



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

September 18, 2019

Ms. Kathleen Howard
California Board of State and Community Corrections
2590 Venture Oaks Way, Ste. 200
Sacramento, CA 95833-3288

Dear Ms. Howard:

On behalf of Attorney General William P. Barr, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 19 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - State Solicitation in the amount of \$17,860,765 for California Board of State and Community Corrections.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Linda Hill-Franklin, Program Manager at (202) 514-0712; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Sullivan", is written over a horizontal line.

Katharine T. Sullivan
Principal Deputy Assistant Attorney General

Enclosures



U.S. Department of Justice
Office of Justice Programs
Office of Civil Rights

Washington, DC 20531

September 18, 2019

Ms. Kathleen Howard
California Board of State and Community Corrections
2590 Venture Oaks Way, Ste. 200
Sacramento, CA 95833-3288

Dear Ms. Howard:

Congratulations on your recent award! The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, require recipients of federal financial assistance to give assurances that they will comply with those laws. In addition to those civil rights laws, many grant program statutes contain nondiscrimination provisions that require compliance with them as a condition of receiving federal financial assistance. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with OJP and other DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a non-discriminatory manner to their service population or have employment practices that meet equal-opportunity standards.




If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5). Please submit information about any adverse finding to the OCR at the above address.

We at the OCR are available to help you and your organization meet the civil rights requirements that are associated with OJP and other DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to let us know.

Sincerely,

Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

 <p>U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance</p>	<p>Grant</p>	<p>PAGE 1 OF 31</p>																								
<p>1. RECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>California Board of State and Community Corrections 2590 Venture Oaks Way, Ste. 200 Sacramento, CA 95833-3288</p>	<p>4. AWARD NUMBER: 2019-DJ-BX-0068</p> <p>5. PROJECT PERIOD: FROM 10/01/2018 TO 09/30/2022 BUDGET PERIOD: FROM 10/01/2018 TO 09/30/2022</p>																									
<p>2a. GRANTEE IRS/VENDOR NO. 680282717</p>	<p>6. AWARD DATE 09/18/2019</p> <p>8. SUPPLEMENT NUMBER 00</p>	<p>7. ACTION Initial</p>																								
<p>2b. GRANTEE DUNS NO. 949095731</p>	<p>9. PREVIOUS AWARD AMOUNT \$ 0</p>																									
<p>3. PROJECT TITLE 2019 JAG State Wide Program</p>	<p>10. AMOUNT OF THIS AWARD \$ 17,860,765</p> <p>11. TOTAL AWARD \$ 17,860,765</p>																									
<p>12. SPECIAL CONDITIONS</p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).</p>																										
<p>13. STATUTORY AUTHORITY FOR GRANT</p> <p>This project is supported under FY19(BJA - JAG State and JAG Local) Title I of Pub. L. 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).</p>																										
<p>14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</p> <p>16.738 - Edward Byrne Memorial Justice Assistance Grant Program</p>																										
<p>15. METHOD OF PAYMENT</p> <p>GPRS</p>																										
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>AGENCY APPROVAL</p> </div> <div style="width: 45%;"> <p>GRANTEE ACCEPTANCE</p> </div> </div>																										
<p>16. TYPED NAME AND TITLE OF APPROVING OFFICIAL</p> <p>Katharine T. Sullivan Principal Deputy Assistant Attorney General</p>	<p>18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL</p> <p>Kathleen Howard Executive Officer</p>																									
<p>17. SIGNATURE OF APPROVING OFFICIAL</p> 	<p>19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL</p> 	<p>19A. DATE</p> <p>2/27/20</p>																								
<p>AGENCY USE ONLY</p>																										
<p>20. ACCOUNTING CLASSIFICATION CODES</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>DIV. OFC.</th> <th>REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td>00</td> <td>6976908</td> </tr> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>10883857</td> </tr> </tbody> </table>	FISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	REG.	SUB.	POMS	AMOUNT	X	B	DJ	80	00	00	00	6976908	X	B	DJ	80	00	00		10883857	<p>21. UDJUGT0384</p>	
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OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

Subject to the terms of the Amended Judgment and Order entered in California v. Sessions, No. 17-cv-4701, on November 20, 2018, the Judgment and Order entered in California v. Barr, No. 18-cv-5169, on March 26, 2019, and the Stipulations entered by the parties in California v. Barr, No. 19-cv-6189, on January 21, 2020 and January 31, 2020 (all attached hereto as part of the Award acceptance document), the BSCC's acceptance of this award shall not be construed as acceptance of Award Special Conditions 31-41 and 73, and shall not be construed as acceptance of the language in Award Special Condition 9 surrounding 8 U.S.C. § 1324a(a)(2).



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Bureau of Justice Assistance

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SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award. By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts all such assurances or certifications as if personally executed by the authorized recipient official.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The U.S. Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2019 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2019 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2019 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

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SPECIAL CONDITIONS

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2017, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2017, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

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7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

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9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

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 designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or

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any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.

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13. Unreasonable restrictions on competition under the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

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 designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or -subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

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14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ) or in the application for any subaward, at any tier, the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.

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19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

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24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2019)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2019, are set out at <https://ojp.gov/funding/Explore/FY19AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Fraud Detection Office (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.

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27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

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28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

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31. Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance

1. With respect to the "program or activity" funded in whole or part under this award (including any such program or activity of any subrecipient at any tier), throughout the period of performance, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

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

3. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. 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) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

4. Rules of Construction

A. For purposes of this condition:

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

(2) 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.")

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

(4) "Immigration status" means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa.

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 and 1644 are to be read as references to particular components of the Department of Homeland Security (DHS).

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.



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32. No use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance

1. Throughout the period of performance, no State or local government entity, -agency, or -official may use funds under this award (including under any subaward, at any tier) to prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

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

3. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. 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) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

4. Rules of Construction. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance" condition are incorporated by reference as though set forth here in full.



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33. 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

1. If the recipient is a "State," a local government, or a "public" institution of higher education:

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" award condition.

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" condition.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... 8 U.S.C. 1373 and 1644; ongoing compliance" condition are incorporated by reference as though set forth here in full.



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34. 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

1. If the recipient is a "State," a local government, or a "public" institution of higher education:

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "No use of funds to interfere with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient that is a State, a local government, or a public institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "No use of funds to interfere ... 8 U.S.C. 1373 and 1644; ongoing compliance" award condition.

4. Rules of Construction. The "Rules of Construction" set out in the "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" condition are incorporated by reference as though set forth here in full.



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35. Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information

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 this 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: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no public disclosure may be made of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

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 (see 8 U.S.C. 1101(a)(3));

(2) the term "federal law enforcement information" means law enforcement sensitive information communicated or made available, by the federal government, to a State or local government entity, -agency, or -official, through any means, including, without limitation-- (1) through any database, (2) in connection with any law enforcement partnership or -task-force, (3) in connection with any request for law enforcement assistance or -cooperation, or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;

(3) the term "law enforcement sensitive information" means records or information compiled for any law enforcement purpose; and

(4) the term "public disclosure" means any communication or release other than one-- (a) within the recipient, or (b) to any subrecipient (at any tier) that is a government entity.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



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36. No use of funds to interfere with federal law enforcement: No public disclosure of certain law enforcement sensitive information

SCOPE. This condition applies as of the date the recipient accepts this 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: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no funds under this award may be used to make any public disclosure of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

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.

The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information" award condition are incorporated by reference as though set forth here in full.



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37. 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)).

(2) 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)).

(3) 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.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.



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38. 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.

The "Rules of Construction" 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.



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39. 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 DOJ 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. The "Rules of Construction" 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.

B. 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.

C. 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.



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40. 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 DOJ 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.

The "Rules of Construction" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release" award condition are incorporated by reference as though set forth here in full.

41. Requirement to collect certain information from subrecipients

Except as provided in this condition, the recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains from the proposed subrecipient responses to the questions identified in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)." All subrecipient responses must be collected and maintained by the recipient, consistent with document retention requirements, 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.



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42. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

43. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

44. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

45. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

46. Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

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47. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

48. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.

49. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

50. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

51. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

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52. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

53. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.

54. Submission of eligible records relevant to the National Instant Background Check System

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

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55. "Methods of Administration" - monitoring compliance with civil rights laws and nondiscrimination provisions

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with applicable federal civil rights laws and nondiscrimination provisions. Within 90 days of the date of award acceptance, the recipient must submit to OJP's Office for Civil Rights (at CivilRightsMOA@usdoj.gov) written Methods of Administration ("MOA") for subrecipient monitoring with respect to civil rights requirements. In addition, upon request by OJP (or by another authorized federal agency), the recipient must make associated documentation available for review.

The details of the recipient's obligations related to Methods of Administration are posted on the OJP web site at <https://ojp.gov/funding/Explore/StateMethodsAdmin-FY2017update.htm> (Award condition: "Methods of Administration" - Requirements applicable to States (FY 2017 Update)), and are incorporated by reference here.

56. Required attendance at BJA-sponsored events

The recipient (and its subrecipients at any tier) must participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

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57. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

58. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

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59. Prohibition on use of award funds for match under BVP program

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

60. Certification of body armor "mandatory wear" policies

If recipient uses funds under this award to purchase body armor, the recipient must submit a signed certification that law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

61. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

62. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

63. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

64. Expenditures prohibited without waiver

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.

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65. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2018

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2018), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds 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.

66. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

67. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.

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68. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here. *KTR*

69. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition. *KTR*

70. Withholding of funds: Budget narrative or information

The recipient may not obligate, expend, or draw down any award funds until the recipient submits, and OJP reviews and accepts, the required budget information or narrative for the award, and a Grant Adjustment Notice (GAN) has been issued to remove this condition. *KTR*

71. The recipient may not obligate, expend, or draw down any award funds for indirect costs, unless and until either -- (1) the recipient submits to OJP a current, federally-approved indirect cost rate agreement, or (2) the recipient determines that it is eligible under the Part 200 Uniform Requirements to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and advises OJP in writing of both its eligibility and its election.

OJP will release this condition through a Grant Adjustment Notice (GAN), following receipt of a satisfactory submission. *KTR*

72. Withholding of funds: Disclosure of lobbying

The recipient may not obligate, expend, or draw down any funds under this award until it has provided to the grant manager for this OJP award a complete Disclosure of Lobbying Activities (SF-LLL) form, and OJP has issued a Grant Adjustment Notice to remove this special condition. *KTR*

73. Withholding - DHS question attachment

The recipient may not obligate, expend or draw down funds until the Office of Justice Programs has received and approved the required application attachment(s) described in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)," and has issued a Grant Adjustment Notice (GAN) releasing this special condition.



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74. Withholding of funds: Certification with respect to federal taxes

The recipient may not obligate, expend, or draw down any funds under this award until it has submitted to the program manager, in a format acceptable to OJP, a formal written certification directed to OJP and executed by an official with authority to sign on behalf of the recipient, that the recipient (unless an exemption applies by operation of law, as described below)-- (1) has filed all Federal tax returns required for the three tax years immediately preceding the tax year in which the certification is made; (2) has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and (3) has not, more than 90 days prior to this certification, been notified of any unpaid federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding; and until a Grant Adjustment Notice (GAN) has been issued to remove this condition.

The certification must be dated, and must indicate the full name and title of the signer, as well as the full legal name of the recipient.

A recipient that is exempt from any legal requirement to file or pay federal taxes (such as a government entity exempt from federal income tax), and to which the elements of the above-specified certification would not apply, must advise OJP in writing -- in lieu of submitting the above-specified certification -- that it is not subject to any legal requirement to file or pay federal taxes.

75. SORNA final agency decision - Appeals

The recipient acknowledges the final agency decision made by DOJ that recipient's jurisdiction did not substantially implement the Sex Offender Registration and Notification Act (Public Law 109-248, "SORNA") before the deadline, and understands that, as a result of that final agency decision, the amount of this JAG award was reduced, pursuant to 34 U.S.C. 20927. By accepting this specific award, the recipient voluntarily agrees that if it elects to file a judicial appeal of that final agency decision, which was integral in determining this particular funding amount, no such appeal may commence more than 6 months after the date of acceptance of this award.

76. Withholding of funds: Required State Strategic Plan submission

The recipient may not obligate, expend, or draw down any award funds until the recipient submits a sufficient Statewide Strategic Plan (to include an Annual Report in each year in which the Statewide Strategic Plan is not fully updated), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

77. Withholding of funds: Disclosure of pending applications

The recipient may not obligate, expend, or draw down any award funds until: (1) it has provided to the grant manager for this OJP award either an "applicant disclosure of pending applications" for federal funding or a specific affirmative statement that no such pending applications (whether direct or indirect) exist, in accordance with the detailed instructions in the program solicitation, (2) OJP has completed its review of the information provided and of any supplemental information it may request, (3) the recipient has made any adjustments to the award that OJP may require to prevent or eliminate any inappropriate duplication of funding (e.g., budget modification, project scope adjustment), (4) if appropriate adjustments to a discretionary award cannot be made, the recipient has agreed in writing to any necessary reduction of the award amount in any amount sufficient to prevent duplication (as determined by OJP), and (5) a Grant Adjustment Notice has been issued to remove this condition.

KTH



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for California
Board of State and Community Corrections

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

1/27/14



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

**GRANT MANAGER'S MEMORANDUM, PT. I:
PROJECT SUMMARY**

Grant

PROJECT NUMBER

2019-DJ-BX-0068

PAGE 1 OF 1

This project is supported under FY19(BJA - JAG State and JAG Local) Title I of Pub. L. 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).

1. STAFF CONTACT (Name & telephone number)

Linda Hill-Franklin
(202) 514-0712

2. PROJECT DIRECTOR (Name, address & telephone number)

Daryle McDaniel
Field Representative
2590 Venture Oaks Way, Ste. 200
Sacramento, CA 95833-3288
(916) 341-7392

3a. TITLE OF THE PROGRAM

BJA FY 19 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - State Solicitation

**3b. POMS CODE (SEE INSTRUCTIONS
ON REVERSE)**

00,

4. TITLE OF PROJECT

2019 JAG State Wide Program

5. NAME & ADDRESS OF GRANTEE

California Board of State and Community Corrections
2590 Venture Oaks Way, Ste. 200
Sacramento, CA 95833-3288

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2018 TO: 09/30/2022

8. BUDGET PERIOD

FROM: 10/01/2018 TO: 09/30/2022

9. AMOUNT OF AWARD

\$ 17,860,765

10. DATE OF AWARD

09/18/2019

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following program areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation) and 8) mental health programs and related law enforcement and corrections programs.

This State JAG award will be used to support criminal justice initiatives that fall under one or more of the allowable program areas above. Funded programs or initiatives may include multijurisdictional drug and gang task forces, crime prevention and domestic violence programs, courts, corrections, treatment, justice

KTH

information sharing initiatives, or other programs aimed at reducing crime and/or enhancing public/officer safety.

NCA/NCF

CTH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STATE OF CALIFORNIA, *ex rel.* XAVIER
BECERRA, Attorney General of the State of
California,

Plaintiff,

v.

JEFFERSON B. SESSIONS III, Attorney
General of the United States, *et al.*,

Defendants.

Case No. 3:17-cv-04701-WHO

AMENDED JUDGMENT AND ORDER

On October 5, 2018, I granted plaintiff's motion for summary judgment and denied defendants' motion for summary judgment, and I entered a corresponding Judgment and Order on the same date. Dkt. No. 138. Defendants have filed a motion to alter or amend that judgment in certain respects. Dkt. No. 139. Upon consideration of defendants' motion and of all materials submitted in relation thereto, defendants' motion to alter or amend is hereby GRANTED. Pursuant to Federal Rules of Civil Procedure 58, I hereby ENTER this amended judgment in favor of plaintiff and against defendants, and grant the following relief as set forth below.

DECLARATION

I find declaratory relief under 28 U.S.C. § 2201 is appropriate in this case. It is hereby DECLARED that:

1. The 8 U.S.C. § 1373 certification condition, and the access and notice conditions for Byrne JAG grant funding are unconstitutional because they: (i) exceed the congressional authority conferred to the Executive Branch; (ii) they exceed the Congress's spending powers under Article I of the Constitution to the extent Congress

1 conferred authority to the Attorney General; and (iii) they violate the Administrative
2 Procedure Act.

3 2. The State's TRUST, TRUTH, Values Act, and Shield Confidentiality Statutes comply
4 with 8 U.S.C. § 1373.

5 3. 8 U.S.C. § 1373 is unconstitutional on its face under the Tenth Amendment of the
6 United States Constitution.

7 **PERMANENT INJUNCTION**

8 I also find a permanent injunction is appropriate in this case for the reasons stated in the
9 October 4, 2018, Order granting plaintiff's motion for summary judgment. Pursuant to Federal
10 Rule of Civil Procedure 65, it is now ORDERED that defendants ARE HEREBY RESTRAINED
11 AND ENJOINED from committing, performing, directly or indirectly, the following acts:

- 12 1. Using the Section 1373 certification condition, and the access and notice conditions
13 ("Challenged Conditions") as requirements for Byrne JAG grant funding for any
14 California state entity, any California political subdivision, or any jurisdiction in the
15 United States.
- 16 2. Withholding, terminating, or clawing back JAG funding from, or disbaring or making
17 ineligible for JAG, any California state entity, any California political subdivision, or
18 any jurisdiction in the United States on the basis of the Challenged Conditions.
- 19 3. Withholding, terminating, or clawing back JAG or COPS funding from, or disbaring
20 or making ineligible for JAG or COPS, any California state entity or any California
21 political subdivision on account of any grant condition challenged in this lawsuit and
22 based on the TRUST Act, Cal. Gov't Code §§ 7282-7282.5; the TRUTH Act, Cal.
23 Gov't Code §§ 7283-7283.2; the California Values Act, Cal. Gov't Code §§ 7284-
24 7284.12; California Penal Code §§ 422.93, 679.10, or 679.11; California Code of Civil
25 Procedure § 155; or California Welfare and Institutions Code §§ 827 or 831, or based
26 on policies implementing these statutes.
- 27 4. Withholding, terminating, or clawing back JAG or COPS funding from, or disbaring
28 or making ineligible for JAG or COPS, any California state entity or any California

political subdivision on account of the entity or jurisdiction spending its own money on the program or activity that JAG or COPS would be funding during the period under which Defendants withheld awards or funding from that entity or jurisdiction.

5. Enforcing 8 U.S.C. § 1373’s statutory obligations against any California state entity or political subdivision.

6. Requiring compliance with 8 U.S.C. § 1373 as a grant condition against any California state entity or political subdivision based on 34 U.S.C. § 10102(a)(6) or 34 U.S.C. § 10153(A)(5)(D), on the basis of 8 U.S.C. § 1373 being an “applicable Federal law,” or on the basis of 8 U.S.C. § 1373’s independent statutory obligations.

Consistent with my October 5, 2018 Order granting plaintiff’s motion for summary judgment, it is now ORDERED that the nationwide aspect of the permanent injunctive relief set forth above is STAYED until the Ninth Circuit has the opportunity to consider it.

MANDATORY INJUNCTION

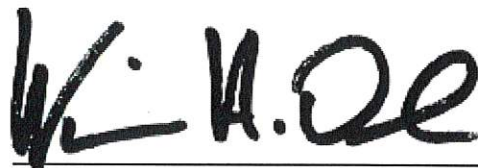
As set forth in my October 5, 2018 Order I found all the necessary elements for issuing California mandamus relief are met. I hereby ORDER defendants to issue without further delay the fiscal year 2017 JAG awards, without enforcement of the enjoined conditions, and JAG funding, upon a jurisdiction’s acceptance of the award, to the California Board of State and Community Corrections, and all California political subdivisions that applied for JAG. Acceptance of the FY 2017 awards by the California Board of State and Community Corrections or any California political subdivision shall not be construed as acceptance of the enjoined conditions. After the jurisdiction or entity accepts the fiscal year 2017 award, defendants are further ORDERED to process and approve the jurisdiction’s requests for drawdowns of the jurisdiction’s fiscal year 2017 JAG funds as it would in the ordinary course, and without regard to the enjoined conditions, compliance with 8 U.S.C. § 1373, or if the jurisdiction spent its own money on the program or activity funded during the period under which defendants withheld awards and funding.

Defendants are further ORDERED to permit without further delay, the California Bureau of Investigation within the California Department of Justice to drawdown its fiscal year 2017

1 COPS grant award upon the Bureau of Investigation's acceptance of its fiscal year 2017 COPS
2 grant. After the Bureau of Investigation accepts its fiscal year 2017 COPS award, defendants are
3 further ORDERED to process and approve the Bureau of Investigation's requests for drawdowns
4 of the fiscal year 2017 COPS funds as it would in the ordinary course, and without regard to the
5 enjoined conditions, compliance with 8 U.S.C. § 1373, or if the Bureau of Investigation spent its
6 own money on the program or activity funded during the period under which defendants withheld
7 funding.

8 **IT IS SO ORDERED.**

9 Dated: November 20, 2018

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11 WILLIAM H. ORRICK
12 United States District Judge
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XAVIER BECERRA
Attorney General of California
MICHAEL L. NEWMAN
Senior Assistant Attorney General
SARAH E. BELTON
Supervising Deputy Attorney General
GARRETT M. LINDSEY
CHEROKEE DM MELTON
LEE I. SHERMAN (SBN 272271)
Deputy Attorneys General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6404
Fax: (213) 897-7605
E-mail: Lee.Sherman@doj.ca.gov
Attorneys for Plaintiff State of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**STATE OF CALIFORNIA, ex rel, XAVIER
BECERRA, in his official capacity as
Attorney General of the State of California,**

Plaintiff,

v.

**WILLIAM P. BARR, in his official capacity
as Attorney General of the United States, et
al.,**

Defendants.

**JUDGMENT AND ORDER GRANTING
PLAINTIFFS' MOTIONS FOR
SUMMARY JUDGMENT**

Judge: Honorable William H. Orrick
Trial Date: None Set
Action Filed: August 23, 2018

Case No. 18-cv-5169-WHO

**CITY AND COUNTY OF SAN
FRANCISCO,**

Plaintiff,

v.

**WILLIAM P. BARR, in his official capacity
as Attorney General of the United States, et
al.,**

Defendants.

Case No. 18-cv-5146-WHO

1 Plaintiffs challenged five requirements for FY 2018 Edward Byrne Memorial Justice
 2 Assistance Grants, herein referred to as the FY 2018 Immigration Enforcement Requirements,
 3 found in paragraphs 41, 42, 43, 44, 45, 46, and 47 of Exhibit D of the Request for Judicial Notice
 4 filed by Defendants as Docket Number 25-1 in *State of California, ex rel, Xavier Becerra v.*
 5 *Whitaker*, No. 18-cv-5169, and paragraphs 41, 42, 43, 44, 45, 46, and 47 of Exhibit C of the
 6 Request for Judicial Notice filed by Defendants as Docket Number 27-1 in *City and County of*
 7 *San Francisco v. Whitaker*, No. 18-cv-5146. On December 21, 2018, Plaintiff State of California,
 8 ex rel., Xavier Becerra, California Attorney General (“the State” or “California”) and Plaintiff
 9 City and County of San Francisco (“San Francisco”) (collectively, “Plaintiffs”) filed Motions for
 10 Summary Judgment (“Plaintiffs’ Motions”). On December 3, 2018 Defendants filed a Partial
 11 Motion to Dismiss and Partial Motion for Summary Judgment (“Defendants Motion,” collectively
 12 with Plaintiffs’ Motions, “the Motions”). A hearing on the Motions was held on February 13,
 13 2019, at 2:00 p.m.

14 On March 4, 2019, I granted Plaintiffs’ Motions and denied Defendants’ Motion (CA Dkt.
 15 No. 47; SF Dkt. No. 60). Pursuant to Federal Rule of Civil Procedure 58, I hereby ENTER
 16 judgment in favor of Plaintiffs and against Defendants, and grant the following relief as set forth
 17 below:

18 **DECLARATION**

19 The Court finds declaratory relief under 28 U.S.C. § 2201 is appropriate in this case. It is
 20 hereby DECLARED that:

- 21 1. The FY 2018 Immigration Enforcement Requirements are unconstitutional and
 22 unlawful because they: (i) exceed the congressional authority conferred on the
 23 Executive Branch and are ultra vires on their face; (ii) they exceed Congress’s
 24 spending powers under Article I of the Constitution to the extent Congress conferred
 25 authority on the Attorney General; and (iii) they violate the Administrative Procedure
 26 Act.
- 27 2. 8 U.S.C. § 1373 is unconstitutional on its face under the Tenth Amendment of the
 28 United States Constitution.

PERMANENT INJUNCTION

The Court also finds that each of the necessary elements for issuing a permanent injunction is met. In particular, the Court finds that Plaintiffs have succeeded on the merits of their claims and that absent an injunction Plaintiffs would suffer irreparable injury; the balance of equities favor Plaintiffs; and the requested relief is in the public interest. Pursuant to Federal Rule of Civil Procedure 65, it is now ORDERED that Defendants ARE HEREBY RESTRAINED AND ENJOINED from committing, performing, directly or indirectly, the following acts:

1. Using the FY 2018 Immigration Enforcement Requirements as conditions for Byrne JAG funding for any California state entity, San Francisco, any California political subdivision, or any jurisdiction in the United States.
2. Withholding, terminating, or clawing back JAG funding from, or disbaring or making ineligible for JAG, any California state entity, San Francisco, any California political subdivision, or any jurisdiction in the United States on the basis of the FY 2018 Immigration Enforcement Requirements.
3. Withholding, terminating, or clawing back JAG funding from, or disbaring or making ineligible for JAG, any California state entity or any California political subdivision on account of any grant condition challenged in this lawsuit and based on California Government Code section 7282 *et seq.* (the “TRUST Act”); California Government Code section 7283 *et seq.* (the “TRUTH Act”); California Government Code section 7284 *et seq.* (the “Values Act”).
4. Enforcing 8 U.S.C. § 1373’s statutory obligations against any California state entity or political subdivision.

Consistent with my March 4, 2019 Order granting Plaintiffs’ Motions, it is now ORDERED that the nationwide aspect of the permanent injunctive relief set forth above is STAYED until further rulings from the Ninth Circuit.

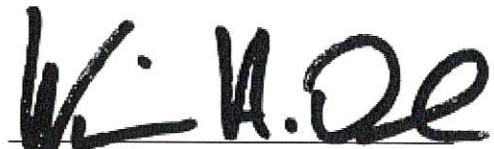
MANDATORY INJUNCTION

As set forth in my March 4, 2019 Order, I found all the necessary elements for issuing California mandamus relief are met. I hereby ORDER defendants to issue without further delay

1 the fiscal year 2018 JAG awards, without enforcement of the enjoined conditions, and JAG
2 funding, upon a jurisdiction's acceptance of the award, to the California Board of State and
3 Community Corrections, and all California political subdivisions that applied for JAG awards for
4 fiscal year 2018. Acceptance of the FY 2018 awards by the California Board of State and
5 Community Corrections or any California political subdivision shall not be construed as
6 acceptance of the enjoined conditions. After the jurisdiction or entity accepts the fiscal year 2018
7 award, Defendants are further ORDERED to process and approve the jurisdiction's requests for
8 drawdowns of the jurisdiction's fiscal year 2018 JAG funds as it would in the ordinary course,
9 and without regard to the enjoined conditions, compliance with 8 U.S.C. § 1373, or whether the
10 jurisdiction spent its own money on the program or activity funded.

11 **IT IS SO ORDERED**

12 DATED: March 26, 2019

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

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14 Hon. William H. Orrick
United States District Judge
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1 XAVIER BECERRA
Attorney General of California
2 MICHAEL L. NEWMAN
Senior Assistant Attorney General
3 SARAH E. BELTON
Supervising Deputy Attorney General
4 KRISTI GUDOSKI COOK
LISA C. EHRLICH
5 XIYUN YANG
LEE SHERMAN (SBN 272271)
6 Deputy Attorneys General
300 S. Spring St., Suite 1702
7 Los Angeles, CA 90013
Telephone: (213) 269-6404
8 Fax: (213) 879-7605
E-mail: Lee.Sherman@doj.ca.gov
9 *Attorneys for Plaintiff State of California*

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 **STATE OF CALIFORNIA,**

15 Plaintiff,

16 v.
17

18 **WILLIAM P. BARR, in his official capacity**
19 **as Attorney General of the United States, et**
al.,

20 Defendants.
21

Case No. 19-cv-6189-WHO

**STIPULATION RE: DISMISSAL
WITHOUT PREJUDICE OF CLAIMS
FOR RELIEF 6-11 OF CALIFORNIA'S
COMPLAINT**

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Dept: 2
Judge: Honorable William H. Orrick
Trial Date: None Set
Action Filed: September 30, 2019

1 WHEREAS, Plaintiff State of California (Plaintiff or California) filed a complaint in this
2 action on September 30, 2019;

3 WHEREAS, Claims for Relief 6-10 of the complaint challenge Defendants' imposition of a
4 requirement on various U.S. Department of Justice (U.S. DOJ) grants related to "[e]mployment
5 eligibility verification for hiring under the award" providing "[t]he recipient must ensure that, as
6 part of the hiring process for any position within the United States that is or will be funded (in
7 whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the
8 employment eligibility of the individual who is being hired, consistent with the provisions of 8
9 U.S.C. 1324a(a)(1) and (2)," and comply with certain monitoring and training requirements to the
10 extent necessary related to the condition (The 1324a Requirement);

11 WHEREAS, Claim 11 of the complaint seeks a declaration that California Labor Code
12 section 1019.2, which limits employers from reverifying an individual's employment eligibility,
13 complies with 8 U.S.C. § 1324a for purposes of the 1324a Requirement that U.S. DOJ imposed
14 on grants to California and its political subdivisions;

15 WHEREAS, on January 21, 2020, Defendants filed a Notice of Motion and Motion to
16 Dismiss, or in the Alternative, Motion for Summary Judgment; Memorandum of Points and
17 Authorities, ECF No. 34, in which Defendants made certain representations about the scope of the
18 1324a Requirement, including that the 1324a Requirement "is concerned with the *initial*
19 verification of an employee's status, the condition does not require further reverification.
20 Because of this, Cal. Labor Code § 1019.2 is not affected by the Employment Verification
21 Condition." *Id.* at 10 (emphasis in original);

22 WHEREAS, in entering into this stipulation, Plaintiff relies on the representations made by
23 Defendants regarding the scope of the 1324a Requirement;

24 WHEREAS, Plaintiff and Defendants have met and conferred in order to resolve the issues
25 in dispute in this case, and in entering into this stipulation, Plaintiff does not make any concession
26 regarding the lawfulness of the 1324a Requirement, and Defendants do not make any concession
27 regarding the lawfulness of California Labor Code section 1019.2;

28 THEREFORE, the Parties do HEREBY STIPULATE AND AGREE as follows:

- 1 1. This stipulation shall remain in effect, except in the case that Defendants give 60
2 days advance written notice to Plaintiff that Defendants no longer agree to the
3 terms of the stipulation;
- 4 2. This stipulation applies only to FY 2019 U.S. DOJ grants issued to the State of
5 California and California political subdivisions;
- 6 3. Plaintiff agrees to be subject to the 1324a Requirement imposed on U.S. DOJ
7 grants to the extent it requires that grant recipients conduct an initial verification
8 of the individual who is being hired, as part of the hiring process for any
9 position within the United States that is or will be funded (in whole or in part)
10 with award funds, consistent with the provision of 8 U.S.C. § 1324a(a)(1);
- 11 4. The Parties agree that the 1324a Requirement does not require further
12 reverification of an employee's employment eligibility after the initial
13 verification at the time of hiring;
- 14 5. Plaintiff's acceptance of the U.S. DOJ grant awards does not constitute
15 acceptance of the language in the 1324a Requirement surrounding §
16 1324a(a)(2);
- 17 6. Defendants agree to not withhold funding, terminate, or claw back U.S. DOJ
18 grant dollars from, or disbar or make ineligible for U.S. DOJ grant funding, any
19 California state entity or any California political subdivision on account of
20 California Labor Code section 1019.2, and after a California jurisdiction or
21 entity accepts its grant award, Defendants agree to process and approve the
22 jurisdiction's requests for grant drawdowns as it would in the ordinary course,
23 and without regard to California Labor Code section 1019.2;
- 24 7. On the basis of Defendants' representations in this stipulation, the parties agree
25 that the remaining claims for relief in Plaintiff's Complaint, Claims for Relief 6-
26 11, shall be dismissed without prejudice, and Plaintiff reserves its right to
27 challenge the legality of the 1324a Requirement, and its related training and
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1 monitoring requirements, if Defendants seek to terminate any term of this
2 stipulation;

3 8. In agreeing to this stipulation, Plaintiff reserves the right to challenge any
4 attempt by Defendants or any other federal agency to impose a condition that is
5 based upon 8 U.S.C. § 1324a, that expands the 1324a Requirement beyond the
6 scope reflected in this stipulation, or that purports to require reverification as a
7 condition of federal grants;

8 9. All parties will bear their own fees and costs; and

9 10. This stipulation is contingent upon this Court retaining jurisdiction to enforce
10 the terms of the stipulation.

11 A proposed order is attached.

12 Dated: January 31, 2020

Respectfully submitted,

13 XAVIER BECERRA
14 Attorney General of California
15 MICHAEL L. NEWMAN
16 Senior Assistant Attorney General
17 SARAH E. BELTON
18 Supervising Deputy Attorney General
KRISTI GUDOSKI COOK
LISA C. EHRLICH
XIYUN YANG
Deputy Attorneys General

JOSEPH H. HUNT
ASSISTANT ATTORNEY GENERAL

BRIGHAM J. BOWEN
ASSISTANT BRANCH DIRECTOR

/s/ Daniel D. Mauler

19 /s/ Lee I. Sherman

20 LEE I. SHERMAN
21 Deputy Attorney General
22 *Attorneys for Plaintiff*
23 *State of California*

DANIEL D. MAULER
VIRGINIA STATE BAR NO. 73190
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE
CIVIL DIVISION, FEDERAL PROGRAMS BRANCH
1100 L STREET, NW
WASHINGTON, DC 20001
TEL: (202) 616-0773
FAX: (202) 616-8470
E-MAIL: DAN.MAULER@USDOJ.GOV
Attorneys for Defendants

ATTESTATION OF SIGNATURES

I, Lee I. Sherman, hereby attest, pursuant to Local Civil Rule 5-1(i)(3) of the Northern District of California that concurrence in the filing of this document has been obtained from each signatory hereto.

/s/ Lee I. Sherman

LEE I. SHERMAN
Deputy Attorney General
Attorney for Plaintiff
State of California

1 XAVIER BECERRA
Attorney General of California
2 MICHAEL L. NEWMAN
Senior Assistant Attorney General
3 SARAH E. BELTON
Supervising Deputy Attorney General
4 KRISTI GUDOSKI COOK
LISA C. EHRLICH
5 XIYUN YANG
LEE I. SHERMAN (SBN 272271)
6 Deputy Attorneys General
300 South Spring Street, Suite 1702
7 Los Angeles, CA 90013
Telephone: (213) 269-6404
8 Fax: (213) 897-7605
E-mail: Lee.Sherman@doj.ca.gov
9 *Attorneys for Plaintiff State of California*

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 **STATE OF CALIFORNIA, ex rel, XAVIER**
16 **BECCERRA, in his official capacity as**
Attorney General of the State of California,

17 Plaintiff,

18 v.

19 **WILLIAM P. BARR, in his official capacity**
20 **as Attorney General of the United States, et**
al.,

21 Defendants.
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Case No. 19-cv-6189-WHO

**ORDER DISMISSING
WITHOUT PREJUDICE CLAIMS FOR
RELIEF 6-11 OF PLAINTIFF'S
COMPLAINT UNDER THE TERMS OF
THE STIPULATION**

Courtroom: 2
Judge: Honorable William H. Orrick
Trial Date: None Set
Action Filed: September 30, 2019

1 Upon consideration of the parties' stipulation submitted on January 31, 2020, and for good
2 cause shown, the Court hereby orders that Claims for Relief 6-11 in Plaintiff's complaint are
3 dismissed without prejudice pursuant to the terms of the Stipulation Re: Dismissal Without
4 Prejudice of Claims for Relief 6-11 of California's Complaint. Those terms are incorporated in
5 this Order and consist of the following:

- 6 1. The stipulation shall remain in effect, except in the case that Defendants give 60 days
7 advance written notice to Plaintiff that Defendants no longer agree to the terms of the
8 stipulation.
- 9 2. The stipulation applies only to FY 2019 U.S. DOJ grants issued to the State of
10 California and California political subdivisions.
- 11 3. Plaintiff agrees to be subject to the 1324a Requirement imposed on U.S. DOJ grants to
12 the extent it requires that grant recipients conduct an initial verification of the
13 individual who is being hired, as part of the hiring process for any position within the
14 United States that is or will be funded (in whole or in part) with award funds,
15 consistent with the provision of 8 U.S.C. § 1324a(a)(1).
- 16 4. The Parties agree that the 1324a Requirement does not require further reverification of
17 an employee's employment eligibility after the initial verification at the time of hiring.
- 18 5. Plaintiff's acceptance of the U.S. DOJ grant awards does not constitute acceptance of
19 the language in the 1324a Requirement surrounding § 1324a(a)(2).
- 20 6. Defendants agree to not withhold funding, terminate, or claw back U.S. DOJ grant
21 dollars from, or disbar or make ineligible for U.S. DOJ grant funding, any California
22 state entity or any California political subdivision on account of California Labor
23 Code section 1019.2, and after a California jurisdiction or entity accepts its grant
24 award, Defendants agree to process and approve the jurisdiction's requests for grant
25 drawdowns as it would in the ordinary course, and without regard to California Labor
26 Code section 1019.2.
- 27 7. On the basis of Defendants' representations in this stipulation, the parties agree that
28 the remaining claims for relief in Plaintiff's Complaint, Claims for Relief 6-11, shall

1 be dismissed without prejudice, and Plaintiff reserves its right to challenge the legality
2 of the 1324a Requirement, and its related training and monitoring requirements, if
3 Defendants seek to terminate any term of this stipulation.

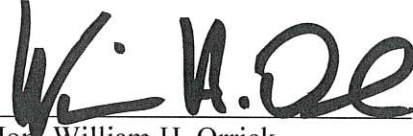
4 8. In agreeing to this stipulation, Plaintiff reserves the right to challenge any attempt by
5 Defendants or any other federal agency to impose a condition that is based upon 8
6 U.S.C. § 1324a, that expands the 1324a Requirement beyond the scope reflected in
7 this stipulation, or that purports to require reverification as a condition of federal
8 grants.

9 9. All parties will bear their own fees and costs.

10 10. This Court retains jurisdiction to enforce the terms of the stipulation.

11 **IT IS SO ORDERED**

12 DATED: February 3, 2020

13 
14 Hon. William H. Orrick
United States District Judge

1 XAVIER BECERRA
Attorney General of California
2 MICHAEL L. NEWMAN
Senior Assistant Attorney General
3 SARAH E. BELTON
Supervising Deputy Attorney General
4 KRISTI GUDOSKI COOK
LISA C. EHRLICH
5 XIYUN YANG
LEE I. SHERMAN (SBN 272271)
6 Deputy Attorneys General
300 South Spring Street, Suite 1702
7 Los Angeles, CA 90013
Telephone: (213) 269-6404
8 Fax: (213) 897-7605
E-mail: Lee.Sherman@doj.ca.gov
9 *Attorneys for Plaintiff State of California*

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 **STATE OF CALIFORNIA, ex rel, XAVIER**
16 **BECCERRA, in his official capacity as**
Attorney General of the State of California,

17 Plaintiff,

18 v.

19 **WILLIAM P. BARR, in his official capacity**
20 **as Attorney General of the United States, et**
al.,

21 Defendants.
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Case No. 19-cv-6189-WHO

**ORDER DISMISSING WITHOUT
PREJUDICE CAUSES OF ACTION 1-5
OF PLAINTIFF'S COMPLAINT UNDER
THE TERMS OF THE STIPULATION**

Courtroom: 2
Judge: Honorable William H. Orrick
Trial Date: None Set
Action Filed: September 30, 2019

1 Upon consideration of the parties' stipulation submitted on January 21, 2020, and for good
2 cause shown, the Court hereby orders that Causes of Action 1-5 in Plaintiff's complaint are
3 dismissed without prejudice pursuant to the terms of the Stipulation Re: Dismissal Without
4 Prejudice of Counts 1-5 of California's Complaint. Those terms are incorporated in this Order
5 and consist of the following:

- 6 1. The stipulation shall remain in effect, except in the case that Defendants give 60 days
7 advance written notice to Plaintiff that Defendants no longer agree to the terms of the
8 stipulation.
- 9 2. Defendants agree to not withhold, terminate, or claw back JAG or Title II funding
10 from, or disbar or make ineligible for JAG or Title II, any California state entity or any
11 California political subdivision on the basis of the JAG Immigration Enforcement
12 Requirements or the 1373 Title II Requirement in FY 2019.
- 13 3. Defendants agree to issue JAG and Title II awards and funding to the California Board
14 of State and Community Corrections, and all political subdivisions that apply for JAG
15 awards, in the ordinary course, and not enforce the JAG Immigration Enforcement
16 Requirements and the 1373 Title II Requirement in FY 2019; provided, however, that
17 the aforesaid applicants comply with all other provisions, requirements, and lawful
18 conditions of the JAG and Title II awards.
- 19 4. Acceptance of JAG and Title II awards by the California Board of State and
20 Community Corrections or any California political subdivision shall not be construed
21 as acceptance of the JAG Immigration Enforcement Requirements and the 1373 Title
22 II Requirement.
- 23 5. After a California jurisdiction or entity accepts its JAG or Title II award, Defendants
24 agree to process and approve the jurisdiction's requests for grant drawdowns as it
25 would in the ordinary course, and without regard to the JAG Immigration Enforcement
26 Requirements, 1373 Title II Requirement, or compliance with 8 U.S.C. § 1373.
- 27 6. On the basis of Defendants' representations in this stipulation, the parties agree that
28 Causes of Action 1-5 in Plaintiff's Complaint shall be dismissed without prejudice,


1 and Plaintiff reserves its right to challenge the legality of the JAG Immigration
2 Enforcement Requirements and 1373 Title II Requirement if Defendants seek to
3 terminate any term of this stipulation.

4 7. This Court retains jurisdiction to enforce the terms of the stipulation.

5 This Order does not impact any other claims at issue that have yet to be adjudicated to
6 final judgment in this case, including specifically Plaintiff's claims pertaining to Defendants'
7 imposition of the 1324a Requirement on JAG, Title II, and other grants that are addressed in
8 Causes of Action 6-11 of Plaintiff's Complaint.

9 **IT IS SO ORDERED**

10 DATED: January 21, 2020

11 
12 Hon. William H. Orrick
United States District Judge

1 XAVIER BECERRA
Attorney General of California
2 MICHAEL L. NEWMAN
Senior Assistant Attorney General
3 SARAH E. BELTON
Supervising Deputy Attorney General
4 KRISTI GUDOSKI COOK
LISA C. EHRLICH
5 XIYUN YANG
LEE SHERMAN (SBN 272271)
6 Deputy Attorneys General
300 S. Spring St., Suite 1702
7 Los Angeles, CA 90013
Telephone: (213) 269-6404
8 Fax: (213) 879-7605
E-mail: Lee.Sherman@doj.ca.gov
9 *Attorneys for Plaintiff State of California*

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 **STATE OF CALIFORNIA,**

15 Plaintiff,

16 v.
17

18 **WILLIAM P. BARR, in his official capacity**
as Attorney General of the United States, et
19 **al.,**

20 Defendants.
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Case No. 19-cv-6189-WHO

**STIPULATION RE: DISMISSAL
WITHOUT PREJUDICE OF COUNTS 1-
5 OF CALIFORNIA'S COMPLAINT**

Courtroom: 2

Judge: Honorable William H. Orrick

Trial Date: None Set

Action Filed: September 30, 2019

1 WHEREAS, Plaintiff State of California (Plaintiff or California) filed a complaint in this
2 action on September 30, 2019;

3 WHEREAS, Causes of Action 1-5 of the complaint challenge Defendants' imposition of
4 five immigration enforcement funding requirements to the Edward Byrne Memorial Justice
5 Assistance Grant (JAG) found on pages 22-23 and 25-26 of the Fiscal Year (FY) 2019 JAG State
6 Solicitation (attached as Exhibit A to the Complaint), pages 21-22 and 23-24 of the FY 2019 JAG
7 Local Solicitation (attached as Exhibit B to the Complaint), and paragraphs 31-41 and 73 of the
8 State's FY 2019 JAG award (attached as Exhibit C to the Complaint), consisting of:

- 9 • A condition requiring JAG recipients to comply with 8 U.S.C. §§ 1373 and 1644 (1373
10 Requirement);
- 11 • A condition prohibiting JAG recipients from "publicly disclos[ing] . . . federal law
12 enforcement information in a direct or indirect attempt to conceal, harbor, or shield from
13 detection . . . any alien who has come to, entered, or remains in the United States in
14 violation of 8 U.S.C. ch. 12 - - without regard to whether such disclosure would
15 constitute (or could form a predicate for) a violation of . . . 8 U.S.C. 1324(a)" (Non-
16 Public Disclosure Requirement);
- 17 • A condition requiring JAG recipients to permit Department of Homeland Security (DHS)
18 agents access to detention facilities to interrogate non-citizens in custody (Access
19 Requirement);
- 20 • A condition requiring JAG recipients to provide "as early as practicable" or 48 hours'
21 advance notice to DHS of the scheduled release date and time of a non-citizen in the
22 jurisdiction's custody upon request by DHS (Notification Requirement);
- 23 • A condition requiring JAG recipients to provide information about their laws, policies and
24 practices governing their communications with DHS and U.S. Immigration and Customs
25 Enforcement, including as they relate to § 1373 (Additional 1373 Obligation, with the
26 1373, Non-Public Disclosure, Access, and Notification Requirements, the JAG
27 Immigration Enforcement Requirements);

1 WHEREAS, Causes of Action 1-5 of the complaint also challenge Defendants' imposition
 2 of a requirement to comply with § 1373 as a condition on the State's FY 2019 Title II Juvenile
 3 Justice Formula Grant as it appears in paragraphs 38-41 of the State's FY 2019 Title II award,
 4 attached as Exhibit E to the Complaint (1373 Title II Requirement);

5 WHEREAS, in the Amended Judgment and Order in *California v. Sessions I*, this Court
 6 enjoined Defendants from "[r]equiring compliance with 8 U.S.C. § 1373 as a grant condition
 7 against any California state entity or political subdivision . . . on the basis of 8 U.S.C. § 1373
 8 being an 'applicable Federal law,' or on the basis of 8 U.S.C. § 1373's independent statutory
 9 obligations;"

10 WHEREAS, Plaintiff and Defendants have met and conferred in order to narrow the issues
 11 in dispute in this case and avoid burdening this Court with issues that are already governed by
 12 prior judgments;

13 WHEREAS, dismissal of Counts 1-5 without prejudice will enable this Court to enter final
 14 judgment on Counts 6-11 in the instant case after adjudication;

15 THEREFORE, the Parties do HEREBY STIPULATE AND AGREE as follows:

- 16 1. This stipulation shall remain in effect, except in the case that Defendants give 60
 17 days advance written notice to Plaintiff that Defendants no longer agree to the
 18 terms of the stipulation;
- 19 2. Defendants agree to not withhold, terminate, or claw back JAG or Title II
 20 funding from, or disbar or make ineligible for JAG or Title II, any California
 21 state entity or any California political subdivision on the basis of the JAG
 22 Immigration Enforcement Requirements or the 1373 Title II Requirement in FY
 23 2019;
- 24 3. Defendants agree to issue JAG and Title II awards and funding to the California
 25 Board of State and Community Corrections, and all political subdivisions that
 26 apply for JAG awards, in the ordinary course, and not enforce the JAG
 27 Immigration Enforcement Requirements and the 1373 Title II Requirement in
 28

- 1 FY 2019; provided, however, that the aforesaid applicants comply with all other
2 provisions, requirements, and lawful conditions of the JAG and Title II awards;
- 3 4. Acceptance of JAG and Title II awards by the California Board of State and
4 Community Corrections or any California political subdivision shall not be
5 construed as acceptance of the JAG Immigration Enforcement Requirements
6 and the 1373 Title II Requirement;
- 7 5. After a California jurisdiction or entity accepts its JAG or Title II award,
8 Defendants agree to process and approve the jurisdiction's requests for grant
9 drawdowns as it would in the ordinary course, and without regard to the JAG
10 Immigration Enforcement Requirements, 1373 Title II Requirement, or
11 compliance with 8 U.S.C. § 1373;
- 12 6. On the basis of Defendants' representations in this stipulation, the parties agree
13 that Causes of Action 1-5 in Plaintiff's Complaint shall be dismissed without
14 prejudice, and Plaintiff reserves its right to challenge the legality of the JAG
15 Immigration Enforcement Requirements and 1373 Title II Requirement if
16 Defendants seek to terminate any term of this stipulation;
- 17 7. Approving this stipulation would not impact any other deadlines or claims at
18 issue that have yet to be adjudicated to final judgment in this case, including
19 specifically Plaintiff's claims pertaining to Defendants' imposition of the 1324a
20 Requirement on JAG, Title II, and other grants that are addressed in Causes of
21 Action 6-11 of Plaintiff's Complaint; and
- 22 8. This stipulation is contingent upon this Court retaining jurisdiction to enforce
23 the terms of the stipulation.

24 A proposed order is attached.
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1 Dated: January 21, 2020

Respectfully submitted,

2 XAVIER BECERRA
3 Attorney General of California
4 MICHAEL L. NEWMAN
5 Senior Assistant Attorney General
6 SARAH E. BELTON
7 Supervising Deputy Attorney General
8 KRISTI GUDOSKI COOK
9 LISA C. EHRLICH
10 XIYUN YANG
11 Deputy Attorneys General

JOSEPH H. HUNT
ASSISTANT ATTORNEY GENERAL

BRIGHAM J. BOWEN
ASSISTANT BRANCH DIRECTOR

/s/ DANIEL D. MAULER

8 /s/ Lee I. Sherman

9 LEE I. SHERMAN
10 Deputy Attorney General
11 *Attorneys for Plaintiff*
12 *State of California*

DANIEL D. MAULER
VIRGINIA STATE BAR No. 73190
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE
CIVIL DIVISION, FEDERAL PROGRAMS BRANCH
1100 L STREET, NW
WASHINGTON, DC 20001
TEL: (202) 616-0773
FAX: (202) 616-8470
E-MAIL: DAN.MAULER@USDOJ.GOV
Attorneys for Defendants

ATTESTATION OF SIGNATURES

I, Lee I. Sherman, hereby attest, pursuant to Local Civil Rule 5-1(i)(3) of the Northern District of California that concurrence in the filing of this document has been obtained from each signatory hereto.

/s/ Lee I. Sherman

LEE I. SHERMAN
Deputy Attorney General
Attorney for Plaintiff
State of California