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## Grants Management, Grants Circular Attachments

### Where are the Attachments to A-102?

#### Where is the Grants Management

#### Common Rule?

On March 12, 1987, the President directed the Federal grantmaking agencies to issue a grants management common rule to adopt governmentwide terms and conditions for grants to States and local governments. In 1988, OMB revised Circular A-102 to include guidance to Federal agencies on matters not covered by the grants management common rule. *The attachments to Circular A-102 were replaced by the grants management common rule.*

OMB maintains a chart which includes the locations of Federal agency codifications of the grants management common rule. It is important for a grantee to review the regulations of their Federal awarding agency. Therefore, the generic text of the common rule is not provided on this site. Please refer to the chart above to locate the codified common rule for a particular Federal agency.

If you as an applicant or grantee are asked to comply with attachments to Circular A-102, please consult with the grantmaking agency regarding the requirements and inform them that their documentation needs to be updated.

### Where are the Attachments to A-110?

Prior to 1993, Circular A-110 contained attachments for each of the administrative requirements it covered. In 1993, Circular A-110 was revised to locate all the administrative requirements into the text of the main document. *There are no longer any attachments to Circular A-110.* Please return to the Grants Management Home Page to download the text of Circular A-110.

If you as an applicant or grantee are asked to comply with attachments to Circular A-110, please consult with the grantmaking agency regarding the requirements and inform them that their documentation needs to be updated.

### How are cognizant agencies determined for indirect costs?

#### Where is the updated OMB list?

To simplify relations between Federal grantees and awarding agencies, OMB established the cognizant agency concept, under which a single agency represents all others in dealing with grantees in common areas. In this case, the cognizant agency reviews and approves grantees' indirect cost rates. Approved rates must be accepted by other agencies, unless specific program regulations restrict the recovery of indirect costs.

OMB published a list of cognizant agency assignments for some State agencies, cities and counties on January 6, 1986 (51 FR 552). The cognizant agency for governmental units not on that list is the one that provides the most grant funds to the entity. The Department of Health and Human Services (HHS) is the cognizant agency for all States and most cities.

The cognizant agency for non-profit organizations is determined by calculating which Federal agency provides the most grant funding. The Department of the Interior is the cognizant agency for all Indian tribal governments. For hospitals, HHS serves as the main cognizant agency.

#### **Which Circular do I Follow?**

Although there are six grant circulars, you are only covered by three of them, depending on type of entity:

##### **States, local governments, and Indian Tribes follow:**

- A-87 for cost principles, Relocated to 2 CFR, Part 225 (18 pages, 362 kb)
- A-102 for administrative requirements, and
- A-133 for audit requirements

##### **Educational Institutions (even if part of a State or local government) follow:**

- A-21 for cost principles, Relocated to 2 CFR, Part 220 (30 pages, 384 kb)
- A-110 for administrative requirements, Relocated to 2 CFR, Part 215 (18 pages, 280 kb), and
- A-133 for audit requirements

##### **Non-Profit Organizations follow:**

- A-122 for cost principles, Relocated to 2 CFR, Part 230 (17 pages, 362 kb)
- A-110 for administrative requirements, Relocated to 2 CFR, Part 215 (18 pages, 280 kb), and
- A-133 for audit requirements



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- 1.1 Users
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Questions or Comments?  
Please contact the [OJP-OCFO Customer Service Center](#).

### 1.1 Users

**Jump to Section:**

- [Direct recipients](#)
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This *Financial Guide* is provided for the use of all recipients and their subrecipients of Federal grant programs administered by the Office of Justice Programs (OJP). We have developed the *Guide* to serve as a compilation of the various laws and regulations governing Department of Justice grants financial management and administration.

#### Direct Recipients

- A direct recipient is an individual or entity that receives funds directly from OJP (for example, via block, formula, or discretionary grants or cooperative agreements).
- Direct recipients (except for those who receive funds via a contract) are required to adhere to applicable law of their jurisdiction, and the financial and administrative rules summarized in this *Guide*. Other programmatic and technical requirements (for example, as set out in award conditions or contained in program-specific guidelines) may also apply.
- Direct recipients are required to adhere to the requirements of Office of Management and Budget (OMB) circulars and Federal Government-wide common rules contained in the Code of Federal Regulations (CFR).

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#### Subrecipients

- A subrecipient is any organization receiving Federal funds from a direct recipient of Federal funds.
- Subrecipients are required to adhere to the applicable law of their jurisdiction and the financial and administrative rules summarized in this *Guide*. The direct recipient may also impose additional financial and administrative requirements.
- Subrecipients are also required to adhere to the requirements of Office of Management and Budget (OMB) circulars and Federal Government-wide common rules contained in the Code of Federal Regulations (CFR).

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#### Individuals

- Any individual who works for a direct recipient or subrecipient should use this *Guide* as a reference for financial and administrative management of OJP-funded grant programs or projects.
- These individuals may include administrators, financial management specialists, grants management specialists, accountants, and auditors.
- This *Guide* may also be used as a training resource for new employees.

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#### Contractors

- This *Guide* is not for the direct use of entities or individuals contracting directly with OJP.
- However, direct recipients should ensure that they are monitoring any organizations they have contracted with to make sure they are in compliance with Federal financial management requirements.

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**FINANCIAL MANAGEMENT TIP**

**When determining whether an activity has been subcontracted or subawarded, the legal document is NOT the driving determinant.** The *substance* of the activity that has been contracted or subawarded will be the major factor considered. If you delegate program activities to another entity, that delegation will generally be considered a subaward. On the other hand, if you purchase or procure goods or services from another entity, that activity will generally be considered a subcontract.

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### 2.1 Application Process

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#### Eligible Recipients

You can find the eligibility requirements for block, formula, and discretionary awards in the grant program guidelines.

- **Block and formula awards:** Generally, States, territories, and sometimes Indian tribes and local units of government are eligible for awards under OJP's various block and formula grant programs. Specific eligibility criteria for each program is set forth in the program's governing statute and rules.
- **Discretionary awards:** OJP may award funds under its discretionary grant programs to some or all of the following types of recipients, depending on authorizing legislations and selected program strategies: States, units of local government, Indian tribes and tribal organizations, individuals, educational institutions, hospitals, and private nonprofit and private commercial organizations.

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### 3.1 Payments

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#### Using the Grant Payment Request System

Frequently Asked Questions	
Q	What does it mean when we use the term "draw down"?
A	"Draw down" is the term used to describe the process when a recipient requests and receives money under an award agreement.
Q	How does the money reach our organization?
A	Electronic funds transfer from the U.S. Department of the Treasury based on the information you provided on the Automated Clearinghouse (ACH) form.
Q	How do I request payment for my organization's award?
A	Through the Grant Payment Request System, or GPRS.
Q	I tried to draw down funds but the system won't let me?
A	We suggest that you follow up in one or more of the following ways: <ul style="list-style-type: none"> <li>▪ Check any error messages you may have received in GPRS. Sometimes minor data entry errors are the cause of the error messages. Also, if you need to call Customer Service, having the error messages will assist us in determining how to resolve your issues.</li> <li>▪ Check to see if all award special conditions, including high-risk special conditions, if applicable, have been met. Many special conditions lead to the withholding of funds until the conditions have been met and cleared with a Grant Adjustment Notice, or GAN.</li> <li>▪ Check to see that all Federal Financial Reports (FFRs) and Progress Reports have been submitted. The system has automatic edits in place that will prevent you from drawing your funds until all the required reports have been submitted.</li> <li>▪ Call <a href="#">Customer Service</a>.</li> </ul>
Q	What if I am not a Financial Point of Contact (FPOC) in the Grants Management System (GMS)? Can I still register for GPRS?
A	No. You must first register in GMS as an FPOC in GMS?
Q	How do I register as an FPOC in the GMS?
A	Please go to GMS website at <a href="https://grants.ojp.usdoj.gov/gmsexternal">https://grants.ojp.usdoj.gov/gmsexternal</a> to register. Also visit <a href="#">Chapter 4: Conditions of Award and Acceptance</a> for additional information.

GPRS is the method for requesting payment of award funds. It is an online system that allows you to view your active award balances and history of draw downs to date. You can access GPRS at <https://grants.ojp.usdoj.gov/gprs>. The [GPRS User Guide \[PDF - 2.05 MB\]](#) provides information on using GPRS.

Some benefits of the GPRS:

- Ability to view and print a transaction history for an award
- Summary of award information
- Award amount
- Hold amounts

- Last submission of Standard Form 425 (SF-425)
- Ability to cancel pending payment request
- Secure individual login

The username and password used to access GPRS will vary based on the Federal organization that issued your award.

If your award was issued by the Office of Justice Programs (OJP) or the Office on Violence Against Women (OVW), only user(s) within your organization that have been designated as the FPOC for the award in GMS may access GPRS.

- To log in and submit payment requests, the FPOC must first register in GPRS.
- To complete the GPRS registration, the FPOC will need their GMS username and password.
- Once the registration has been successfully submitted, the information will be verified against GMS.
- During this time, the FPOC will not be able to log into GPRS until receiving an email from GPRS approving his or her access.
- After the FPOC receives the approval email, he or she may log into GPRS using his or her existing GMS username and password.

If your award was issued by the Office of Community Oriented Policing Services (COPS) and you have received a preregistration email from GPRS, then you may log-in to GPRS using the username and temporary password provided in the email. If you have not received a preregistration email, then the person(s) within your organization responsible for payment requests must register in GPRS.

- To register in GPRS for COPS awards, you will need to enter the following:
  - A unique username and response to a secret question
  - Name and contact information
  - Vendor number found on your COPS award document
- You must also indicate the awards to which you wish to have access for submitting payment requests. *Note: You will only be able to submit payment requests for the COPS awards selected.*
- Once the registration has been successfully submitted, the user and award information will be verified by COPS. During this time, you will not be able to log into GPRS until you receive an approval email from GPRS with your login information. The approval email will also list the COPS awards to which you have been given access. If access was denied for any award selected during registration, the rejection reason will be included in the GPRS email.
- After you receive the approval email, you may log into GPRS using the username and temporary password provided in the email.

**FINANCIAL MANAGEMENT TIP**

Recipients with both OJP/OVW and COPS awards will be required to maintain two separate accounts in GPRS.

If you have an OJP or OVW award and have questions on GPRS, please contact the [OCFO Customer Service Center](#).

If you have an award through COPS and have questions on GPRS, please contact the [COPS-U.S. Department of Justice Response Center](#).

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### 4.1 Organization Structure

Questions or Comments?  
Please contact the [OJP-OCFO Customer Service Center](#).

- [United States Department of Justice Organization Chart](#)
- [Office of Justice Programs Organization Chart](#)

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### 5.3 Appendices

#### Appendix I: Sample Award Document

The following is a sample award document, as issued by the Office of Justice Programs, Department of Justice.

[Sample Award Document \[PDF - 291 Kb\]](#)

#### Appendix II: Sample Federal Financial Report Form (SF-425)

The Federal Financial Report Form (SF-425) is a standard form that grantees must use to report cumulative expenses incurred under each award. SF-425s must be submitted every quarter and no later than 30 days after the last day of each reporting quarter. OJP grantees should use the online SF-425 found in the Grants Management System (GMS).

[Sample SF-425 Form \[PDF - 108Kb\]](#)

Questions or Comments?  
Please contact the [OJP-OCFO Customer Service Center](#).

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USER NAME	PASSWORD	
<input type="text"/>	<input type="text"/>	<input type="button" value="LOG IN"/>
<a href="#">Forgot Username?</a>	<a href="#">Forgot Password?</a>	

[Create an Account](#)

<p><b>CREATE USER ACCOUNT</b></p> <p>Your CCR username will not work in SAM. You will need a new SAM User Account to register or update your entity records. You will also need to create a SAM User Account if you are a government official and need to create Exclusions or search for FOUO information.</p> <p><a href="#">Create User Account</a></p>	<p><b>REGISTER/UPDATE ENTITY</b></p> <p>You can register your Entity (business, individual, or government agency) to do business with the Federal Government. If you are interested in registering or updating your Entity, you must first create a user account.</p> <p><a href="#">Register/Update Entity</a></p> <p>Use the SAM Status Tracker to: <a href="#">Check Status</a></p>	<p><b>SEARCH RECORDS</b></p> <p>All entity records from CCR/FedReg and ORCA and exclusion records from EPLS, active or expired, were moved to SAM. You can search these records and new ones created in SAM. If you are a government user logged in with your SAM user account, you will automatically have access to FOUO information.</p> <p><a href="#">Search Records</a></p>
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**WHAT IS SAM?**

[Need Help?](#)

The System for Award Management (SAM) is an official website of the U.S. government. SAM consolidated the capabilities of CCR/FedReg, ORCA, and EPLS. There is NO cost to use SAM. Register to do business with the U.S. government for free directly from this site. Find free help with your SAM registration on our HELP tab, including user guides, videos, and FAQs.

**NEWS AND ANNOUNCEMENTS**

**Update:** The [SAM.gov June 24, 2016 release notes](#) are posted. Remember, you can find release notes for all SAM.gov software releases at [SAM.gov > General Info > News > Release Notes](#).

**SAM.GOV REGISTRATION IS FREE!** There is NO FEE to register or maintain your SAM.gov registration. If you get an email, text, or phone call from a company asking you to contact them right away about your SAM.gov registration, be cautious. If you are asked to pay money to complete or renew your SAM.gov registration, be cautious. These messages are not from the Federal Government. It is FREE TO REGISTER in SAM.gov for any entity. You engage third party vendors at your own risk.

**USER GUIDES/HELPFUL HINTS**

**SAM Help:** Find the full SAM User Guide, Quick Start Guides, Helpful Hints, and Webinars on the HELP tab.

Use the [SAM Status Tracker](#) to check your SAM entity registration status.

**Federal Service Desk:** Get additional FREE help with your SAM.gov registration at our [Federal Service Desk](#).

**ATTENTION EXTRACT AND WEB SERVICE USERS**

**SAM Extracts and Web Services:** Support for the legacy-formatted extracts and web services in SAM ended on October 31st, 2014. Federal systems using SAM data must convert to the SAM-formatted extracts and web services. If you see "You do not have access to this extract" you need to submit a Data Access Request for the appropriate role by logging in with the account that needs the role. Go to "Data Access" then click on either "System Data Access Request" or "Individual Data Access Request" (depending on your user account type) and follow the prompts to submit the request. Visit the [openIAE GitHub site](#) for more information about SAM's data, web services, and RESTful API.



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- [Email the Customer Service Branch](#)
- [OJP Financial Guide](#)

**Grant System Questions?**

- 202-514-2024
- [Email the Grants Management System \(GMS\) Help Desk](#)

## OJP Training Guiding Principles for Grantees and Subgrantees

Any training or training materials developed or delivered with grant funding provided by the Office of Justice Programs is to adhere to the following guiding principles.

1. **Trainings must comply with applicable law.** In developing and conducting grant-funded training, grantees (and any subgrantees) shall not violate the Constitution or any federal law, including any law prohibiting discrimination.
2. **The content of trainings and training materials must be accurate, appropriately tailored, and focused.** The content of training programs must be accurate, useful to those being trained, and well-matched to the program's stated objectives. Training materials used or distributed at trainings must be accurate, relevant, and consistent with these guiding principles.
3. **Trainers must be well-qualified in the subject area and skilled in presenting it.** Trainers must possess the subject-matter knowledge and the subject-specific training experience necessary to meet the objectives of the training. In selecting or retaining a trainer, grantees (or subgrantees) should consider such factors as the trainer's resume and written materials, interviews with the trainer, observation of other trainings conducted by the trainer, feedback from other entities with which the trainer has worked, training participant feedback and evaluations, and the general reputation of the trainer.
4. **Trainers must demonstrate the highest standards of professionalism.** Trainers must comport themselves with professionalism. While trainings will necessarily entail varying teaching styles, techniques, and degrees of formality, as appropriate to the particular training goal, professionalism demands that trainers instruct in the manner that best communicates the subject matter while conveying respect for all.

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- Demographic Data
- LEP Mapping Tools
- LEP Compliance
- Federal Agency LEP Plans
- LEP Guidance for Recipients
- LEP Guidance for DOJ Recipients
- File a Complaint LEP.gov
- Suggest LEP Resources
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## Featured Resources

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- Translation and Interpretation and Procurement Services (TIPS) Sheets
- Training Video: Communicating Effectively with LEP Members of the Public
- Title VI Protection for LEP Individuals
- LEP.gov Mission Statement

## Recent Items

Justice Department Closes Case Following Colorado Judiciary Reforms Removing Language Barriers

- Closure Letter (June 21, 2016)
- Updated Colorado Directive 06-03 (May 2016)
- Press Release
  - Justice Department Closes Case Following Colorado Judiciary Reforms Removing Language Barriers - June 21, 2016
  - El Departamento de Justicia Cierra Caso Después de que Reformas del Poder Judicial de Colorado Eliminaran Barreras Lingüísticas - (Spanish) June 21, 2016
  - BỘ TƯ PHÁP ĐÃ ĐÓNG LẠI TRƯỜNG HỢP VỀ CẢI CÁCH PHÁP LÝ COLORADO TRONG VIỆC XOÁ BỎ CÁC RÀO CẢN NGÔN NGỮ - (Vietnamese)

District Court Upholds Suspension of Bankruptcy Trustee for Failing to Comply with Agency's Language Access Plan

- Memorandum and Order, *Pereira v. U.S. Department of Justice* (May 11, 2016)

Justice Department Closes Case After Rhode Island Judiciary Reforms Provide Equal Access for Individuals with Limited English Proficiency

- Closure Letter (April 21, 2016)
- Press Release
  - Justice Department Closes Case After Rhode Island Judiciary Reforms Provide Equal Access for Individuals with Limited English Proficiency- April 21, 2016
  - Departamento De Justicia Cierra Caso Después De Que Las Reformas Del Poder Judicial De Rhode Island Brindaran Igualdad De Acceso A Personas Con Conocimientos Limitados Del Inglés- (Spanish) April 21, 2016
  - DEPARTAMENTO DE JUSTIÇA ENCERRA CASO APÓS REFORMAS JUDICIAIS DO ESTADO DE RHODE ISLAND CONCEDEREM ACESSO EQUITATIVO A INDIVÍDUOS COM PROFICIÊNCIA LIMITADA DA LÍNGUA INGLESA (Portuguese)
  - ក្រសួងយុត្តិធម៌បិទសំណុំរឿង បន្ទាប់ពីកំណែទម្រង់តុលាការនៅ Rhode Island ផ្តល់សិទ្ធិស្មើគ្នាដល់អ្នកនិយាយភាសាអង់គ្លេសនៅមានកម្រិត (Khmer)

Commonly Asked Questions Regarding Limited English Proficient (LEP) Data and Mapping Tools, April 2016 (HTML) (PDF)

*How to Access and Use Limited English Proficiency (LEP) Poverty Data*, Department of Justice Webinar, March 10, 2016 (captions)

- Presentation Slides (PDF)
- LEP Poverty Data Calculations Tutorial (WORD)
- LEP Poverty Data Tables (XLS)

U.S. Department of Justice and the U.S. Department of Education Jointly File Statement of Interest in Language Access and Disability Lawsuit Against the Philadelphia School District (January 25, 2016) (PDF)

Department of Justice Issues EO 13166 Accomplishments Report "Advancing Meaningful Access for Limited English Proficient Persons" (December 18, 2015) (PDF)

DOJ Justice Blog: Recognizing National Hispanic Heritage Month (October 14, 2015) (English)

- To mark National Hispanic Heritage Month, the Department of Justice Civil Rights Division created two national maps that highlight an important and often overlooked aspect of Hispanic communities: individuals who identify as Spanish-speaking and limited English proficient (LEP).
- Reconocimiento del mes de la herencia hispana nacional (14 de octubre)

New York Attorney General Announces Two Agreements to Improve Hospital Services for Those with Limited English Proficiency (October 7, 2015) (Press Release) (Agreement 1) (Agreement 2)

U.S. Departments of Justice and Labor Washington State Department of Labor and Industries Reach Agreement to Improve Access for Limited English Proficient Workers (October 1, 2015)

- Agreement
- Press Release (October 1, 2015) (English)(Comunicado de Prensa)
- Fact Sheet (English) (Hoja informativa) (Chinese simplified 简体字) (Chinese traditional 繁體字) (Korean 한국어/조선말) (Russian Русский) (Vietnamese Tiếng Việt) (Khmer ប្រទេសកម្ពុជា) (Laotian ພາສາລາວ)

## Archive of Past Items

## LEP.gov Mission Statement

LEP.gov promotes a positive and cooperative understanding of the importance of language access to federally conducted and federally assisted programs. This site acts as a clearinghouse, providing and linking to information, tools, and technical assistance regarding limited English proficiency and language services for federal agencies, recipients of federal funds, users of federal programs and federally assisted programs, and other stakeholders.

### Selected Resources

Frequently Asked Questions  
Executive Order 13166  
LEP Mapping Tools  
LEP Guidance for Recipients  
File a Complaint

### Department of Justice Links

Department of Justice Home Page  
Civil Rights Division Home Page  
Federal Coordination and Compliance Section Home Page  
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U.S. DEPARTMENT OF JUSTICE

# Office of Justice Programs

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- Faith Based & Neighborhood Partnerships
- Juvenile Justice
- Law Enforcement
- Research, Statistics & Evaluation
- Substance Abuse & Crime
- Technology to Fight Crime
- Victims of Crime

## Equal Treatment for Faith-Based Organizations

The Department of Justice (DOJ) promulgated a regulation on January 21, 2004 to ensure that no organization will be discriminated against in a Department-funded social services program on the basis of religion and that department-funded social services are available to all regardless of religion. The regulation, entitled "Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants, and known as the Equal Treatment Regulation, is codified at 28 C.F.R. part 38. It reflects the principles of President Bush's Executive Order No. 13279 that religiously affiliated (or "faith-based") organizations should be able to compete on an equal footing with other organizations for funding.

This regulation ensures a level playing field for the participation of faith-based organizations as well as other community organizations in Department programs by:

- Prohibiting discrimination for or against an organization on the basis of religion, religious belief, or religious character in the administration or distribution of Federal funds;
- Allowing a religious organization that participates in Department programs to retain its independence and continue to carry out its mission, provided that direct Department funds do not support any inherently religious activities. While inherently religious activities are permissible, they must be separate in time or place from the funded program, and participation in such activities by individuals receiving services must be voluntary;
- Clarifying that faith-based organizations can use space in their facilities to provide Department-funded services without removing religious art, icons, scriptures, or other religious symbols; and
- Ensuring that no organization that receives direct financial assistance from the Department can discriminate against a program beneficiary, or prospective beneficiary, on the basis of religion or religious belief.

The regulation applies to departmental employees who make funding decisions and administer programs as well as to DOJ grantees and sub-grantees. Recipients of DOJ funding should consult their attorney about this regulation.

Inquiries about the regulation or concerns of possible violations may be directed to the Office for Civil Rights (OCR). The OCR also serves as the civil rights officer for the Office for Community Oriented Policing Services (COPS) and the Office on Violence Against Women. Please send inquires to:

Office of Justice Programs  
 Office for Civil Rights  
 810 7th Street, N.W.  
 Washington, DC 20531  
 Phone: 202-307-0690  
 Fax: 202-616-9865  
 TDD/TTY: 202-307-2027

More information is available on the [Center for Faith-Based & Neighborhood Partnerships](#) web site.

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- Filing a Complaint - Filing Tips
- FAQs
- VAWA FAQs
- Online Training
- Statutes & Regulations
- Advisory on Recipients' Use of Arrest and Conviction Records
- Limited English Proficient (LEP)
- Title VI Enforcement
- Equal Employment Opportunity Plans
- Resources - Sample Documentation
- Twelve-Step Recovery Programs
- Español
- 中文版
- Phiên bản Việt
- Language Access (Acceso al Idioma; 語言扶助; Tiếp Cận Ngôn Ngữ)

## BUREAUS AND OFFICES

- ◆ Bureau of Justice Assistance
- ◆ Bureau of Justice Statistics
- ◆ National Institute of Justice
- ◆ Office for Victims of Crime
- ◆ Office of Juvenile Justice and Delinquency Prevention
- ◆ Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- ◆ Accessibility
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810 7<sup>th</sup> Street, NW  
Washington, DC 20531

Tel: (202) 307-0690  
TTY: (202) 307-2027  
E-mail: [askOCR@usdoj.gov](mailto:askOCR@usdoj.gov)  
Website: [www.ojp.usdoj.gov/ocr](http://www.ojp.usdoj.gov/ocr)

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**Advisory for Recipients of Financial Assistance from the U.S. Department of Justice  
on the U.S. Equal Employment Opportunity Commission's *Enforcement Guidance:  
Consideration of Arrest and Conviction Records in Employment Decisions  
Under Title VII of the Civil Rights Act of 1964***

June 2013

On April 25, 2012, the U.S. Equal Employment Opportunity Commission (EEOC) issued an updated enforcement guidance, cautioning employers that the use of arrest or conviction information in making employment decisions may, in certain circumstances, violate Title VII of the Civil Rights Act (Title VII) of 1964, as amended,<sup>1</sup> which prohibits discrimination in employment based on race, national origin, and other protected classes.<sup>2</sup> In light of the disproportionately high national rates of arrest and imprisonment of African Americans and Hispanics, especially African American and Hispanic men in comparison to their representation in the general population,<sup>3</sup> the *EEOC Enforcement Guidance* advises employers that if they misuse arrest and conviction records in making employment decisions, they may be engaging in unlawful discrimination.<sup>4</sup>

Consistent with the *EEOC Enforcement Guidance* and the Attorney General's commitment to remove barriers to prisoner reentry,<sup>5</sup> grant-making offices of the U.S. Department of Justice (DOJ or Department)<sup>6</sup> issue this Advisory to remind recipients of financial assistance from the Department of their obligation not to engage in discriminatory employment practices related to the improper use of arrest and conviction records. Although most recipients of Department funding are subject to Title VII, which generally applies to both public and private employers with fifteen or more employees,<sup>7</sup> almost all recipients of financial assistance under certain DOJ program statutes, regardless of the number of employees, must comply with those statutes' prohibitions against employment discrimination based on race, national origin, and other protected classes. The DOJ program statutes at issue are the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended; the Juvenile Justice and Delinquency

Prevention Act (JJDP A) of 1974, as amended; and the Victims of Crime Act (VOCA) of 1984, as amended.<sup>8</sup> In interpreting these DOJ program statutes as they apply to employment discrimination, the Justice Department relies on Title VII standards.<sup>9</sup> Consequently, the Department refers to the *EEOC Enforcement Guidance* in interpreting the obligations of employers that receive financial assistance under the Safe Streets Act, the JJDP A, and the VOCA.<sup>10</sup>

Recipients should consult their legal counsel and the *EEOC Enforcement Guidance* for assistance in making employment decisions based on arrest and conviction records.<sup>11</sup> The DOJ grant-making offices are aware, however, that many of their recipients, which include law-enforcement agencies, correctional systems, state and local criminal justice agencies, and victim-service providers, may have good reason, for sensitive positions, to request and evaluate criminal background information in making employment decisions. The *EEOC Enforcement Guidance* does not prohibit employers from conducting background checks, but it provides a useful framework for employers and their legal counsel to evaluate prospective and current employees' arrest or conviction records.<sup>12</sup>

### **Employment Discrimination Claims**

Employment discrimination claims under Title VII and the DOJ program statutes generally fall into two categories: disparate-treatment claims and disparate-impact claims.<sup>13</sup> Disparate-treatment discrimination occurs when an employer intentionally treats an individual differently based on race, national origin, or another protected class.<sup>14</sup> Disparate-impact discrimination occurs when an employer's neutral employment policy or practice has the effect of disproportionately screening out or disadvantaging a Title VII-protected group and the employer fails to demonstrate that the policy or practice is "job related for the position in question and consistent with business necessity."<sup>15</sup>

### **Conviction Records**

Employers may take into account conviction records in making employment decisions, but they should take stock of how they use this information.

An example of the impermissible use of conviction records under a disparate-treatment analysis would be an employer who makes a different assessment of the conviction records of two similarly situated applicants for employment, one white and one African American. Even though both applicants may have similar job qualifications and comparable conviction records, the employer excludes the African American applicant based on his conviction record while hiring the white applicant despite hers.

Under a disparate-impact analysis, according to the *EEOC Enforcement Guidance*, given the disproportionate number of African American and Hispanic men who have conviction records, an employer's use of conviction records to screen job applicants will generally have a disparate impact on these groups.<sup>16</sup> The employer may successfully defend against a discrimination claim alleging that the use of conviction records has an unlawful disparate impact based on race or national origin by showing that despite the disparate impact on a particular group, the employer's screening practice is both job related and consistent with business necessity.

According to the *EEOC Enforcement Guidance*, employers should consistently be able to meet this standard in two ways. The first option is for an employer to validate its criminal-conduct screening under the standards of the *Uniform Guidelines on Employee Selection Procedures*.<sup>17</sup> The second option has two parts: (1) to develop targeted screening based on three considerations, known as the *Green* factors, which are (a) the nature of the crime; (b) the time elapsed since the offense, conduct, or completion of the criminal sentence; and (c) the nature of the job<sup>18</sup> and then, in most cases, (2) to provide an "opportunity for an individualized assessment for people excluded by the screen to determine whether the policy as applied is job related and consistent with business necessity."<sup>19</sup>

### **The Uniform Guidelines**

Employers may use criminal-record screenings that have an adverse impact on racial and ethnic groups, if they can validate the screening process based on the technical framework of the Uniform Guidelines.<sup>20</sup> The EEOC, the DOJ, and other federal agencies jointly issued the Uniform Guidelines to help employers comply with federal law when making employment decisions.<sup>21</sup> Whenever an employer's selection process adversely impacts applicants for employment (or candidates for promotion or retention) based on race, national origin, or sex, the process may be unlawful unless the employer has properly validated it in accordance with the Uniform Guidelines or has otherwise justified the selection process under federal law.<sup>22</sup> The *EEOC Enforcement Guidance* cautions, however, that at the present moment, social studies that provide a framework for validating employment exclusions are rare.<sup>23</sup>

### **Targeted Screening and Individualized Assessment**

In most instances, employers that have a blanket policy of disqualifying all applicants for employment who have criminal convictions would run afoul of Title VII.<sup>24</sup> Employers may, however, use conviction-record screenings that have an adverse impact on racial and ethnic groups, if they conduct a targeted screening based on the *Green* factors and then provide an opportunity for an individualized assessment of the excluded people to determine whether the policy, as applied, is job related and consistent with business necessity.<sup>25</sup> For example, in the case of an applicant for employment, the individualized assessment may consist of notifying the

applicant of the exclusion based on the applicant's conviction record, providing the applicant with the opportunity to explain why the exclusion should not apply, and determining whether the applicant's explanation would justify an exception to the employer's exclusion policy.<sup>26</sup>

Significantly, the *EEOC Enforcement Guidance* notes that an employer may be able to justify a targeted records screen without having to conduct an individualized assessment if the screen is "narrowly tailored to identify criminal conduct with a demonstrably tight nexus to the position in question."<sup>27</sup>

Even if an employer is able to demonstrate that its employment practices are job related and consistent with business necessity, a complainant might "still prevail by demonstrating that there is a less discriminatory 'alternative employment practice' that serves the employer's legitimate goals as effectively as the challenged practice but that the employer refused to adopt."<sup>28</sup>

Recipient law-enforcement agencies and correctional systems would likely not run afoul of Title VII or the DOJ program statutes in using criminal-background screening to select sworn officers or security staff, as long as they are able to show that disqualifying criminal convictions are job related and consistent with business necessity. For example, if a position requires that an employee carry a firearm, an employer, following federal law, would be able to exclude from that position individuals prohibited from possessing a firearm as the result of a qualifying misdemeanor domestic-violence conviction.<sup>29</sup> Similarly, organizations may take into account a person's recent criminal history in filling positions that have contact with vulnerable populations, which may include children, people with severe mental or physical disabilities, or survivors of sexual assault and other violent crimes.<sup>30</sup>

### **Example of Disparate-Impact Discrimination Based on the Improper Use of a Conviction Record**

An example of disparate-impact employment discrimination based on a public recipient's improper use of a conviction record would be the following:

The newly hired town manager of Center City recently revised the town's city-wide employment policies. One new policy states that no Center City employee who has contact with the public may have a violent-crime record. Thomas, a forty-year-old Hispanic man, has for more than two decades served as a records clerk at the Center City Police Department, which receives numerous grants under the Safe Streets Act from the DOJ. When Thomas was a teenager, he pled guilty to a misdemeanor assault charge, which is a violent crime under state law. In the interim, he has not had contact with the criminal justice system, and he has consistently received the town's highest performance ratings. Implementing the

new employment policy, the town manager notified Thomas that the town was terminating his employment because one of Thomas' duties is to provide, on occasion, accident reports to members of the public who come to police headquarters. The town considered neither the nature of employees' offenses, the time passed since conviction, nor the nature of particular public-contact jobs before sending out termination notices. The town also did not provide Thomas with an opportunity to explain his conviction record. If the new employment policy adversely impacts Hispanic men, Thomas may have a national-origin discrimination claim against Center City, not only under Title VII but also under the Safe Streets Act.

### **Arrest Records**

In making employment decisions, recipients should distinguish between conviction records and arrest records. An arrest by itself is not evidence of criminal behavior.<sup>31</sup> Moreover, as the *EEOC Enforcement Guidance* notes, there is significant evidence showing that arrest records may be incomplete or inaccurate.<sup>32</sup> Accordingly, an arrest record standing alone should not be the basis for denying an employment opportunity. An employer may rely, however, on a fact-based analysis of the underlying circumstances related to an arrest to determine if the conduct makes the individual unfit for the position in question.<sup>33</sup>

Like claims of employment discrimination based on the improper use of conviction records, claims of employment discrimination based on the improper use of arrest records could fall under either a disparate-treatment or a disparate-impact theory of discrimination.

### **Equal Employment Opportunity Plans**

The issue of employment discrimination related to the misuse of arrest and conviction records may also arise for many recipients of DOJ funding in the context of formulating an Equal Employment Opportunity Plan (EEOP).<sup>34</sup> The Safe Streets Act not only prohibits recipients from engaging in unlawful employment discrimination, but it also requires many recipients to produce an EEOP.<sup>35</sup> An EEOP is a report that compares the percentage of a recipient's workforce in eight major job categories, cross-classified by race, national origin, and sex, to the percentage of similarly classified qualified people in the same job categories in the relevant labor market.<sup>36</sup> If the comparison indicates that the recipient's workforce has a significant underutilization of qualified employees in certain job categories based on race, national origin, or sex, the recipient must address the discrepancy, explaining the steps it has taken, or plans to take, to ensure equal employment opportunity.<sup>37</sup> Major recipients of financial assistance subject to the Safe Streets Act must submit an EEOP to OJP's Office for Civil Rights for review and approval.<sup>38</sup>

Preparing an EEOP requires recipients to analyze their employment practices to determine whether they may have had the effect of discriminating on the basis of race, national origin, or sex. “Recipient agencies are expected to conduct a continuing program of self-evaluation to ascertain whether any of their recruitment, employee selection or promotional policies (or lack thereof) directly or indirectly have the effect of denying equal employment opportunities to minority individuals and women.”<sup>39</sup>

In reviewing submitted EEOPs, the Office for Civil Rights may suggest modifications to an EEOP if the Office finds that a recipient’s selection or promotion procedures need improvement, especially when it comes to correcting “any identifiable employment impediments which may have contributed to . . . existing disparities.”<sup>40</sup>

In light of the *EEOC Enforcement Guidance* and the federal regulations on the development of an EEOP, recipients of financial assistance subject to the authority of the Safe Streets Act should consider whether their reliance on arrest and conviction records in making employment decisions may have had an adverse effect on otherwise qualified minority candidates. The Office for Civil Rights encourages recipients to examine this issue and to incorporate their analysis in future EEOPs.

### **Technical Assistance and Resources**

Recipients of DOJ financial assistance seeking technical assistance on the proper use of arrest and conviction records in making employment decisions may contact the EEOC’s regional offices (<http://www.eeoc.gov/field/index.cfm>). Recipients of DOJ financial assistance seeking technical assistance in developing an EEOP may contact the Office for Civil Rights (<http://www.ojp.usdoj.gov/about/offices/ocr.htm>) by telephone at (202) 307-0690, by TDD/TTY at (202) 307-2027, or by e-mail at [askOCR@ojp.usdoj.gov](mailto:askOCR@ojp.usdoj.gov).

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<sup>1</sup> 42 U.S.C. § 2000e (2006).

<sup>2</sup> U.S. EQUAL EMP’T OPPORTUNITY COMM’N, No. 915.002, EEOC ENFORCEMENT GUIDANCE: CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (2012), [http://www.eeoc.gov/laws/guidance/upload/arrest\\_conviction.pdf](http://www.eeoc.gov/laws/guidance/upload/arrest_conviction.pdf) [hereinafter EEOC ENFORCEMENT GUIDANCE].

<sup>3</sup> See Amy Solomon, Senior Advisor to the Assistant Att’y Gen., Office of Justice Programs (OJP), U.S. Dep’t of Justice, Testimony at the EEOC Meeting to Examine Arrest and Conviction Records as a Hiring Barrier (July 26, 2011) (written testimony available at <http://www.eeoc.gov/eeoc/meetings/7-26-11/solomon.cfm>); EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 4 & 28 nn.10-14.

<sup>4</sup> EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 3-4; Press Release, U.S. Equal Emp’t Opportunity Comm’n, Pepsi to Pay \$3.13 Million and Made Major Policy Changes to Resolve EEOC Finding of Nationwide Hiring Discrimination Against African Americans (Jan. 11, 2012), <http://www.eeoc.gov/eeoc/newsroom/release/1-11-12a.cfm>.

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<sup>5</sup> Letter from Eric H. Holder, Jr., Att’y Gen., U.S. Dep’t of Justice, to State Attorneys General (Apr. 18, 2011) (on file with the OJP); *see also* NAT’L REENTRY RES. CTR., FED. INTERAGENCY REENTRY COUNCIL, <http://csgjusticecenter.org/nrrc/projects/firc/> (last visited June 1, 2013) (“Reentry provides a major opportunity to reduce recidivism, save taxpayer dollars, and make our communities safer.”).

<sup>6</sup> This Advisory applies to recipients of financial assistance from the following DOJ grant-making components: the Office of Community Oriented Policing Services, the Office on Violence Against Women, and the OJP, which includes the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; the Office for Victims of Crime; and the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office.

<sup>7</sup> 42 U.S.C. § 2000e(b).

<sup>8</sup> The JJDPA incorporates by reference (*see* 42 U.S.C. § 5672(b)) the nondiscrimination provision of the Safe Streets Act, which prohibits a recipient of financial assistance under the statute from discriminating in employment based on race, national origin, and other protected classes:

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this chapter.

*Id.* § 3789d(c)(1).

The VOCA contains similar language, which prohibits a recipient of financial assistance under the statute from discriminating in employment based on race, national origin, or other protected classes:

No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.

*Id.* § 10604(e).

<sup>9</sup> 28 C.F.R. § 42.203(c) (2012).

<sup>10</sup> Recipients of financial assistance that are unsure of whether they are subject to one of the DOJ program statutes should check their award materials, which ordinarily cite the statutory authority under which the DOJ made the grant award. *See supra* p. 6 (Recipients may also contact the Office for Civil Rights at the OJP for assistance); *see also* CATALOG OF FEDERAL DOMESTIC ASSISTANCE, <https://www.cfda.gov/> (last visited June 24, 2013) (Recipients can search within the CFDA to determine whether a program is subject to a program statute).

<sup>11</sup> *See* U.S. EQUAL EMP’T OPPORTUNITY COMM’N, QUESTIONS AND ANSWERS ABOUT THE EEOC’S ENFORCEMENT GUIDANCE (2012), [http://www.eeoc.gov/laws/guidance/qa\\_arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/qa_arrest_conviction.cfm); U.S. DEP’T OF LABOR, NO: 31-11, TRAINING EMPLOYMENT GUIDANCE LETTER (2012), [http://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_31\\_11\\_acc.pdf](http://wdr.doleta.gov/directives/attach/TEGL/TEGL_31_11_acc.pdf).

<sup>12</sup> Employers that rely on data from consumer reporting agencies, which may include arrest and conviction information, should be aware of the application of the Fair Credit Reporting Act, 15 U.S.C. § 1681. EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 5; *see also* FED. TRADE COMM’N, BUREAU OF CONSUMER PROT., BUS. CTR., USING CONSUMER REPORTS: WHAT EMPLOYERS NEED TO KNOW (2012), <http://www.business.ftc.gov/documents/bus08-using-consumer-reports-what-employers-need-know>.

<sup>13</sup> EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 6.

<sup>14</sup> *Id.* at 6-9.

<sup>15</sup> 42 U.S.C. § 2000e-2(k)(1)(A)(i); *see also* EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 9 & n.63.

<sup>16</sup> Even though national statistics support a finding that an employer's use of conviction-record exclusions has a disparate impact based on race and national origin, employers may be able to provide evidence (e.g., applicant-flow data, arrest and conviction rates in a particular geographic area) to show that their employment policies or practices do not have an adverse impact based on race or national origin. EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 10.

<sup>17</sup> *Id.* at 14 & n.111; *see* Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. §§ 1607.1-.18 [hereinafter Uniform Guidelines].

<sup>18</sup> EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 11 & nn.90-92, 14-16 (citing *Green v. Mo. Pac. R.R. Co.*, 549 F.2d 1158, 1160 (8th Cir. 1977)).

<sup>19</sup> EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 14.

<sup>20</sup> Under some circumstances, validation of the screening process may be either unnecessary or impossible. *Id.* at 14, 15 & n.113 (citing 29 C.F.R. § 1607.6(B)).

<sup>21</sup> 28 C.F.R. § 50.14(1)(B).

<sup>22</sup> The Uniform Guidelines recognize three methods for validating employee-selection procedures that have an adverse impact on the basis of sex or membership in racial or ethnic groups: criterion-related validation, content validation, and construct validation (*see* 28 C.F.R. § 50.14(5)(A)):

1. Criterion-related validity [is] a statistical demonstration of a relationship between scores on a selection procedure and job performance of a sample of workers.
2. Content-validity [is] a demonstration that the content of a selection procedure is representative of important aspects of performance on the job.
3. Construct validity [is] a demonstration that (a) a selection procedure measures a construct (something believed to be an underlying human trait or characteristic, such as honesty) and (b) the construct is important for successful job performance.

Adoption of Questions and Answers to Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures, 44 Fed. Reg. 11,996, 12,001 (Mar. 2, 1979), *available at* [http://www.eeoc.gov/policy/docs/qanda\\_clarify\\_procedures.html](http://www.eeoc.gov/policy/docs/qanda_clarify_procedures.html); *see also* 28 C.F.R. § 50.14(5)(B); 29 C.F.R. § 1607.16.

<sup>23</sup> EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 15.

<sup>24</sup> *Green*, 523 F.2d at 1298 (“We cannot conceive of any business necessity that would automatically place every individual convicted of any offense, except a minor traffic offense, in the permanent ranks of the unemployed . . . To deny job opportunities to these individuals because of some conduct which may be remote in time or does not significantly bear upon the particular job requirements is an unnecessarily harsh and unjust burden.”).

<sup>25</sup> EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 14.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 20 & n.128 (citing 42 U.S.C. § 2000e-2(k)(1)(A)(ii)); *see also* *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977, 998 (1988) (“Thus, when a plaintiff has made out a prima facie case of disparate impact, and when the defendant has met its burden of producing evidence that its employment practices are based on legitimate business reasons, the plaintiff must ‘show that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest in efficient and trustworthy workmanship.’”) (citing *Albemarle Paper Co. v. Moody*, 422 U.S. 405, 425 (1975)).

<sup>29</sup> 18 U.S.C. § 922(g)(9).

<sup>30</sup> *See, e.g.*, *El v. SEPTA*, 479 F.3d 232 (3d Cir. 2007) (affirming summary judgment for employer on the termination of an African American driver with a violent-crime record who provided transport for people with disabilities). The Third Circuit, however, acknowledged that its ruling might have been different had the appellant rebutted expert testimony. *El*, 479 F.3d at 235, 247; *see also* EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 12. Another factor in the court's decision was that the post under review involved contact with a vulnerable population. *Id.* at 235, 243, 245, 247.

<sup>31</sup> EEOC ENFORCEMENT GUIDANCE, *supra* note 2, at 12.

<sup>32</sup> *Id.* at 6, 12.

<sup>33</sup> *Id.* at 13.

<sup>34</sup> *See* Equal Employment Opportunity Program Guidelines, 28 C.F.R. §§ 42.301-.308; OFFICE OF JUSTICE PROGRAMS, EQUAL EMP'T OPPORTUNITY PLANS, <http://www.ojp.usdoj.gov/about/ocr/eeop.htm> (last visited June 1, 2013).

<sup>35</sup> Recipients that (1) have a minority service population of three percent or more; (2) are units of state or local governments, instrumentalities of state or local governments, or private entities; (3) have fifty or more employees; and (4) receive an award of \$25,000 or more subject to the Safe Streets Act's administrative provisions must develop an EEOP. § 42.302(d).

<sup>36</sup> §§ 42.304(a), (f), (g).

<sup>37</sup> § 42.304(f)(1); §42.306(b).

<sup>38</sup> Recipients that meet all of the criteria for developing an EEOP and receive an award of \$500,000 or more subject to the administrative provisions of the Safe Streets Act must submit an EEOP to OJP's Office for Civil Rights. 28 C.F.R. § 42.204(b); *see supra* note 35.

<sup>39</sup> § 42.306(a).

<sup>40</sup> § 42.306(b).



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## Civil Rights Compliance

### Introduction

Welcome to the Arizona Criminal Justice Commission's Civil Rights Compliance web page. As a recipient of federal financial assistance, we are required to ensure that sub-recipients comply with federal and state statutes and regulations that prohibit discrimination in federally assisted programs or activities. This includes hiring on the basis of race, color, religion, national origin, age, sex and disability, and the delivery of services or benefit.

### Civil Rights Compliance

[Click here](#) for the Civil Rights Compliance Checklist to assess your agency's Civil Rights compliance.

### Civil Rights Policy

[Civil Rights Policy # CJC-305](#) lays out the procedures U.S. Department of Justice grant program sub-recipients must use to respond to discrimination complaints from their employees, clients, customers, program participants or consumers. For questions or help, please contact the ACJC Civil Rights Complaint Coordinator at: [civilrightcomplaints@azcjc.gov](mailto:civilrightcomplaints@azcjc.gov)

### Online Training

The U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR) has developed online training for its funding recipients. ACJC has made this [training](#) available to all of its sub-recipients as well. All ACJC federal funding sub-recipient agencies must designate a person whose job duties include civil rights compliance to participate in this annual training.

All agencies must participate in multiple training modules. Click on the [Training Fact Sheet](#) to learn more about the trainings your agency is required to participate in.

### Training Help

For assistance or more information on Civil Rights training, please contact the ACJC Civil Rights Training Department at: [civilrightstrng@azcjc.gov](mailto:civilrightstrng@azcjc.gov)

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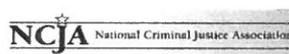
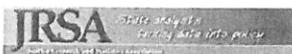
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# Implementation Guide

## Introduction

The National Information Exchange Model (NIEM) is the result of a collaborative effort to produce a set of common standards for information exchange, development and harmonization.

NIEM is a reference model. It is not a rigid standard that must be used exactly as it is in its entirety. NIEM was developed as a consistent baseline for creating exchange documents and transactions across government. While an XML schema requirement for conformance that this entire schema be used for validation. Nonetheless, there are several information

The goal of NIEM conformance is for the sender and receiver of information to share a common, unambiguous understanding. Conformance to NIEM ensures that a basic core set of information (the NIEM components) is well understood and shared across communities. The result enables a level of interoperability to occur that would be unachievable with the proliferation of

These conformance rules serve as guidelines for any agency utilizing NIEM to implement their information sharing. Any agency XML-based exchanges must comply with the special condition language contained in the grant, and follow the rules outlined below.

For more information about the Global Justice XML Data Model (GJXDM), its relationship to NIEM, and additional resources, see the GJXDM Archive.

## Conformance Rules

The rules for NIEM conformance are as follows:

1. Instances must validate against the set of NIEM reference schemas, which are available here, or within the tools catalog. Schemas conformant to NIEM must import and reference the NIEM schema namespaces (e.g., etc.).
2. If the appropriate component (i.e. XML type, element, attribute, etc.) required for an IEPD exists in the NIEM schema, do not create a duplicate component of one that already exists.
3. Be semantically consistent. Use NIEM components in accordance with their definitions. Do not use a NIEM component if its definition describes.
4. Follow the IEPD (Information Exchange Package Documentation) Lifecycle and define all required artifacts in the IEPD Specification



- 5. Adhere to the NIEM Naming and Design Rules (NDR) to ensure correct, consistent schema development



### Assistance in Developing NIEM-Conformant Schemas

Guidance on the proper development of conformant exchange schemas is provided in part by the NIEM Model Naming and Design Rules.

In addition to document support, tools are also provided to help simplify conformance when developing exchange (SSGT), along with others, is built to ensure conformant subsets and development without requiring implementer and Design Rules. The NIEM IEPD Lifecycle and other best practice models for developing exchanges take full design and development.

### Additional Remarks About Conformance

Information Exchange Packages (IEPs) and the Information Exchange Package Documents (IEPDs) that define data is labeled or used in one system does not impact NIEM conformance. Conformance depends upon how data be shared between two or more systems.

Use of some components of the NIEM to exchange information with other agencies does not guarantee conforming violating conformance Rule 2, listed above. An information exchange either conforms to NIEM or it does not.

### Grant Recipient IEPD Registration Requirements

To support government-wide information sharing, all recipients of grants for projects implementing information exchange required to use the National Information Exchange Model in accordance with these Implementation Guidelines. Components make available without restriction all IEPDs and related artifacts generated as a result of the grant to the components provided tools is optional. However, NIEM IEPDs must be assembled in accordance with and adhere to the conformance registered in the Information Exchange Package Documentation (IEPD) Clearinghouse.

Organizations not receiving federal funding to use NIEM are also encouraged to register their IEPDs in the IEPD Clearinghouse will enhance effective sharing of critical information.

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- U.S. DOJ Privacy Policy
- U.S. Department of Homeland Security
- U.S. Department of Health & Human Services
- Information Sharing Environment





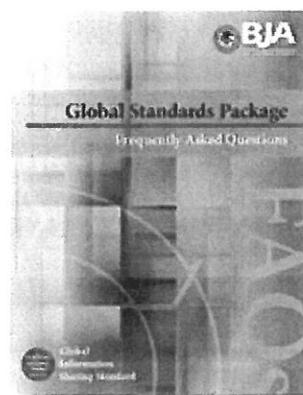
# Justice Information Sharing

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## Global Standards Package Grant Condition

The Global Standards Council (GSC) was created to support the work of DOJ's Global working groups and related bodies by coordinating the establishment of a common, consistent, and standards-based approach to implementing justice information sharing solutions. To further this goal, the GSC developed the [Global Standards Package \(GSP\)](#) which describes a full information sharing technology standards implementation suite that addresses data standardization, messaging architecture, security, and privacy requirements. In order to promote consistency and interoperability of systems



**GSP Frequently Asked Questions Guide**

across the justice and public safety community, OJP requires grantee compliance to the GSP and all components thereof. In addition to offering a common mechanism to share information across agencies, the GSP also promotes the use of open, consensus-based standards to avoid proprietary or restrictive approaches to system integration and interface development. This approach enables adopters to fully realize the cost savings and operational efficiencies that have been demonstrated by those who have already implemented elements of the GSP.

Compliance to the GSP requires conformance to all components of the GSP whenever applicable. If the grantee is planning to exchange information across agencies or systems using a common data format, such format is required to be conformant to the National Information Exchange Model (NIEM). If the grantee is planning to adopt a service-oriented approach to sharing information, it must leverage the Global Reference Architecture (GRA), and so on. The primary components of the GSP are as follows:

- National Information Exchange Model (NIEM)
- Global Reference Architecture (GRA)
- Global Federated Identity and Privilege Management (GFIPM)

In addition, certain GSP components enable the development of national, or "reference," specifications that further promote reuse for enhanced interoperability. Whenever applicable, these reference specifications should be used as a foundation for implementation of complementary business processes. If the grantee wishes to use an alternate format for which a reference specification already exists, specific justification must be included in the grant application narrative.

**National Information Exchange Model (NIEM)**—the NIEM data model and tools are supported by a robust governance process and program management office. NIEM conformance is defined explicitly across a number of dimensions, including data modeling, XML representation, exchange development, and implementation. Detailed guidance on NIEM conformance for grantees can be found at <https://www.niem.gov/aboutniem/grant-funding/Pages/implementation-guide.aspx>. NIEM also maintains a repository of reusable exchange specifications that can be found at <http://www.it.ojp.gov/default.aspx?area=implementationAssistance&page=1108>.

**Global Reference Architecture (GRA)**—the GRA provides both a reference architecture to speed agency adoption of Service-Oriented Architecture (SOA)-based approaches to information sharing, as well as a standard methodology for developing particular service specifications that align with specific business functions. Conformance to the GRA generally relies on adherence to the GRA Framework for the former and to the GRA Service Specification Guidelines for the latter. Detailed guidance on GRA implementation for grantees can be found at <http://www.it.ojp.gov/default.aspx?area=nationalInitiatives&page=1015>. On the same page can be found a listing of reference service specification packages (SSPs) that should be reused whenever applicable.

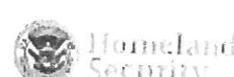
**Global Federated Identity and Privilege Management (GFIPM)**—the GFIPM specifications and guidelines are designed to support secure access to various information systems based on commonly understood and applied protocols for user access and attribute-based access control policies. Rather than serving as a universal approach to securing justice information systems, GFIPM should be used in particular cases where regional, multijurisdictional, or cross-boundary information sharing is occurring and there is a need to create a "federation" of participants who must agree on policy and technical solutions to satisfy interoperability requirements. Conformance to GFIPM primarily relies on use of the GFIPM Metadata standard and adherence to operational policies and procedures. Detailed guidance on GFIPM implementation can be found at <http://www.it.ojp.gov/default.aspx?area=nationalInitiatives&page=1179>.

As stated above, compliance with the GSP is dependent on the grantee conforming to each of the GSP's normative components above, whenever

applicable. For instance, if the grantee is supporting a project to integrate two reporting systems that already operate within the same security environment and there are no new access control provisions required, then conformance to the NIEM and GRA components of the GSP will be sufficient to satisfy the requirement to comply with the GSP. In general, OJP does not require formal certification of software, tools, etc., to verify conformance. However, additional requirements may be imposed by particular funding programs. In cases where software or services are being procured from private sector partners, the grantee should follow procedures such as those recommended by the IJIS Institute to ensure that procured services are in fact conformant. See [http://www.ijis.org/?page=PreRFP\\_Toolkit](http://www.ijis.org/?page=PreRFP_Toolkit).

In addition to complying with the GSP, grantees are also required to adequately address the protection of privacy and civil liberties of those subjects whose data are being shared. OJP requires that prior to implementation of an information exchange solution that such exchange must be governed by an appropriate privacy policy that meets the minimum standards as described by DOJ's Global Privacy Guide. If the exchange is covered under an existing or umbrella policy, then such policy should be noted and communicated to the grant office prior to execution. For a comprehensive set of resources to address privacy protection in information sharing projects, please visit <http://www.it.ojp.gov/privacy>.

For additional background on DOJ's Global Justice Information Sharing Initiative and related activities, please visit <http://www.it.ojp.gov> or contact the Bureau of Justice Assistance (BJA) Justice Information Sharing (JIS) office via Michael Roosa at (202) 532-0031 or [Michael.B.Roosa@usdoj.gov](mailto:Michael.B.Roosa@usdoj.gov); or David Lewis, at (202) 616-7829, or [David.P.Lewis@usdoj.gov](mailto:David.P.Lewis@usdoj.gov).



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