative**
2. **Funding opportunity # BJA-2020-17237**
3. **Select the correct Competition ID.** Some OJP solicitations posted to Grants.gov contain multiple categories, denoted by the individual Competition ID. If applying to a solicitation with multiple Competition IDs, select the appropriate Competition ID for the intended category of the application.

**Category 1:** Competition ID: **BJA-2020- 17238**

**Category 2:** Competition ID: **BJA-2020- 17239**

For information on each registration and submission step, see the [OJP Grant Application Resource Guide](#).

## E. Application Review Information

### Review Criteria

Applications that meet basic minimum requirements will be evaluated by peer reviewers using the following review criteria.

#### 1. Description of the Issue (15 percent)

- Describe the current service delivery method.
- Describe any efforts conducted by the applicant jurisdiction in the past 5 years to enter into outcomes-based contracts and the results of those efforts.
- Provide an overview of the jurisdiction's current service provision capacity in the relevant category (Category 1, reentry services or PSH, or Category 2, recovery housing). Include whether those services are provided by the applicant agency, via contract, or through governmental or nongovernmental partners. Describe how demand for such services is being met compared to the need and how the jurisdiction assesses that need.

## **2. Project Design and Implementation (30 percent)**

- Address in detail how the applicant proposes to undertake and accomplish each of the objectives and deliverables (see pages 4-6).
- Address the data-sharing agreements that need to be in place to inform the contract and to assess outcome attainment. Discuss which entities have the data needed, any history of sharing information with these entities, as well as any perceived challenges with obtaining data on an ongoing basis.
- Include a Timeline/Project Plan that generally reflects a 12-month planning and contracting period, 36-month implementation period, and a 6-month post-implementation period; the major tasks and deliverables of the proposed project; and who is responsible for each activity, including the procurement functions. Successful applicants will be expected to have staffing and other needed supports in place by the end of the planning period so they can begin addressing the primary project activities at the start of the implementation period.
- In addition to the attachments such as letters from lead agency executive, the responsible government procurement agency executive, and other key partners (if applicable), provide a written demonstration of the jurisdiction's commitment to making a shift to outcomes-based contracts.

## **3. Capabilities and Competencies (20 percent)**

- Provide a detailed description of the capacity of the organization and the key personnel to deliver the required services and perform the key tasks described on pages 4-6.
- Describe how the proposed management structure and staffing of the project will facilitate the delivery of the required services. The management and organizational structure described should match the staffing needs necessary to accomplish the tasks outlined in the Timeline/Project Plan. Information regarding the personnel assigned to these tasks and whether their résumés and role descriptions are included (see page 13) will contribute to the assignment of points relative to this criterion.

## **4. Plan for Collecting the Data Required for This Solicitation's Performance Measures (10 percent)**

- Describe the manner in which the data required for this solicitation's performance measures will be collected, including the system(s) used and the person(s) responsible.
- Describe whether and how other relevant performance metrics will be documented, monitored, and evaluated.

## **5. Budget (10 percent)**

- Submit a budget that is complete, cost effective, and allowable (e.g., reasonable, allocable, and necessary for project activities).

- Budget narratives should demonstrate generally how the applicant will maximize cost effectiveness of grant expenditures. Budget narratives should demonstrate cost effectiveness in relation to potential alternatives and the objectives of the project.<sup>3</sup>

## **6. Impact/Outcomes, Sustainability (15 percent)**

- Discuss the ability of the jurisdiction to validate outcomes.
- Discuss how this effort will be integrated into the jurisdiction's justice system plans or commitments.
- Describe how the program will be financially sustained after federal funding ends and the expected long-term results for the program.

### **Review Process**

BJA reviews an application to make sure that the information presented is reasonable, understandable, measurable, achievable, and consistent with the solicitation requirements.

Peer reviewers will review the applications submitted under this solicitation that meet basic minimum requirements. For purposes of assessing whether an application meets basic minimum requirements and should proceed to further consideration, OJP screens applications for compliance with those requirements. Although specific requirements may vary, the following are common requirements applicable to all solicitations for funding under OJP programs:

- The application must be submitted by an eligible type of applicant.
- The application must request funding within programmatic funding constraints (if applicable).
- The application must be responsive to the scope of the solicitation.
- The application must include all items necessary to meet the basic minimum requirements.

For a list of the application elements that **MUST** be included in the application submission in order for an application to meet the basic minimum requirements, see "What an Application Should Include" under Section D. Application and Submission Information.

Peer review panels will evaluate, score, and rate applications that meet basic minimum requirements. BJA may use internal peer reviewers, external peer reviewers, or a combination, to assess applications on technical merit using the solicitation's review criteria. An internal reviewer is a current DOJ employee who is well versed or has expertise in the subject of this solicitation. An external peer reviewer is an expert in the subject matter of a given solicitation who is not a current DOJ employee. Peer reviewers' ratings and any resulting recommendations are advisory only, but are considered carefully.

Other important considerations for BJA include geographic diversity, strategic (programmatic and policy) priorities (specifically including, but not limited to, those mentioned above relating to addressing specific challenges that rural communities face, high-poverty areas or persistent-poverty counties, demonstrable potential enhancement to public safety in one or more federally designated Qualified Opportunity Zones, and enhancing criminal justice and public safety through award conditions regarding cooperation with federal law enforcement), available

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<sup>3</sup> Generally speaking, a reasonable cost is a cost that, in its nature or amount, does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs.

funding, and the extent to which the Budget Detail Worksheet and Budget Narrative accurately explain project costs that are reasonable, necessary, and otherwise allowable under federal law and applicable federal cost principles.

Pursuant to the Part 200 Uniform Requirements, before award decisions are made, OJP also reviews information related to the degree of risk posed by the applicant. Among other things to help assess whether an applicant that has one or more prior federal awards has a satisfactory record with respect to performance, integrity, and business ethics, OJP checks whether the applicant is listed in SAM as excluded from receiving a federal award.

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 nonpublic 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, all final award decisions will be made by the Assistant Attorney General, who may take into account not only peer review ratings and BJA recommendations, but also other factors as indicated in this section.

## F. Federal Award Administration Information

Please see the [OJP Grant Application Resource Guide](#) for information on the following:

### [Federal Award Notices](#)

#### [Administrative, National Policy, and Other Legal Requirements](#)

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).

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

### [Information Technology \(IT\) Security Clauses](#)

#### [General Information About Post-Federal Award Reporting Requirements](#)

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

Required reports. Recipients typically must submit quarterly financial 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. 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.

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

For OJP contact(s), see page 2.

For contact information for Grants.gov, see page 2.

## **H. Other Information**

Please see the [OJP Grant Application Resource Guide](#) for information on the following:

[Freedom of Information and Privacy Act \(5 U.S.C. 552 and 5 U.S.C. 552a\)](#)

[Provide Feedback to OJP](#)

**Appendix A: Mandatory Chief Executive Assurance to Collect and Report Recidivism Indicator Data**

I hereby assure that, if awarded grant funds under the Second Chance Act Pay for Success Initiative: Outcomes-based Contracting To Lower Recidivism and Address Substance Use Disorders Through Recovery Housing, my organization will collect unique identifiers and recidivism indicator performance data for each program participant, and will aggregate all such data and submit it via the Bureau of Justice Assistance Performance Measurement Tool as required upon grant closeout. I understand that the inability or refusal to submit such data after an award is made may impact my organization's ability to receive future Bureau of Justice Assistance competitive grant funding.

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Signature

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Name

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Title

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Date

## Appendix B: Performance Measures Table

Objectives	Performance Measure	Data Grantee Provides
<b>Category 1 Grantees</b>		
<p>Objective 1: Enhance already established outcomes-based contracts to provide individualized reentry services or PSH for people leaving incarceration who are identified through a validated risk tool as being at moderate to high risk to reoffend in the community.</p>	<p>Percentage of the contract paid to the service provider (by contract)</p> <p>Number of SCA OBC contracts for housing and other support services</p> <p>Percentage of outcome benchmarks achieved</p>	<ol style="list-style-type: none"> <li>1. Overall, since the beginning of the contract, what percentage of the contract has been paid to the service provider (per contract)?</li> <li>2. Number of already established/enhanced SCA OBC contracts executed this reporting period</li> <li>3. Number of outcome benchmarks established (per contract)               <ol style="list-style-type: none"> <li>a. Of those, how many were achieved this reporting period</li> <li>b. Of those, how many were not achieved this reporting period</li> </ol> </li> <li>4. How many benchmarks were formally adjusted in the contract based on new analysis findings during the reporting period?</li> </ol>
<p>Objective 2: Manage the outcomes-based reentry service or PSH contract, including data and report collection, regular performance and outcome reviews between the governments and service provider, on and off-site monitoring, outcomes validation, and incentive payment approvals.</p>	<p>Percentage of grantees using a research partner/evaluator to assist with outcome monitoring</p> <p>Percentage change in the recidivism rate when compared to the base year (e.g., rearrest, reconviction, reincarceration, or revocation)</p>	<ol style="list-style-type: none"> <li>1. Name of research partner/evaluator               <ol style="list-style-type: none"> <li>a. How did the research partner contribute to the project during the reporting period?                   <ol style="list-style-type: none"> <li>i. Conducted data analysis</li> <li>ii. Presented analysis results/outcomes/metrics during metric and outcome reviews</li> <li>iii. Presented analysis result and/or recommendations to community groups or professional organizations outside of the project</li> <li>iv. Provided or coordinated training or technical assistance</li> <li>v. Other</li> </ol> </li> </ol> </li> <li>2. Since the beginning of the SCA-OBC contract, when compared to the base year, what is the percentage change in the following (only report those metrics that you are actively tracking):               <ol style="list-style-type: none"> <li>a. Rearrest</li> <li>b. Reconviction</li> <li>c. Reincarceration</li> <li>d. Revocation</li> </ol> </li> </ol>

Objectives	Performance Measure	Data Grantee Provides
	<p>Percentage of people that have received housing services and have had stable housing for more than 6 months</p> <p>Percentage of people that have received other recovery support services or substance abuse treatment services</p> <p>Percentage of people receiving substance abuse treatment services that have maintained sobriety for more than 6-months</p>	<ol style="list-style-type: none"> <li>1. Since the beginning of the SCA-OBC contract, number of people receiving recovery support housing by level of housing support               <ol style="list-style-type: none"> <li>a. Level 1: Peer Run</li> <li>b. Level 2: Monitored</li> <li>c. Level 3: Supervised</li> <li>d. Level 4: Service Provider</li> <li>e. Not Tracked/Unknown</li> </ol> </li> <li>2. Of those, how many have remained in stable housing for more than 6 months               <ol style="list-style-type: none"> <li>a. Level 1: Peer Run</li> <li>b. Level 2: Monitored</li> <li>c. Level 3: Supervised</li> <li>d. Level 4: Service Provider</li> <li>e. Not Tracked/Unknown</li> </ol> </li> <li>3. Since the beginning of the SCA-OBC contract, number of people in recovery support housing who are also receiving other recovery support services or substance abuse treatment services               <ol style="list-style-type: none"> <li>a. Recovery Support</li> <li>b. Substance Abuse Treatment                   <ol style="list-style-type: none"> <li>i. Of those that have receiving substance abuse treatment services, number of people that have maintained sobriety for more than 6-months (as validated with urinalysis or other random or observed drug tests)</li> </ol> </li> </ol> </li> </ol>
<p>Objective 3: Ensure government staff and service providers have adequate training on SCA OBC procurement, reentry services, PSH, data collection, and outcomes validation.</p>	<p>Number of people trained on SCA-OBC procurement, service/intervention, data collection, and outcome validation</p>	<ol style="list-style-type: none"> <li>1. Number of people involved in the SCA OBC project who received training or were involved in a technical assistance engagement during the reporting period</li> </ol>
<b>Category 2 Grantees</b>		
<p>Objective 1: Enter into outcomes-based contracts to provide evidence-based, high quality recovery housing to formerly-incarcerated individuals who have a substance use disorder.</p>	<p>Number of SCA OBC contracts</p> <p>Percentage of the contract(s) paid to the service provider</p> <p>Percentage of outcome benchmarks achieved</p>	<ol style="list-style-type: none"> <li>1. Number of new SCA OBC contracts executed during this reporting period</li> <li>2. Number of outcome benchmarks established (per contract)               <ol style="list-style-type: none"> <li>a. Of those, how many were achieved during this reporting period</li> <li>b. Of those, how many were not achieved during this reporting period</li> </ol> </li> </ol>

Objectives	Performance Measure	Data Grantee Provides
	<p>Percentage of grantees using a research partner/evaluator to assist with outcome monitoring</p>	<ol style="list-style-type: none"> <li>3. How many benchmarks were formally adjusted in the contract based on new analysis findings during the reporting period?</li> <li>4. Overall, since the beginning of the contract, what percentage of the contract has been paid to the service provider (per contract)?</li> <li>5. Name of research partner/evaluator               <ol style="list-style-type: none"> <li>a. How did the research partner contribute to the project during the reporting period?                   <ol style="list-style-type: none"> <li>i. Conducted data analysis</li> <li>ii. Presented analysis results/outcomes/metrics during metric and outcome reviews</li> <li>iii. Presented analysis result and/or recommendations to community groups or professional organizations outside of the project</li> <li>iv. Provided or coordinated training or technical assistance</li> <li>v. Other</li> </ol> </li> </ol> </li> </ol>
<p>Objective 2: Manage the outcomes-based reentry service or PSH contract, including data and report collection, regular performance and outcome reviews between the governments and service provider, on and off-site monitoring, outcomes validation, and incentive payment approvals.</p>	<p>Percentage of grantees using a research partner/evaluator to assist with outcome monitoring</p> <p>Percentage change in the recidivism rate when compared to the base year (e.g., rearrest, reconviction,</p>	<ol style="list-style-type: none"> <li>1. Name of research partner/evaluator               <ol style="list-style-type: none"> <li>a. How did the research partner contribute to the project during the reporting period?                   <ol style="list-style-type: none"> <li>i. Conducted data analysis</li> <li>ii. Presented analysis results/outcomes/metrics during metric and outcome reviews</li> <li>iii. Presented analysis result and/or recommendations to community groups or professional organizations outside of the project</li> <li>iv. Provided or coordinated training or technical assistance</li> <li>v. Other</li> </ol> </li> </ol> </li> <li>2. Since the beginning of the SCA-OBC contract, when compared to the base year, what is the percentage change in</li> </ol>

Objectives	Performance Measure	Data Grantee Provides
	reincarceration, or revocation)	<p>the following (only report those metrics that you are actively tracking):</p> <ul style="list-style-type: none"> <li>a. Rearrest</li> <li>b. Reconviction</li> <li>c. Reincarceration</li> <li>d. Revocation</li> </ul>
	<p>Percentage of people that have received housing services and have had stable housing for more than 6 months (by housing level)</p> <p>Percentage of people that have received other recovery support services or substance abuse treatment services</p> <p>Percentage of people receiving substance abuse treatment services that have maintained sobriety for more than 6-months)</p>	<ul style="list-style-type: none"> <li>3. Since the beginning of the SCA-OBC contract, number of people receiving recovery support housing by level of housing support <ul style="list-style-type: none"> <li>a. Level 1: Peer Run</li> <li>b. Level 2: Monitored</li> <li>c. Level 3: Supervised</li> <li>d. Level 4: Service Provider</li> <li>e. Not Tracked/Unknown</li> </ul> </li> <li>4. Of those, how many have remained in stable housing for more than 6 months <ul style="list-style-type: none"> <li>a. Level 1: Peer Run</li> <li>b. Level 2: Monitored</li> <li>c. Level 3: Supervised</li> <li>d. Level 4: Service Provider</li> <li>e. Not Tracked/Unknown</li> </ul> </li> <li>5. Since the beginning of the SCA-OBC contract, number of people in recovery support housing who are also receiving other recovery support services or substance abuse treatment services <ul style="list-style-type: none"> <li>a. Recovery Support</li> <li>b. Substance Abuse Treatment <ul style="list-style-type: none"> <li>i. Of those that have receiving substance abuse treatment services, number of people that have maintained sobriety for more than 6-months (as validated with urinalysis or other random or observed drug tests)</li> </ul> </li> </ul> </li> </ul>
Objective 3: Ensure government staff and service providers have adequate training on SCA OBC procurement, reentry services, PSH, data collection, and outcomes validation.	Number of people trained on SCA-OBC procurement, service/intervention, data collection, and outcome validation	1. Number of people involved in the SCA OBC project who received training or were involved in a technical assistance engagement during the reporting period

## Appendix C: Application Checklist

### Second Chance Act Pay for Success Initiative: Outcomes-based Contracting to Lower Recidivism and Address Substance Use Disorders Through Recovery Housing

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

#### What an Applicant Should Do:

Prior to Registering in Grants.gov:

- Acquire a DUNS Number (see [OJP Grant Application Resource Guide](#))
- Acquire or renew registration with SAM (see [OJP Grant Application Resource Guide](#))

To Register with Grants.gov:

- Acquire AOR and Grants.gov username/password (see [OJP Grant Application Resource Guide](#))
- Acquire AOR confirmation from the E-Biz POC (see [OJP Grant Application Resource Guide](#))

To Find Funding Opportunity:

- Search for the Funding Opportunity on Grants.gov (see [OJP Grant Application Resource Guide](#))
- Select the correct Competition ID (see page 13)
- Access Funding Opportunity and Application Package (see [OJP Grant Application Resource Guide](#))
- Sign up for Grants.gov email [notifications](#) (optional) (see [OJP Grant Application Resource Guide](#))
- Read [Important Notice: Applying for Grants in Grants.gov](#)
- Read OJP policy and guidance on conference approval, planning, and reporting available at [ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm](#) (see [OJP Grant Application Resource Guide](#))

After Application Submission, Receive Grants.gov Email Notifications That:

- (1) application has been received
- (2) application has either been successfully validated or rejected with errors (see [OJP Grant Application Resource Guide](#))

If No Grants.gov Receipt, and Validation or Error Notifications are Received:

- Contact BJA regarding experiencing technical difficulties (see page 2)

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

- Review the [“Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2020 Awards”](#) in the [OJP Funding Resource Center](#).

### Scope Requirement:

- The federal amount requested is within the allowable limit for the category.

**Eligibility Requirement:** Eligible applicants are states, units of local government, and federally recognized Indian tribal governments (as determined by the Secretary of the Interior).

### What an Application Should Include:

The following items are critical application elements required to pass Basic Minimum Requirements review. An application that OJP determines does not include the application elements that must be included in the application submission in order for the application to meet the basic minimum requirements will neither proceed to peer review nor receive further consideration.

- Program Narrative (see page 10)
- Budget Detail Worksheet (including Narrative) (see [OJP Grant Application Resource Guide](#))
- Timeline/Project Plan (see page 13)
- Letter from Lead Agency (if applicable) (see page 12)
- Letter from Responsible Government Procurement Agency Executive (see page 12)
- Applicant Disclosure of Proposed Subrecipients (see page 12)
- Résumés or curricula vita for key personnel (see page 13)

- Application for Federal Assistance (SF-424) (see [OJP Grant Application Resource Guide](#))
- Indirect Cost Rate Agreement (if applicable) (see [OJP Grant Application Resource Guide](#))
- Tribal Authorizing Resolution (if applicable) (see [OJP Grant Application Resource Guide](#))
- Financial Management and System of Internal Controls Questionnaire (see [OJP Grant Application Resource Guide](#))
- [Disclosure of Lobbying Activities \(SF-LLL\)](#) (see [OJP Grant Application Resource Guide](#))
- Applicant Disclosure of Pending Applications (see [OJP Grant Application Resource Guide](#))
- Applicant Disclosure and Justification – DOJ High Risk Grantees (see [OJP Grant Application Resource Guide](#))
- Research and Evaluation Independence and Integrity (see [OJP Grant Application Resource Guide](#))

### Additional Attachments:

- Request and Justification for Employee Compensation; Waiver (if applicable) (see page 11)

- Other Letters of Support (see page 12)
- Position Descriptions (see page 13)
- Documentation of rural challenges (if applicable) (see page 11)
- Documentation of high-poverty areas or persistent poverty counties (if applicable) (see page 12)
- Documentation of enhanced public safety in federally designated Qualified Opportunity Zones (if applicable) (see page 12)
- Certification regarding enhancing criminal justice and public safety through award conditions on cooperation with federal law enforcement (if applicable) (see page 12)

## Appendix D

### Certification Regarding Cooperation with Federal Law Enforcement

I am an authorized official of the State or local government applicant entity named below and I have the authority to make this certification on behalf of the applicant. I understand that the Department will rely upon this certification as a material representation in any decision regarding an award to the applicant. On behalf of the State or local government applicant named below, and in order to receive priority consideration for its application, I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), the following:

*1. The State or local government applicant entity named below operates at least one correctional facility (that is, operates at least one "place for the confinement or rehabilitation of offenders or individuals charged with or convicted of criminal offenses" (34 U.S.C. 10251(a)(7))).*

*2. The applicant agrees to comply with the following four award conditions (or conditions substantially to the same effect) if it is selected to receive an award made by OJP under this solicitation:*

#### **CONDITION 1: Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens**

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

##### 1. Noninterference with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- within the funded program or activity, no State or local government entity, -agency, or -official may interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose of "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

##### 2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

### 3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

### 4. Rules of construction

#### A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (see 8 U.S.C. 1101(a)(3)), except that, with respect to a juvenile offender, it means "criminal alien."

(2) The term "juvenile offender" means what it means under 28 C.F.R. 31.304(f) (as in effect on Jan. 1, 2020).

(3) The term "criminal alien" means, with respect to a juvenile offender, an alien who is deportable on the basis of—

(a) conviction described in section 237(a)(2) of the INA (see 8 U.S.C. 1227(a)(2)), or

(b) conduct described in section 237(a)(4) of the INA (see 8 U.S.C. 1227(a)(4)).

(4) The term "conviction" means what it means under section 101 of the INA (see 8 U.S.C. 1101(a)(48)). (Adjudication of a juvenile as having committed an offense does not constitute "conviction" for purposes of this condition.)

(5) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)) as of January 1, 2020.

(6) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that—

(a) is designed to prevent or to significantly delay or complicate, or

(b) has the effect of preventing or of significantly delaying or complicating.

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

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

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

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

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

**CONDITION 2: No use of funds to interfere with federal law enforcement: Interrogation of certain aliens**

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- no State or local government entity, -agency, or -official may use funds under this award to interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose of "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (see 8 U.S.C. 1101(a)(3)), except that, with respect to a juvenile offender, it means "criminal alien."

(2) The term "juvenile offender" means what it means under 28 C.F.R. 31.304(f) (as in effect on Jan. 1, 2020).

(3) The term "criminal alien" means, with respect to a juvenile offender, an alien who is deportable on the basis of—

(a) conviction described in section 237(a)(2) of the INA (see 8 U.S.C. 1227(a)(2)), or

(b) conduct described in section 237(a)(4) of the INA (see 8 U.S.C. 1227(a)(4)).

(4) The term "conviction" means what it means under section 101 of the INA (see 8 U.S.C. 1101(a)(48)). (Adjudication of a juvenile as having committed an offense does not constitute "conviction" for purposes of this condition.)

(5) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).

(6) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that—

(a) is designed to prevent or to significantly delay or complicate, or

(b) has the effect of preventing or of significantly delaying or complicating.

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

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

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

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

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

**CONDITION 3: Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release**

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. Noninterference with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual report to Congress on "the number of illegal alien[ felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- within the funded program or activity, no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

### 3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

### 4. Rules of construction

A. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

#### B. Applicability

(1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.

### **CONDITION 4: No use of funds to interfere with federal law enforcement: Notice of scheduled release**

SCOPE. This condition applies as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

#### 1. No use of funds to interfere with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual report to Congress on "the number of illegal alien[ felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may use funds under this award to interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

B. Applicability

(1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the "No use of funds to interfere with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of State or Local Government Applicant Entity