

# U.S. Department of Justice Office of Justice Programs

**May 2021**

## **Background**

The Department of Justice's grant-making components issued revised guidance on April 22, 2021 regarding conditions on certain Department grants. Consistent with Executive Order 13993, an [April 14, 2021](#) Attorney General memorandum, and relevant grant-making statutes, the Department informed grant recipients and applicants that they will continue receiving certain Department grants without making certifications related to 8 U.S.C. § 1373 and associated matters as a precondition. The Department will also cease giving priority consideration to grant applicants that accept conditions similar to those requirements.

This document includes general information as well as answers to questions that are specific to affected OJP grant awards. For answers to questions that are specific to affected COPS Office grant awards, please visit [https://cops.usdoj.gov/pdf/cops\\_office\\_immigration\\_faqs.pdf](https://cops.usdoj.gov/pdf/cops_office_immigration_faqs.pdf).

## **Frequently Asked Questions (FAQs)**

### **1) Are these changes retroactive?**

Yes. DOJ will no longer apply or enforce certain conditions and requirements placed on awards that were made or offered by the Office of Justice Programs (OJP) and the Office of Community Oriented Policing Services (COPS Office) during FY 2017-2020.

For a full list of affected OJP programs, please see Appendix A.

For a full list of OJP conditions and requirements that will no longer be applied or enforced, please see Appendix B.

### **2) Will new award documents be issued that exclude the affected conditions?**

No. OJP will not issue new award documents for affected FY 2017-2020 awards. OJP will no longer apply or enforce the affected requirements and conditions placed on those awards.

With regard to this change, OJP award condition #1 provides for the incorporation into affected OJP awards (and award offers) of pertinent legal notices regarding DOJ implementation or enforcement of award conditions here: [ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm](https://ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm).

- 3) If an agency has not accepted its FY 2017-2020 award that included affected conditions or requirements and would like to move forward with award acceptance, what is the process?**

Your agency must accept the award electronically in DOJ's [JustGrants](#) system. Additional guidance on how to accept an award in JustGrants can be found at [Training: Grant Award Acceptance | JUSTICEGRANTS \(usdoj.gov\)](#).

- 4) If an agency submitted a formal declination for an affected FY 2017-2020 award, is the award still available for acceptance?**

No. If an agency submitted a formal award declination letter and OJP administratively closed the award offer, the award is no longer available for acceptance.

- 5) What is the process for removing withholding special conditions related to the affected conditions and requirements under the FY 2017-2020 grants?**

OJP will perform a review of all grants awarded under the affected programs and administratively remove any related withholding special conditions for FY 2017-FY2020 awards. Please note that withholding special conditions can only be removed *after* a grant award has been accepted.

- 6) If an agency did not obligate or expend grant funds or accept its grant award due to the affected conditions and requirements, may it request a project period extension?**

Yes. Recipients can request no-cost extensions due to this extenuating circumstance after the award has been accepted. First-time no-cost extensions that do not exceed 12 additional months can be submitted by the recipient in the JustGrants system through the submission of a Grant Award Modification (GAM). Please contact your assigned grant manager directly for assistance with submitting requests for no-cost extension GAMs that exceed 12 additional months or are second extension requests. Additional guidance on how to submit GAMs can be found at [Training: Grant Award Modifications | JUSTICEGRANTS \(usdoj.gov\)](#).

- 7) If an agency has already accepted and started implementing its award, how will its award be affected?**

No additional action is required by the award recipient. The recipient must continue to comply with all other requirements of the award.

**8) How will this change in DOJ grant policy affect active FY 2021 funding opportunities?**

The change applies to all FY 2021 funding opportunities. All active OJP grant opportunities that contained affected requirements language or priority considerations will be revised and reposted.

**9) Will agencies that already submitted an application to an active FY 2021 OJP funding opportunity that contained affected requirements language or priority considerations be required to submit new applications when the funding opportunity is revised and reposted?**

Yes. The revised solicitations will be reposted as soon as possible. Once they are posted, agencies will receive notice and be asked to resubmit their applications.

**10) How will this policy change affect the active FY 2020 State Criminal Alien Law Enforcement Program (SCAAP) Program Requirements and Application Instructions?**

The FY 2020 SCAAP Program Requirement and Application Instructions will be revised and reposted to remove the “*Acknowledgement of USDOJ Intent to Modify SCAAP Program Requirements, Beginning with the FY 2021 Program*” and associated references, and the “*FY 2020 Certification regarding federal statutes relevant to the incarceration of criminal aliens.*” If applicants already submitted an application agreeing to those certifications, the certifications will not be enforced. For those that have not yet submitted an application, those certifications will be removed from the application.

## Appendix A: Affected OJP Grant Programs

### FY 17

- **OJP**
  - FY 17 (BJA) JAG State
  - FY 17 (BJA) JAG Local

### FY 18

- **OJP**
  - FY 18 (BJA) JAG State
  - FY 18 (BJA) JAG Local
  - FY 18 (OJJDP) Title II Formula Grants Program
  - FY 18 (BJA) Project Safe Neighborhoods
  - FY 18 (BJA) Local Law Enforcement Crime Gun Intelligence Center Integration Initiative (CGIC)
  - FY 18 (BJA) Strategies for Policing Innovation Program
  - FY 18 (BJA) Innovations in Community-Based Crime Reduction Program (CBCR)
  - FY 18 (BJA) Supporting Innovation: Field-Initiated Programs to Improve Public Safety
  - FY 18 (BJA) Justice Reinvestment Initiative

### FY 19

- **OJP**
  - FY 19 (BJA) JAG State
  - FY 19 (BJA) JAG Local
  - FY 19 (OJJDP) Title II Formula Grants Program
  - FY 19 (BJA) Project Safe Neighborhoods
  - FY 19 (BJA) Local Law Enforcement Crime Gun Intelligence Center Integration Initiative (CGIC)
  - FY 19 (BJA) Strategies for Policing Innovation Program (SPI)
  - FY 19 (BJA) Innovations in Community-Based Crime Reduction Program (CBCR)
  - FY 19 (BJA) Innovative Reentry Initiatives: Building System Capacity & Testing Strategies to Reduce Recidivism
  - FY 19 (BJA) Innovations in Supervision

- FY 19 (BJA) Innovative Responses to Behavior in the Community: Swift, Certain, and Fair Supervision
- FY 19 (BJA) Justice and Mental Health Collaboration Program (JMHCP)
- FY 19 (BJA) Improving Reentry for Adults with Co-occurring Substance Abuse and Mental Illness
- FY 19 (BJA) Southwest Border Rural Law Enforcement Information Sharing and Interdiction Assistance Grants
- FY 19 (BJA) Southwest Border Rural Law Enforcement Training and Technical Assistance Program
- FY 19 (BJA) Justice Reinvestment Initiative
- FY 19 (OJJDP) Youth Gang Desistance/Diversion Grant Program
- FY 19 (OJJDP) Youth Gang Suppression Implementation Grant Program
- FY 19 (OJJDP) Second Chance Act Youth Offender Reentry Program

## **FY 20**

- **OJP**

- FY 20 (BJA) JAG State
- FY 20 (BJA) JAG Local
- FY 20 (OJJDP) Title II Formula Grants Program
- FY 20 (BJA) Project Safe Neighborhoods
- FY 20 (BJA) Crime Gun Intelligence Center Integration initiative
- FY 20 (BJA) Strategies for Policing Innovation program
- FY 20 (BJA) Innovations in Community-Based Crime Reduction program
- FY 20 (BJA) Innovative Reentry Initiatives: Building System Capacity & Testing Strategies to Reduce Recidivism
- FY 20 (BJA) Innovations in Supervision
- FY 20 (BJA) Innovative Responses to Behavior in the Community: Swift, Certain, and Fair Supervision
- FY 20 (BJA) Justice and Mental Health Collaboration Program, Category 1 only
- FY 20 (BJA) Improving Reentry for Adults with Substance Use Disorders Program
- FY 20 (BJA) Justice Reinvestment Initiative
- FY 20 (OJJDP) Comprehensive Anti-Gang Programs for Youth
- FY 20 (OJJDP) Second Chance Act Youth Offender Reentry Program
- FY 20 (BJA) Correctional Adult Reentry Education, Employment, and Recidivism Reduction Strategies (CAREERRS) Program
- FY 20 (OJJDP) Juvenile Justice and Mental Health Collaboration Program
- FY 20 (OJJDP) Reducing the Use of Isolation in Juvenile Facilities
- FY 20 (OJJDP) Juvenile Justice System Enhancements Program

- FY 20 (BJA) Second Chance Act Pay for Success Initiative: Outcomes-based Contracting to Lower Recidivism and Address Substance Use Disorders Through Recovery Housing
- FY 20 (BJA) Safeguarding Correctional Facilities and Public Safety by Addressing Contraband Cellphones Program
- FY 20 (BJA) Operation Legend
- FY 20 (BJA) Project Guardian

***FY 21\****

- **OJP**

- FY 21 (BJA) Innovations in Reentry Initiative: Building System Capacity & Testing Strategies to Reduce Recidivism
- FY 21 (BJA) Smart Probation: Innovations in Supervision Initiative
- FY 21 (BJA) Safeguarding Correctional Facilities and Public Safety by FY 21 (BJA) Addressing Contraband Cellphones Program
- FY 21 (BJA) Second Chance Act Pay for Success Initiative
- FY 21 (BJA) Byrne Criminal Justice Innovation Program
- FY 20 (BJA) State Criminal Alien Assistance Program\*\*

\*The FY 21 solicitations are active solicitations that will be revised and reposted.

\*\*FY 20 solicitation posted in FY 2021

## Appendix B: OJP Grant Conditions/Requirements

- The FY 2017 Byrne JAG Certification of Compliance with 8 U.S.C. § 1373
- The FY 2018 Byrne JAG Certification of Compliance with 8 U.S.C. §§ 1373 & 1644
- The FY 2018 Byrne JAG Certification Relating to 8 U.S.C. §§ 1226(a) & (c), 1231(a), 1324(a), 1357(a), & 1366(1) & (3)
- *Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE) application attachment*
  
- **FY 17 Award Conditions:**
  - Certification of Compliance with 8 U.S.C. 1373" required for valid award acceptance by a "State"
  - "Certification of Compliance with 8 U.S.C. 1373" required for valid award acceptance by a unit of local government
  - Ongoing compliance with 8 U.S.C. 1373 is required
  - Authority to obligate award funds contingent on compliance with 8 U.S.C. 1373; unallowable costs; obligation to notify
  - Required State-level rules or practices related to aliens; allowable costs
  - Required local-government-level rules or practices related to aliens; allowable costs
  
- **FY 18 Award Conditions:**
  - Certification of Compliance with 8 U.S.C. 1373 and 1644 (within the funded "program or activity") required for valid award acceptance by a "State"
  - Certification of Compliance with 8 U.S.C. 1373 and 1644 (within the funded "program or activity") required for valid award acceptance by a local government
  - Certification of Compliance with 8 U.S.C. 1373 (within the funded "program or activity") required for valid award acceptance by a "State"
  - Certification of Compliance with 8 U.S.C. 1373 (within the funded "program or activity") required for valid award acceptance by a local government
  - Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance
  - Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373; ongoing compliance
  - Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement (8 U.S.C. 1373 and 1644); unallowable costs; notification
  - Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement (8 U.S.C. 1373); unallowable costs; notification
  - Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information
  - Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens

- Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release
  - Requirement to collect certain information from subrecipients
  - PSN – Subrecipient DHS question requirement
  - Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release of criminal aliens
- **FY 19 Award Conditions:**
    - Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance
    - No use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance
    - Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373; ongoing compliance
    - No use of funds to interfere with federal law enforcement: 8 U.S.C. 1373; ongoing compliance
    - Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; unallowable costs; notification
    - Authority to obligate award funds contingent on no use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; unallowable costs; notification
    - Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373; unallowable costs; notification
    - Authority to obligate award funds contingent on no use of funds to interfere with federal law enforcement: 8 U.S.C. 1373; unallowable costs; notification
    - Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information
    - No use of funds to interfere with federal law enforcement: No public disclosure of certain law enforcement sensitive information
    - Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens
    - No use of funds to interfere with federal law enforcement: Interrogation of certain aliens
    - Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release
    - No use of funds to interfere with federal law enforcement: Notice of scheduled release
    - Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of criminal aliens
    - No use of funds to interfere with federal law enforcement: Interrogation of criminal aliens
    - Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release of criminal aliens
    - No use of funds to interfere with federal law enforcement: Notice of scheduled release of criminal aliens

- Requirement to collect certain information from subrecipients
- **FY 20 Award Conditions:**
  - Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement: information-communication restrictions; unallowable costs; notification
  - Authority to obligate award funds contingent on no use of funds to interfere with federal law enforcement: information-communication restrictions; unallowable costs; notification
  - Noninterference (within the funded "program or activity") with federal law enforcement: information-communication restrictions; ongoing compliance
  - No use of funds to interfere with federal law enforcement: information-communication restrictions; ongoing compliance
  - Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law-enforcement-sensitive information
  - No use of funds to interfere with federal law enforcement: No public disclosure of certain law-enforcement-sensitive information
  - Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release
  - No use of funds to interfere with federal law enforcement: Notice of scheduled release
  - Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens
  - No use of funds to interfere with federal law enforcement: Interrogation of certain aliens
  - Requirement to collect certain information from subrecipients