



To: Elsa Jaramillo-Velez

From: Miriam S. Ramos, Deputy City Attorney for the City of Coral Gables

Approved: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "C. Leen", written over the name of the City Attorney.

RE: Legal Opinion Regarding Safe Streets Act Grant Application

Date: April 6, 2015

After speaking to Abby and Yaneris and reviewing the attached documents and consistent with my authority to issue opinions and interpretations, pursuant to Secs. 2-201(e)(1) and (8) of the City Code, it is my opinion that the City needs to submit an EEOP plan in order to comply with the regulation. According to the grant administrator, all documents are due by the end of June, therefore she is requesting that the plan be completed by the beginning of May, if possible.

Herbello, Stephanie

From: Ramos, Miriam
Sent: Friday, July 31, 2015 4:37 PM
To: Herbello, Stephanie
Subject: FW: Safe Streets Act Grant Application
Attachments: 2015-02-09 Memo to C. Leen and Y. Figueroa re JAG Standard Conditions.pdf; K. Nickel comments re_Byrne JAG Program Standard Conditions for 2015 gr....pdf

Miriam S. Ramos, Esq.

Deputy City Attorney
City of Coral Gables
405 Biltmore Way, 3rd Floor
Coral Gables, FL 33134
(305) 460-5218
(305) 460-5084 direct dial



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From: Ramos, Miriam
Sent: Monday, April 06, 2015 1:49 PM
To: Jaramillo-Velez, Elsa
Cc: Figueroa, Yaneris; Leen, Craig; Green, Karla; Giambanco, Krizia
Subject: FW: Safe Streets Act Grant Application

Dear Elsa,

After speaking to Abby and Yaneris and reviewing the attached documents and consistent with my authority to issue opinions and interpretations, pursuant to Secs. 2-201(e)(1) and (8) of the City Code, it is my opinion that the City needs to submit an EEOP plan in order to

comply with the regulation. According to the grant administrator, all documents are due by the end of June, therefore she is requesting that the plan be completed by the beginning of May, if possible.

Please let me know if you have any questions.

Sincerely,

Miriam S. Ramos, Esq.

Deputy City Attorney
City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
(305) 460-5218
(305) 460-5084 direct dial

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From: Abby Corbett [<mailto:ACorbett@stearnsweaver.com>]
Sent: Monday, April 06, 2015 10:36 AM
To: Figueroa, Yaneris; Ramos, Miriam
Cc: Leen, Craig; Kara Nickel
Subject: RE: Safe Streets Act Grant Application

Miriam and Yaneris,

Since Craig is on a much deserved vacation, I'm responding to his email below by sending this to you two. Kara Nickel had looked at this grant application issue back in February and sent the attached memo, and the attached comments on the Standard Conditions. Please check out the memo, in particular pages 2-3, and give me a call if you want to discuss.

Abby Corbett
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
Telephone: (305) 789-3463
Facsimile: (305) 789-2633
E-mail: acorbett@stearnsweaver.com

From: Leen, Craig [<mailto:cleen@coralgables.com>]
Sent: Wednesday, April 01, 2015 7:46 PM
To: Kara Nickel; Abby Corbett
Subject: Fwd: Safe Streets Act Grant Application

I was wondering if you could let me know your thoughts.

Sent from my iPhone

Begin forwarded message:

From: "Jaramillo-Velez, Elsa" <ejaramillo@coralgables.com>
Date: April 1, 2015 at 6:12:13 PM EDT
To: "Leen, Craig" <cleen@coralgables.com>
Cc: "Green, Karla" <kgreen@coralgables.com>, "Giambanco, Krizia" <KGiambanco@coralgables.com>
Subject: FW: Safe Streets Act Grant Application

Craig –

Frank G. had previously sent this to you and we need an answer as police has indicated that they are ready to put this item in the City Commission agenda. HR cannot sign until we receive your advice please – thanks!

Sincerely,

Elsa J. Jaramillo-Velez, Esq.

Human Resources Director
City of Coral Gables
Department of Human Resources
2801 Salzedo Street, 2nd Floor
Coral Gables, Florida 33134
305-460-5530
ejaramillo@coralgables.com

PUBLIC RECORDS:

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From: Giallorenzo, Frank
Sent: Monday, January 26, 2015 1:30 PM
To: Leen, Craig
Cc: Jaramillo-Velez, Elsa
Subject: Safe Streets Act Grant Application

Good afternoon Craig -

I need your guidance please. I have attached a form that the Police Department has asked me to sign certifying that the City is exempt from developing and submitting an EEOP Plan to the Justice Department as part of a grant Police Receives. The grant is for \$10,000 this year. We have received the same grant in previous years. My concern is with the language in the CFR (also included in the attachment) which states that recipients with 50 or more employees and which have received grants or subgrants of \$25,000 or more "pursuant to and since the enactment of the Safe Streets Act" is required to implement and maintain and EEOP plan.

Does the "and since" mean that the \$25,000 threshold is cumulative from grants received in past years? If so, then if the City received more than \$25,000 over the past three years, it must submit an EEOP plan. Is my reading of the CFR correct?

Please advise.

Thanks.

Frank

Frank Giallorenzo, J.D., PHR
Assistant Human Resources Director
City of Coral Gables
2801 Salzedo Street, 2nd Floor
Coral Gables, Florida 33134
305-460-5587 Office
fgiallorenzo@coralgables.com

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-----Original Message-----

From: hr-bck@coralgables.com [<mailto:hr-bck@coralgables.com>]
Sent: Monday, January 26, 2015 1:20 PM
To: Giallorenzo, Frank
Subject: Sent from the Coral Gables Human Resources Department

Please open the attached document. It was scanned and sent to you using a Xerox Multifunction Device.

Attachment File Type: pdf, Multi-Page

Device Name: PSBHR2FL-7845A

Please Note: Florida has a very broad Public Records Law. Most written communications to or from State and Local Officials regarding State or Local business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

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**Florida Department of Law Enforcement
Office of Criminal Justice Grants**

Post Office Box 1489 Tallahassee, Florida 32302-1489 (850) 617-1250 criminaljustice@fdle.state.fl.us

Edward Byrne Memorial Justice Assistance Grant (JAG) Program

STANDARD CONDITIONS

Comments from Kara Nickel - 02/09/2015 

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Conditions of agreement requiring compliance by units of local government (subgrant recipients), implementing agencies, and state agencies upon signed acceptance of the subgrant award appear in this section. Upon approval of this subgrant, the approved application and the following terms of conditions will become binding. Failure to comply with provisions of this agreement will result in required corrective action up to and including project costs being disallowed and termination of the project, as specified in item 10 of this section.

1. All Subgrant Recipients must comply with the financial and administrative requirements set forth in the current edition of the U.S. Department of Justice, Office of Justice Programs (OJP) Financial Guide (Financial Guide) (www.ojp.usdoj.gov/financialguide/index.htm) and the Edward Byrne Memorial Justice Assistance Grant (JAG) program guidance (www.bja.gov/ProgramDetails.aspx?Program_ID=59) as well as Federal statutes, regulations, policies, guidelines and requirements and Florida laws and regulations including but not limited to:

The person in charge of administering this grant & the associated finances should review these provisions.

- Florida Administrative Code, Chapter 11D-9, "Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program": www.flrules.org/
- Office of Management and Budget (OMB) Circulars: www.whitehouse.gov/omb/circulars
 - A-21 (2 CFR 220), "Cost Principles for Educational Institutions" — N/A
 - A-87 (2 CFR 225), "Cost Principles for State, Local and Indian Tribal Governments"
 - A-102, "Grants and Cooperative Agreements with State and Local Governments"
 - A-110 (2 CFR 215), "Uniform Administrative Requirements for Grants and Cooperative Agreements"
 - A-122 (2 CFR 230), "Cost Principles for Non-Profit Organizations" — N/A
 - A-133, "Audits of States, Local Governments, and Non-Profit Organizations"
- Code of Federal Regulations: www.gpo.gov/fdsys/
 - 2 CFR 175.15(b), "Award Term for Trafficking in Persons" — N/A
 - 28 CFR 38, "Equal Treatment for Faith-Based Organizations"
 - 28 CFR 66, "U.S. Department of Justice Common Rule for State And Local Governments" (Common Rule)
 - 28 CFR 83, "Government-Wide Requirements for Drug-Free Workplace (Grants)"
 - 28 CFR 18, 22, 23, 30, 35, 42, 61, and 63
- Public Law 109-162, Title XI—Department of Justice Reauthorization, Subtitle B—Improving the Department of Justice's Grant Programs, Chapter 1—Assisting Law Enforcement and Criminal Justice Agencies, Sec. 1111. Merger of Byrne Grant Program and Local Law Enforcement Block Grant Program: www.bja.gov/ProgramDetails.aspx?Program_ID=59.
- United States Code: www.gpo.gov/fdsys/
 - 42 U.S.C. 3711 et seq., "Omnibus Crime Control and Safe Streets Act of 1968"
- State of Florida General Records Schedule GS1-SL for State and Local Government Agencies: <http://dils.dos.state.fl.us/barm/genschedules/GS2-2008-Rev2010.pdf>
- State of Florida Statutes 215.971 (Agreements funded with federal or state assistance) and 215.985 (Transparency in government spending)

2. Requirements for Contractors of Subgrant Recipients

The subgrant recipient assures the compliance of all contractors with the applicable provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3711 et seq. at www.gpo.gov/fdsys/); the provisions of the current edition of the Office of Justice Programs Financial Guide (www.ojp.usdoj.gov/financialguide/index.htm); and all other applicable federal and state laws, orders, circulars, or regulations.

3. Allowable Costs

This does not appear applicable to the City is using the grant to buy 1 piece of equipment

a. Allowance for costs incurred under the subgrant shall be determined according to the general principles and standards for selected cost items set forth in the Office of Justice Programs Financial Guide, U.S. Department of Justice Common Rule for State And Local Governments and federal OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments," or OMB Circular A-21, "Cost Principles for Educational Institutions."

b. All procedures employed in the use of federal funds for any procurement shall be according to U.S. Department of Justice Common Rule for State and Local Governments, or OMB Circular A-110, or OMB Circular A-102, and Florida law to be eligible for reimbursement.

4. Reports

a. Project Performance Reports

Verify with state whether this is required because grant is to purchase 1 piece of equipment

(1) Reporting Time Frames: The subgrant recipient shall submit Quarterly Project Performance Reports to the Florida Department of Law Enforcement, hereafter known as the Department, within fifteen (15) days after the end of the reporting period. In addition, if the subgrant award period is extended beyond the "original" project period, additional Quarterly Project Performance Reports shall be submitted.

Failure to submit Quarterly Performance Reports that are complete, accurate, and timely may result in sanctions, as specified in item 19, Performance of Agreement Provisions.

(2) Report Contents: Performance Reports must include a response to all objectives included in your subgrant. A detailed response is required in the narrative portion for yes/no performance objectives. The narrative must also reflect on accomplishments for the quarter and identify problems with project implementation and address actions being taken to resolve the problems. Additional information may be required if necessary to comply with federal reporting requirements.

(3) Submission: Performance Reports may be submitted by the Project Director, Application Manager, or Performance Contacts.

b. Financial Reports

(1) Project Expenditure Reports

(a) The subgrant recipient shall have a choice of submitting either a Monthly or a Quarterly Project Expenditure Report to the Department. Project Expenditure Reports are due thirty (30) days after the end of the reporting period. In addition, if the subgrant award period is extended, additional Project Expenditure Reports shall be submitted.

(b) All project expenditures for reimbursement of subgrant recipient costs shall be submitted on the Project Expenditure Report Forms prescribed and provided by the Office of Criminal Justice Grants (OCJG) through the SIMON (Subgrant Information Management ON-line)

(c) All Project Expenditure Reports shall be submitted in sufficient detail for proper pre-audit and post-audit.

(d) Before the "final" Project Expenditure Report will be processed, the subgrant recipient must submit to the Department all outstanding project reports and must have satisfied all special conditions. Failure to comply with the above provisions shall result in forfeiture of reimbursement.

(e) Reports are to be submitted even when no reimbursement is being requested.

Same comment as a. above

- (f) The report must be electronically signed by the subgrant recipient or implementing agency's Chief Financial Officer or the Chief Financial Officer designee.

(2) Financial Closeout Audit

- (a) The Financial Closeout Audit shall be submitted to the Department within forty-five (45) days of the subgrant expiration date.
- (b) The Financial Closeout Audit must be electronically signed by the subgrant recipient or implementing agency's Chief Financial Officer or the Chief Financial Officer designee.

(3) Project Generated Income (PGI)

- (a) If applicable, the subgrant recipient shall submit Quarterly PGI Earnings and Expenditures Reports to the Department within thirty (30) days after the end of the reporting period covering subgrant project generated income and expenditures during the previous quarter. If any PGI remains unspent after the subgrant ends, the subgrant recipient must continue submitting quarterly PGI reports until all funds are expended. (See Item 11, Program Income.)
- (b) PGI Earnings and Expenditures reports must be electronically signed by the subgrant recipient or implementing agency's chief financial officer or the chief financial officer's designee.

c. Other Reports

The subgrant recipient shall report to the Uniform Crime Report and other reports as may be reasonably required by the Department.

5. Fiscal Control and Fund Accounting Procedures

Verify with Finance that these requirements can be met. (5.a-d.)

- a. All expenditures and cost accounting of funds shall conform to the Office of Justice Programs Financial Guide, the Common Rule, and OMB Circulars A-21, A-87, and A-110, or A-102 as applicable, in their entirety.
- b. The subgrant recipient is required to establish and maintain adequate accounting systems and financial records and to accurately account for funds awarded to them. As a subgrant recipient, you must have a financial management system in place that is able to record and report on the receipt, obligation, and expenditure of grant funds. An adequate accounting system for a subgrant recipient must be able to accommodate a fund and account structure to separately track receipts, expenditures, assets, and liabilities for awards, programs, and subgrant recipients.
- c. All funds spent on this project shall be disbursed according to provisions of the project budget as approved by the Department.
- d. All funds not spent in accordance with this agreement shall be subject to repayment by the subgrant recipient.

6. Payment Contingent on Appropriation and Available Funds

The State of Florida's performance and obligation to pay under this agreement is contingent upon an annual appropriation by the Florida Legislature. Furthermore, the obligation of the State of Florida to reimburse subgrant recipients for incurred costs is subject to available federal funds.

7. Obligation of Subgrant Recipient Funds

Subgrant funds shall not under any circumstances be obligated prior to the effective date, or subsequent to the termination date, of the subgrant award period. Only project costs incurred on or after the effective date, and on or prior to the termination date of the subgrant recipient's

project are eligible for reimbursement. All payments must be completed within thirty (30) days of the end of the subgrant period.

8. Advance Funding

Advance funding may be provided to a subgrant recipient upon a written request to the Department. The request must be electronically signed by the subgrant recipient or implementing agency's Chief Financial Officer or the Chief Financial Officer designee.

9. Trust Funds

Verify with Finance that option a. or b. is in place.

- a. The unit of local government must establish a trust fund in which to deposit JAG funds. The trust fund may or may not be an interest bearing account.
- b. The account may earn interest, but any earned interest must be used for program purposes and expended before the federal grant period end date. Any unexpended interest remaining at the end of the federal grant period must be submitted to the Office of Criminal Justice Grants for transmittal to the Bureau of Justice Assistance.

10. Travel and Training

This does not appear applicable given use for grant money.

The cost of all travel shall be reimbursed according to the subgrant recipient's written travel policy. If the subgrant recipient does not have a written travel policy, cost of all travel will be reimbursed according to State of Florida Travel Guidelines § 112.061, Fla. Stat. Any foreign travel must obtain prior written approval.

11. Program Income (also known as Project Generated Income)

This does not appear applicable given use for grant money, but recommend verifying w/ P.D.

- a. All income generated as a direct result of a subgrant project shall be deemed program income.
- b. Any project that will potentially earn PGI must submit an Earnings and Expenditures Report to report how much PGI was earned during each quarter. A report must be submitted each quarter even if no PGI was earned or expended. PGI Earnings and Expenditures reports must be electronically signed by the subgrant recipient or implementing agency's Chief Financial Officer or the Chief Financial Officer designee.
- c. PGI expenditures require prior written approval from the Office of Criminal Justice Grants. Program income must be used for the purposes of and under the conditions applicable to the award. If the cost is allowable under the federal grant program, then the cost would be allowable using program income. PGI budget requests must be signed by the subgrant recipient or implementing agency's Chief Financial Officer or the Chief Financial Officer designee.
- d. Program income should be used as earned and expended as soon as possible. Any unexpended PGI remaining at the end of the federal grant period must be submitted to OCJG for transmittal to the Bureau of Justice Assistance.

12. Approval of Consultant Contracts

This does not appear applicable given use for grant money.

The Department shall review and approve in writing all consultant contracts prior to employment of a consultant when the consultant's rate exceeds \$650 (excluding travel and subsistence costs) per eight-hour day, or \$81.25 per hour. A detailed justification must be submitted to and approved by FDLE prior to obligation or expenditures of such funds. Approval shall be based upon the contract's compliance with requirements found in the Financial Guide, the Common Rule, and in applicable state statutes. The Department's approval of the subgrant recipient agreement does not constitute approval of consultant contracts. If consultants are hired through a competitive bidding process (not sole source), the \$650 threshold does not apply.

13. Property Accountability

Video enhancement system must be used for a criminal justice purpose. see memo.

- a. The subgrant recipient agrees to use all non-expendable property for criminal justice purposes during its useful life or dispose of it pursuant to § 274, Fla. Stat.

- b. The subgrant recipient shall establish and administer a system to protect, preserve, use, maintain and dispose of any property furnished to it by the Department or purchased pursuant to this agreement according to federal property management standards set forth in the Office of Justice Programs Financial Guide, U.S. Department of Justice Common Rule for State and Local Governments or the federal OMB Circular A-110 or A-102, as applicable. This obligation continues as long as the subgrant recipient retains the property, notwithstanding expiration of this agreement.

14. Ownership of Data and Creative Material

Ownership of material, discoveries, inventions, and results developed, produced, or discovered subordinate to this agreement is governed by the terms of the Office of Justice Programs Financial Guide (as amended), and the U.S. Department of Justice Common Rule for State and Local Governments, or the federal OMB Circular A-110 or A-102, as applicable.

15. Copyright

The awarding agency reserves a royalty-free non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for federal government purposes:

- a. The copyright in any work developed under an award or subaward, and
- b. Any rights of copyright to which a subgrant recipient or subrecipient purchases ownership with support funded under this grant agreement.

16. Patents

If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the federal award or subaward funds, such facts must be promptly and fully reported to the awarding agency.

- a. Unless there is a prior agreement between the subgrant recipient and the Department on disposition of such items, the Department may determine whether protection on the invention or discovery will be sought.
- b. The Department will also determine how rights in the invention or discovery (including rights under any patents issued) will be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" ("President's Memorandum for Heads of Executive Departments and Agencies," dated August 23, 1971, and statement of Government patent policy, as printed in 36 Federal Register 16839).
- c. Government regulations have been issued in Title 37 CFR Part 401 by the U.S. Department of Commerce.

17. Publication or Printing of Reports

The subgrant recipient shall submit for review and approval one copy of any curricula, training materials, or any other written materials that will be published, including web-based materials and web site content, through funds from this grant at least thirty (30) days prior to the targeted dissemination date. The subgrantee understands and agrees that any training materials developed or delivered with grant funding must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees available at www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm

All materials publicizing or resulting from award activities shall contain the following statements:

"This project was supported by Award No. _____ awarded by the Bureau of Justice Assistance, Office of Justice Programs. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the authors and do not necessarily reflect the views of the Department of Justice".

18. Audit

- I do not know the total value of federal grants for 2015. If less than \$500,000, this section does not appear applicable, except (f) below.
- This ~~star~~ will apply if City receives less than \$500,000 for 2015 fiscal year.
- a. Subgrant recipients that expend \$500,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year. The audit shall be performed in accordance with the federal OMB Circular A-133 and other applicable federal law. The contract for this agreement shall be identified in the Schedule of Federal Financial Assistance in the subject audit. The contract shall be identified as federal funds passed through the Florida Department of Law Enforcement and include the contract number, CFDA number, award amount, contract period, funds received and disbursed. When applicable, the subgrant recipient shall submit an annual financial audit that meets the requirements of § 11.45, Fla. Stat., "Definitions; duties; authorities; reports; rules."; § 215.97, Fla. Stat., "Florida Single Audit Act"; and Rules of the Auditor General, Chapter 10.550, "Local Governmental Entity Audits" and Chapter 10.650, "Florida Single Audit Act Audits Nonprofit and For-Profit Organizations."
 - b. A complete audit report that covers any portion of the effective dates of this agreement must be submitted within 30 days after its completion, but no later than nine (9) months after the audit period. In order to be complete, the submitted report shall include any management letters issued separately and management's written response to all findings, both audit report and management letter findings. Incomplete audit reports will not be accepted by the Department.
 - c. The subgrant recipient shall have all audits completed by an Independent Public Accountant (IPA). The IPA shall be either a Certified Public Accountant or a Licensed Public Accountant.
 - d. The subgrant recipient shall take appropriate corrective action within six (6) months of the issue date of the audit report in instances of noncompliance with federal laws and regulations.
 - e. The subgrant recipient shall ensure that audit working papers are made available to the Department, or its designee, upon request for a period of three (3) years from the date the audit report is issued, unless extended in writing by the Department.
 - f. Subgrant recipients that expend less than \$500,000 in federal awards during a fiscal year are exempt from the audit requirements of OMB Circular A-133 for that fiscal year. In this case, written notification, which can be in the form of the "Certification of Audit Exemption" form, shall be provided to the Department by the Chief Financial Officer, or designee, that the subgrant recipient is exempt. This notice shall be provided to the Department no later than March 1 following the end of the fiscal year.
 - g. If this agreement is closed out without an audit, the Department reserves the right to recover any disallowed costs identified in an audit completed after such closeout.
 - h. A scanned copy of the completed audit reports or a link to the electronic audit report should be sent via email to criminaljustice@fldle.state.fl.us or mailed to the following address:

Florida Department of Law Enforcement
Office of Criminal Justice Grants
Post Office Box 1489
Tallahassee, Florida 32302-1489

19. Performance of Agreement Provisions

In the event of default, non-compliance or violation of any provision of this agreement by the subgrant recipient, the subgrant recipient's consultants and suppliers, or both, the Department shall impose sanctions it deems appropriate including withholding payments and cancellation, termination, or suspension of the agreement in whole or in part. In such event, the Department shall notify the subgrant recipient of its decision thirty (30) days in advance of the effective date of such sanction. The subgrant recipient shall be paid only for those services satisfactorily performed prior to the effective date of such sanction.

20. Commencement of Project

This does not appear applicable given that grant money is for a single purchase, rather than a project.

- a. If a project is not operational within 80 days of the original start date of the award period, the subgrant recipient must report by letter to the Department the steps taken to initiate the project, the reasons for delay, and the expected start date.
- b. If a project is not operational within 90 days of the original start date of the award period, the subgrant recipient must submit a second statement to the Department explaining the implementation delay.
- c. Upon receipt of the ninety (90) day letter, the Department shall determine if the reason for delay is justified or shall, at its discretion, unilaterally terminate this agreement and re-obligate subgrant funds to other Department approved projects. The Department, where warranted by extenuating circumstances, may extend the starting date of the project past the ninety (90) day period, but only by formal written adjustment to this agreement.

21. Excusable Delays

(Same as 20)

- a. Except with respect to defaults of consultants, the subgrant recipient shall not be in default by reason of any failure in performance of this agreement according to its terms (including any failure by the subgrant recipient to make progress in the execution of work hereunder which endangers such performance) if such failure arises out of causes beyond the control and without the fault or negligence of the subgrant recipient. Such causes include, but are not limited to, acts of God or of the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case, the failure to perform shall be beyond the control and without the fault or negligence of the subgrant recipient.
- b. If failure to perform is caused by failure of a consultant to perform or make progress, and if such failure arises out of causes beyond the control of subgrant recipient and consultant, and without fault or negligence of either of them, the subgrant recipient shall not be deemed in default, unless:
 - (1) Supplies or services to be furnished by the consultant were obtainable from other sources,
 - (2) The Department ordered the subgrant recipient in writing to procure such supplies or services from other sources, and
 - (3) The subgrant recipient failed to reasonably comply with such order.
- c. Upon request of the subgrant recipient, the Department shall ascertain the facts and the extent of such failure, and if the Department determines that any failure to perform was occasioned by one or more said causes, the delivery schedule shall be revised accordingly.

22. Grant Adjustments

This does not appear applicable given that grant is for a purchase, rather than a project.

- a. Subgrant recipients must submit a grant adjustment through SIMON for major substantive changes such as changes in project activities or scope of the project, target populations, service providers, implementation schedules, project director, and designs or research plans set forth in the approved agreement and for any budget changes that affect a cost category that was not included in the original budget. Adjustments are also required when there will be a transfer of 10% or more of the total budget between budget categories, or there is an indirect cost rate category change.
- b. Subgrant recipients may transfer up to 10% of the total budget between current, approved budget categories without prior approval as long as the funds are transferred to an existing line item.
- c. Under no circumstances can transfers of funds increase the total budgeted award.

- d. Requests for changes to the subgrant agreement must be electronically signed by the subgrant recipient or implementing agency's chief official or the chief official's designee.

23. Disputes and Appeals

- a. The Department shall make its decision in writing when responding to any disputes, disagreements, or questions of fact arising under this agreement and shall distribute its response to all concerned parties. The subgrant recipient shall proceed diligently with the performance of this agreement according to the Department's decision.
- b. If the subgrant recipient appeals the Department's decision, the appeal also shall be made in writing within twenty-one (21) calendar days to the Department's clerk (agency clerk). The subgrant recipient's right to appeal the Department's decision is contained in § 120, Fla. Stat., and in procedures set forth in Rule 28-106.104, Florida Administrative Code. Failure to appeal within this time frame constitutes a waiver of proceedings under § 120, Fla. Stat.

24. Conferences and Inspection of Work

Conferences may be held at the request of any party to this agreement. At any time, a representative of the Department, of the U.S. Department of Justice, or the Auditor General of the State of Florida, have the right of visiting the project site to monitor, inspect and assess work performed under this agreement.

25. Access to Records

Must permit access to records

- a. The Florida Department of Law Enforcement, the Auditor General of the State of Florida, the U.S. Department of Justice, the U.S. Comptroller General or any of their duly authorized representatives, shall have access to books, documents, papers and records of the subgrant recipient, implementing agency and contractors for the purpose of audit and examination according to the Financial Guide and the Common Rule.
- b. The Department reserves the right to unilaterally terminate this agreement if the subgrant recipient, implementing agency, or contractor refuses to allow public access to all documents, papers, letters, or other materials subject to provisions of § 119, Fla. Stat., unless specifically exempted and/or made confidential by operation of § 119, Fla. Stat., and made or received by the subgrant recipient or its contractor in conjunction with this agreement.
- c. The subgrant recipient will give the awarding agency or the General Accounting Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.

26. Retention of Records

Five year record retention requirement & comply w/ State of Fla. records requirements. I recommend reviewing city policies to insure compliance.

The subgrant recipient shall maintain all records and documents for a minimum of five (5) years from the date of the final financial statement and be available for audit and public disclosure upon request of duly authorized persons. The subgrant recipient shall comply with State of Florida General Records Schedule GS1-SL for State and Local Government Agencies: <http://dils.dos.state.fl.us/barm/qenschedules/GS2-2008-Rev2010.pdf>

27. Personnel Changes

Upon implementation of the project, in the event there is a change in Chief Officials for the Subgrant recipient or Implementing Agency or any contact information to include mailing address, phone number, email or title change, project staff must notify the SIMON help desk to update the organizational information in SIMON. If the project director changes, a grant adjustment must be entered in SIMON to reflect the change.

28. Background Check

#27: Does not appear applicable.

Whenever a background screening for employment or a background security check is required by law for employment, unless otherwise provided by law, the provisions of § 435, Fla. Stat. shall apply.

↳ I presume the police department already follows these requirements but recommend verification.

Not applicable

a. All positions in programs providing care to children, the developmentally disabled, or vulnerable adults for 15 hours or more per week; all permanent and temporary employee positions of the central abuse hotline; and all persons working under contract who have access to abuse records are deemed to be persons and positions of special trust or responsibility and require employment screening pursuant to § 435, Fla. Stat., using the level 2 standards set forth in that chapter.

This may be applicable if so, B.H. 435 must be followed.

b. All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of the subsection, security background investigations shall include, but not be limited to, employment history checks, fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

As to b., I presume the Police Dept. already does this type of screening, but I recommend verifying.

(1) Any person who is required to undergo such a security background investigation and who refuses to cooperate in such investigation or refuses to submit fingerprints shall be disqualified for employment in such position or, if employed, shall be dismissed.

(2) Such background investigations shall be conducted at the expense of the employing agency or employee. When fingerprinting is required, the fingerprints of the employee or applicant for employment shall be taken by the employing agency or by an authorized law enforcement officer and submitted to the Department of Law Enforcement for processing and forwarding, when requested by the employing agency, to the United States Department of Justice for processing. The employing agency shall reimburse the Department of Law Enforcement for any costs incurred by it in the processing of the fingerprints.

29. Drug Court Projects

Not applicable

A Drug Court Project must comply with § 397.334, Fla. Stat., "Treatment-Based Drug Court Programs."

30. Overtime for Law Enforcement Personnel

This is not applicable given use of grant to purchase equipment.

Prior to obligating funds from this award to support overtime by law enforcement officers, the U.S. Department of Justice encourages consultation with all allied components of the criminal justice system in the affected jurisdiction. The purpose of this consultation is to anticipate and plan for systemic impacts such as increased court dockets and the need for detention space.

31. Criminal Intelligence System

I do not know if the video enhancements system is an "information technology system."

a. The subgrant recipient agrees that any information technology system funded or supported by the Office of Justice Programs funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if the Office of Justice Programs determines this regulation to be applicable. Should the Office of Justice Programs determine 28 C.F.R. Part 23 to be applicable, the Office of Justice Programs may, at its discretion, perform audits of the system, as per 28 C.F.R. 23.20(g). Should any violation of 28 C.F.R. Part 23 occur, the subgrant recipient may be fined as per 42 U.S.C. 3789g(c)-(d). The subgrant recipient may not satisfy such a fine with federal funds.

Verify this with IT dept. Police may still have access for investigations.

b. The subgrantee understands and agrees that no awarded funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography. In doing so the subgrantee agrees the these restrictions will not limit the use of awarded funds necessary for any federal, state, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecutions, or adjudication activities.

32. Confidential Funds

This does not appear applicable.

A signed certification that the project director or the head of the Implementing Agency has read, understands, and agrees to abide by all of the conditions for confidential funds as set forth in the effective edition of the Office of Justice Programs Financial Guide is required from all projects that are involved with confidential funds. The signed certification must be submitted at the time of grant application.

33. Civil Rights Compliance

See memo.

a. Federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, disability, or age in funded programs or activities. All subgrant recipients, implementing agencies, and contractors must comply with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); and Department of Justice Non-Discrimination Regulations 28 CFR Part 42; see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).

b. FDLE does not discriminate on the basis of race, color, religion, national origin, sex, disability, or age in the delivery of services or benefits or in employment. The subgrant recipient must notify program participants and beneficiaries that it does not discriminate on the basis of race, color, national origin, religion, sex, disability, and age in the delivery of services or benefits or in employment practices.

— there are
no one knew
no program

Not applicable.

c. Subgrant recipients are responsible for ensuring that contractors, vendors, and agencies to whom they pass-through funds are in compliance with all Civil Rights requirements and that the contractors, vendors, and agencies are aware that they may file a discrimination complaint with the subgrant recipient, with FDLE, or with the Office for Civil Rights and how to do so.

See Memo.

d. Equal Employment Opportunity Plans

(1) A subgrant recipient or implementing agency must develop an EEO Plan if it has 50 or more employees and it has received any single award of \$25,000 or more from the Department of Justice. The plan must be prepared using the on-line short form at www.ojp.usdoj.gov/about/ocr/eeop_comply.htm, must be retained by the subgrant recipient or implementing agency, and must be available for review or audit. The organization must also submit an EEO Certification to FDLE.

(2) If the subgrant recipient or implementing agency is required to prepare an EEO Plan and has received any single award of \$500,000 or more from the Department of Justice, it must submit its plan to the Department of Justice for approval. A copy of the Department of Justice approval letter must be submitted to FDLE. The approval letter expires two years from the date of the letter.

(3) A subgrant recipient or implementing agency is exempt from the EEO Plan requirement if it has fewer than 50 employees or if it does not receive any single award of \$25,000 or more from the Department of Justice or if it is a nonprofit organization, a medical or educational institution, or an Indian Tribe. If an organization is exempt from the EEO Plan requirement, it must submit an EEO Certification to FDLE.

(4) The subgrant recipient and implementing agency acknowledge that failure to comply with EEO Requirements within 60 days of the project start date may result in suspension or termination of funding, until such time as it is in compliance.

e. In the event a federal or state court or federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to FDLE and to the Office for Civil Rights, Office of Justice Programs.

f. In accordance with federal civil rights laws, the subgrant recipient shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

Not applicable

g. Subgrant recipients must include comprehensive Civil Rights/Nondiscrimination Provisions in all contracts funded by the subgrant recipient.

h. If the subgrant recipient or any of its employees, contractors, vendors, or program beneficiaries has a discrimination complaint, they may file a complaint with the subgrant recipient, with FDLE or with the Office for Civil Rights. Discrimination complaints may be submitted to FDLE at Office of the Inspector General, Post Office Box 1489, Tallahassee, Florida 32302-1489 or online at info@fdle.state.fl.us. Discrimination complaints may also be submitted to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, Northwest, Washington, D.C. 20531, or by phone at (202) 307-0690.

Procedure in place for employees

i. The subgrant recipient must have procedures in place for responding to discrimination complaints that employees and clients, customers, and program participants file directly with the subgrant recipient.

Not applicable

Not applicable

j. The subgrant recipient must have written policies or procedures in place for notifying program beneficiaries how to file complaints alleging discrimination by the subgrantee/implementing agency with FDLE or the OCR.

k. Any discrimination complaints filed with FDLE will be reviewed by FDLE's Inspector General and referred to the Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission, based on the nature of the complaint.

This is a statement of existing law.

l. Americans with Disabilities Act
Subgrant recipients must comply with the requirements of the Americans with Disabilities Act (ADA), Public Law 101-336, which prohibits discrimination by public and private entities on the basis of disability and requires certain accommodations be made with regard to employment (Title I), state and local government services and transportation (Title II), public accommodations (Title III), and telecommunications (Title IV).

See Memo.

m. Rehabilitation Act of 1973 (28 C.F.R. Part 42, Subpart G)
If the subgrant recipient has 50 or more employees and receives DOJ funding of \$25,000 or more, the subgrant recipient must take the following actions:

(1) Adopt grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Section 504 of the Rehabilitation Act of 1973, found at 28 C.F.R. Part 42, Subpart G, which prohibit discrimination on the basis of a disability in employment practices and the delivery of services.

(2) Designate a person to coordinate compliance with the prohibitions against disability discrimination contained in 28 C.F.R. Part 42, Subpart G.

(3) Notify participants, beneficiaries, employees, applicants, and others that the subgrantee/implementing agency does not discriminate on the basis of disability.

Limited English Proficiency (LEP)
In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with LEP. For more information on the civil rights responsibilities that recipients have in

Police Dept. should review their programs + activities to determine the level of

access for non-English speaking individuals. No formal plan is required.

providing language services to LEP individuals, please see the website at www.lep.gov.
FDLE strongly encourages subgrant recipients to have a written LEP Language Access Plan.

- o. Title IX of the Education Amendments of 1972 (28 C.F.R. Part 54)
If the subgrant recipient operates an education program or activity, the subgrant recipient must take the following actions:

Not applicable

- (1) Adopt grievance procedures that provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Title IX of the Education Amendments of 1972, found at 28 C.F.R. Part 54, which prohibit discrimination on the basis of sex.
- (2) Designate a person to coordinate compliance with the prohibitions against sex discrimination contained in 28 C.F.R. Part 54.
- (3) Notify applicants for admission and employment, employees, students, parents, and others that the subgrantee/implementing agency does not discriminate on the basis of sex in its educational programs or activities.

This section does not appear applicable.

- p. Equal Treatment for Faith Based Organizations
The subgrant recipient agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. The subgrantee also understands and agrees that award funds may not be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from the award, or the parent or legal guardian of such students. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See www.ojp.gov/about/ocr/equal_fbo.htm.

34. Immigration and Nationality Act

The City cannot use grant money to purchase items from contractor who knowingly employs unauthorized alien workers. Recommend a certification in contract.

35. National Environmental Policy Act (NEPA)

- a. The subgrant recipient agrees to assist FDLE in complying with the NEPA, the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of subgrant funds by the subgrant recipient. This applies to the following new activities whether or not they are being specifically funded with these subgrant funds. That is, it applies as long as the activity is being conducted by the subgrant recipient or any third party and the activity needs to be undertaken in order to use these subgrant funds. Accordingly, the subgrantee 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 grant, the grantee agrees to contact FDLE OCJG.

This section is not applicable.

- (1) New construction
 - (2) Minor renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) 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;
 - (3) A renovation, lease, or any other 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; and
 - (4) 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 educational environments.
 - (5) Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.
- b. The subgrant 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 the Bureau of Justice Assistance. The subgrant recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed by the Department of Justice at www.bja.gov/Funding/nepa.html, for programs relating to methamphetamine laboratory operations.
 - c. For any of a subgrant recipient's existing programs or activities that will be funded by these subgrants, the subgrant recipient, upon specific request from the Department and the U.S. Department of Justice, agrees to cooperate with the Department of Justice in any preparation by Department of Justice of a national or program environmental assessment of that funded program or activity.

36. Mitigation of Health, Safety and Environmental risks dealing with Clandestine Methamphetamine Laboratories

If an award is made to support methamphetamine laboratory operations the subgrant recipient must comply with this condition, which provides for individual site environmental assessment/impact statements as required under the National Environmental Policy Act.

This section does not appear applicable.

- a. **General Requirement:** The subgrant recipient agrees to comply with federal, state, and local environmental, health and safety laws and regulations applicable to the investigation and closure of clandestine methamphetamine laboratories and the removal and disposal of the chemicals, equipment, and wastes used in or resulting from the operation of these laboratories. The subgrant recipient also agrees to complete a Methamphetamine Mitigation Plan (MMP) that includes the nine protective measures or components required by BJA and submit the plan to FDLE's Office of Criminal Justice Grants.
- b. **Specific Requirements:** The subgrant recipient understands and agrees that any program or initiative involving the identification, seizure, or closure of clandestine methamphetamine laboratories can result in adverse health, safety and environmental impacts to (1) the law enforcement and other governmental personnel involved; (2) any residents, occupants, users, and neighbors of the site of a seized clandestine laboratory; (3) the seized laboratory site's immediate and surrounding environment of the site(s) where any remaining chemicals, equipment, and waste from a seized laboratory's operations are placed or come to rest. Therefore, the subgrant recipient further agrees that in order to avoid or mitigate the possible adverse health, safety and environmental impacts from any of clandestine methamphetamine operations funded under this award, it will (1) include the nine, below listed protective measures or components; (2) provide for their adequate funding to include funding, as necessary, beyond that provided by this award; and (3) implement these protective measures directly throughout the life of the subgrant. In so doing, the subgrant

recipient understands that it may implement these protective measures directly through the use of its own resources and staff or may secure the qualified services of other agencies, contractor or other qualified third party.

- (1) Provide medical screening of personnel assigned or to be assigned by the subgrant recipient to the seizure or closure of clandestine methamphetamine laboratories;
- (2) Provide Occupational Safety and Health Administration (OSHA) required initial and refresher training for law enforcement officials and other personnel assigned by the subgrant recipient to either the seizure or closure of clandestine methamphetamine laboratories;
- (3) As determined by their specific duties, equip personnel assigned to the project with OSHA required protective wear and other required safety equipment;
- (4) Assign properly trained personnel to prepare a comprehensive contamination report on each closed laboratory;
- (5) Employ qualified disposal contractors to remove all chemicals and associated glassware, equipment, and contaminated materials and wastes from the site(s) of each seized clandestine laboratory;
- (6) Dispose of the chemicals, equipment, and contaminated materials and wastes removed from the sites of seized laboratories at properly licensed disposal facilities or, when allowable, properly licensed recycling facilities;
- (7) Monitor the transport, disposal, and recycling components of subparagraphs 5 and 6 immediately above in order to ensure proper compliance;
- (8) Have in place and implement an inter-agency agreement or other form of commitment with a responsible State environmental agency that provides for that agency's (i) timely evaluation of the environmental conditions at and around the site of a closed clandestine laboratory and (ii) coordination with the responsible party, property owner, or others to ensure that any residual contamination is remediated, if necessary, and in accordance with existing federal and state requirements; and
- (9) Have in place and implement a written agreement with the responsible state or local service agencies to properly respond to any minor, as defined by state law, at the site. This agreement must ensure immediate response by qualified personnel who can (i) respond to the potential health needs of any minor at the site; (ii) take that minor into protective custody unless the minor is criminally involved in the meth lab activities or is subject to arrest for other criminal violations; (iii) ensure immediate medical testing for methamphetamine toxicity; and (iv) arrange for any follow-up medical tests, examinations, or health care made necessary as a result of methamphetamine toxicity

37. Non-Procurement, Debarment and Suspension

The subgrant recipient agrees to comply with Executive Order 12549, Debarment and Suspension and 2 CFR 180, "OMB Guidelines To Agencies On Governmentwide Debarment And Suspension (Nonprocurement)" These procedures require the subgrant recipient to certify it shall not enter into any lower tiered covered transaction with a person who is debarred, suspended, declared ineligible or is voluntarily excluded from participating in this covered transaction, unless authorized by the Department. If the subgrant is \$100,000 or more, the subgrant recipient and implementing agency certify that they and their principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department or agency;
- b. Have not within a three-year period preceding this application been convicted of or had a civil

City should insure that equipment is not purchased from a debarred or suspended vendor. Obtain a certification from vendor in the contract.

judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- d. Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

38. Federal Restrictions on Lobbying

- a. Each subgrant recipient agrees to comply with 28 CFR Part 69, "New Restrictions on Lobbying" and shall file the most current edition of the Certification And Disclosure Form, if applicable, with each submission that initiates consideration of such subgrant recipient for award of federal contract, grant, or cooperative agreement of \$100,000 or more.
- b. This certification is a material representation of fact upon which reliance was placed when this agreement was made. Submission of this certification is a prerequisite to entering into this agreement subject to conditions and penalties imposed by 31 USC 1352. Any person who fails to file the required certification is subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure to file.
- c. As required by 31 USC 1352, and implemented at 28 CFR 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR 69, the applicant certifies that:
 - (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
 - (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subgrant recipients shall certify and disclose accordingly.

39. State Restrictions on Lobbying

In addition to the provisions contained in Item 38, above, the expenditure of funds for the purpose of lobbying the legislature or a state agency is prohibited under this contract.

40. Additional Restrictions on Lobbying

The subgrant recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of the Office of Justice Programs.

This section does not appear applicable.

City cannot use grant money for lobbying at state level.

No use of federal funds for lobbying

41. "Pay - to - Stay"

This section does not appear applicable.

Funds from this award may not be used to operate a "pay-to-stay" program in any local jail. Furthermore, no funds may be given to local jails that operate "pay-to-stay" programs. "Local jail," as referenced in this condition, means an adult facility or detention center owned and/or operated by city, county, or municipality. It does not include juvenile detention centers. "Pay-to-stay" programs as referenced in this condition, means a program by which extraordinary services, amenities and/or accommodations, not otherwise available to the general inmate population, may be provided, based upon an offender's apparent ability to pay, such that disparate conditions of confinement are created for the same or similar offenders within a jurisdiction.

42. The Coastal Barrier Resources Act

This section does not appear applicable.

The subgrant recipient will comply and assure the compliance of all contractors with the provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.) which prohibits the expenditure of most new federal funds within the units of the Coastal Barrier Resources System.

43. Enhancement of Security

If the video system is to enhance security, then City must comply with a. & b.

If funds are used for enhancing security, the subgrant recipient agrees to:

- a. Have an adequate process to assess the impact of any enhancement of a school security measure that is undertaken on the incidence of crime in the geographic area where the enhancement is undertaken.
- b. Conduct such an assessment with respect to each such enhancement; and, submit to the Department the aforementioned assessment in its Final Program Report.

44. Environmental Protection Agency's (EPA) list of Violating Facilities

Verify with Police Dept.

The subgrant recipient assures that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the Program Purpose are not listed on the EPA's list of Violating Facilities and that it will notify the Department of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

45. Flood Disaster Protection Act

This section does not appear applicable.

The subgrant recipient will comply with Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, requiring that the purchase of flood insurance in communities where such insurance is available as a condition of the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified as an area having special flood hazards.

46. National Historic Preservation Act

Required if regulated by relevant agency.

It will assist the Department (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1986 (16 U.S.C. § 470), Ex. Order 11593 (Identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).

47. Human Research Subjects

This section is not applicable.

Subgrant recipient agrees to comply with the requirements of 28 C.F.R. part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtaining of Institutional Review Board approval, if appropriate, and subject informed consent.

48. Global Standards Package

Police Dept. should review & determine if it meets these requirements.

In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all

. I cannot provide guidance as I do not know how PD's systems are set up or how they exchange data with DOJ.

constituent elements, where applicable, as described at: www.it.oip.gov/gsp/grantcondition.
Grantees shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

49. Reporting, Data Collection and Evaluation

The subgrant recipient agrees to comply with all reporting, data collection and evaluation requirements, as prescribed by the Bureau of Justice Assistance in the program guidance for the Justice Assistance Grant (JAG). Compliance with these requirements will be monitored by FDLE.

50. Privacy Certification

The subgrant recipient agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Subgrant recipient further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.

51. State Information Technology Point of Contact

The subgrant recipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditures period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the subgrant recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to www.it.oip.gov/default.aspx?area=policyAndPractice&page=1046

52. Interstate Connectivity

To avoid duplicating existing networks or IT systems in any initiatives funded by the Bureau of Justice Assistance 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 subgrant recipient can demonstrate to the satisfaction of the Bureau of Justice Assistance that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

53. Supplanting

The subgrant recipient agrees that funds received under this award will not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

54. Conflict of Interest

The subgrant recipient and implementing agency will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

55. Uniform Relocation Assistance and Real Property Acquisitions Act

The subgrant recipient will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs.

56. Limitations on Government Employees Financed by Federal Assistance

The subgrant recipient will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

City needs to obtain these requirements from FDLE.

See Memo

If video system is an information tech. project follow reporting requirements in this section.

Police Dept. should review this section and issue of networks

City cannot remove regular funding due to grant.

I believe the City has this in place, but recommend verifying.

This section is not applicable.

This section is not applicable.

57. Additional Required Certifications

This section is not applicable.

Employees Working Solely on a Single Federal Award

For any position that works 100% of its time on a single federal award, the employee must certify that 100% of his or her time was spent working on that federal award. This requirement applies to both full time and part time positions regardless of the percentage of the position's salary that is charged to the grant. The certification must be signed by both the employee and the employee's direct supervisor having firsthand knowledge of the work performed by the employee. The forms must be submitted semi-annually and may not be signed prior to the end of the reporting period. Certifications must be provided to cover the entire grant period.

Sole Source

If the project requires a purchase of services or equipment from a sole source, the subgrant recipient must complete the Sole Source Justification for Services and Equipment Form. This form must be submitted upon application if applicable and pre-approval must be obtained. If the cost is below \$100,000, the form must be kept on file for review at monitoring. If the subgrantee is a state agency and the cost is at least \$150,000, then the agency must submit a copy of the approval from the Department of Management Services (F.S. 287.057(5)).

ADP Justification

The subgrant recipient must complete an Automated Data Processing (ADP) equipment and Software and Criminal Justice Information and Communication Systems Request for Approval form if the purchase of any ADP equipment is to be made. This form must be submitted upon application if applicable and pre-approval must be obtained.

Confidential Funds Certificate

For all projects involved with confidential funds the subgrant recipient must submit a confidential funds certificate. This certificate certifies the Project Director has read, understands, and agrees to abide by the provision in Chapter 8 of the Office of Justice Programs Financial Guide. This form must be submitted upon application if applicable.

Sole Source, ADP Justification, Privacy Certification forms, and Confidential Funds certifications, must be signed by the subgrant recipient or implementing agency chief official or an individual with formal, written signature authority for the chief official.

58. Timesheets

This section is not applicable.

Timesheets must be kept for all project staff whose hours will be charged to the project. The timesheets must be signed by the supervisor and clearly indicate hours spent on project activities.

59. Additional Documentation of Personnel for Department of Financial Services

This section is not applicable.

In accordance with Section 215.971, Florida Statutes, the Florida Department of Financial Services may require documentation validation that personnel services were performed on project-related activities in accordance with the contract agreement.

60. Reporting Potential Fraud, Waste, Abuse, and Similar Misconduct

City must comply & report if necessary.

The subgrant recipient must promptly refer to the Florida Department of Law Enforcement, Office of Criminal Justice Grants any credible evidence that a principal, employee, agent, contractor, subcontractor, or other person has either 1) submitted a false claim for grant funds under 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 involving grant funds.

61. Task Force Training Requirement

This section is not applicable.

The subgrant recipient agrees that within 120 days of award, each member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, will complete required online (Internet-based) task force training. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership (www.ctfii.org). All current and new task force members are required to complete this training once during the life of the award, or once every four years if multiple awards include this requirement. This 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. When FDLE award funds to support a task force, the subgrant recipient must compile and maintain a task force personnel roster along with course completion certificates. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

62. Funds to Association of Community Organizations for Reform Now (ACORN) Unallowable

Subgrant recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP.

This section does not appear applicable as system will not be purchased from ACORN.

63. High Risk Subgrant Recipients

The subgrant recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the U.S. Department of Justice determines that the subgrant recipient is a high-risk grantee. Cf. 28 C.F.R. parts 66, 70.

Self-explanatory

64. Text Messaging While Driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), and §316.305, F.S., the subgrant recipient is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this subgrant and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

This section does not appear applicable given use of grant. City Personnel Rule # 24.2 prohibits texting while driving.

65. System for Award Management (SAM)

The subgrant recipient must maintain current information in SAM until it submits the final financial report required under this award or receives the final payment, whichever is later. This requires that the subgrant recipient review and update the information at least annually after the initial registration, and more frequently if required by changes in its information or another award term.

City must comply

66. Maximum Allowable Salary

No portion of these federal grant funds shall be used towards any part of the annual cash compensation of any employee of the subgrant recipient whose total annual cash compensation exceeds 110% of the maximum salary payable to a member of the Federal government's Senior Executive Service at an agency with a Certified SES Performance Appraisal System for that year. (The salary table for SES employees is available at <http://www.opm.gov/oca/payrates/index.asp>. A subgrant recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.). This limitation on compensation rates allowable under this award may be waived on an individual basis at the discretion of the OJP official indicated in the program announcement under which this award is made.

This section is not applicable.

67. DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database

If JAG program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS), by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ FY 2012 DNA Backlog Reduction Program, available at <https://www.ncjrs.gov/pdffiles1/nij/si001062.pdf>

This section does not appear applicable based on use of grant.

In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not accepted for entry into CODIS (the National DNA Database operated by the FBI).

68. Interoperable Communications Guidance

If the video enhancement system is an emergency communication, this section must be followed.

Subgrant recipients that are using funds to support emergency communications activities must comply with the current SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications. Emergency communications activities include the purchase of Interoperable Communications Equipment and technologies such as voice-over-internet protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission (FCC) Waiver Order. SAFECOM guidance can be found at www.safecomprogram.gov/library/lists/library/DispForm.aspx?ID=334.

Subgrant recipients Grantees interested in developing a public safety broadband network in the 700 MHz band in their jurisdictions must adhere to the technical standards set forth in the FCC Waiver Order, or any succeeding FCC orders, rules, or regulations pertaining to broadband operations in the 700 MHz public safety band. The subgrant recipient shall also ensure projects support the Statewide Communication Interoperability Plan (SCIP) and are fully coordinated with the full-time Statewide Interoperability Coordinator (SWIC). If any future regulatory requirement (from the FCC or other governmental entity) results in a material technical or financial change in the project, the recipient should submit associated documentation, and other material, as applicable, for review by the SWIC to ensure coordination. Subgrant recipients must provide a listing of all communications equipment purchased with grant award funding (plus the quantity purchased of each item) to FDLE once items are procured during any periodic programmatic progress reports.

69. Ballistic-Resistant and Stab Resistant Body Armor

This section is not applicable.

Subgrant recipients that wish to purchase armor with JAG funds must certify that law enforcement agencies receiving vests have a written "mandatory wear" policy in effect. This policy must be in place for at least all uniformed officers before funding can be used by the agency for body armor. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. FAQs related to the mandatory wear policy and certifications can be found at www.bja.gov/Funding/JAGFAQ.pdf.

JAG funds may be used to purchase armor for an agency, but may not be used as the 50% match for purposes of the Bulletproof Vest Partnership (BVP) program.

Body armor purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the vests have been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and are listed on the NIJ Compliant Body Armor Model List (<http://nij.gov>). In addition, body armor purchased must be American-made. The latest NIJ standard information can be found at www.nij.gov/topics/technology/body-armor/safety-initiative.htm.

70. BJA or FDLE Sponsored Events

City must comply, if requested.

The subgrant recipient agrees to participate in BJA- or FDLE-sponsored training events, technical assistance events, or conference held by FDLE or BJA or their designees, upon FDLE's or BJA's request.

71. Expenses Related to Conferences, Meetings, Trainings, and Other Events

This section does not appear to apply given use of grant.

The subgrant recipient agrees to comply with all applicable laws, regulations, policies, and guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events. Information on pertinent laws, regulations, policies, and guidance is available at

<http://oip.gov/financialguide/PostawardRequirements/chapter15page1.htm>

72. Environmental Requirements and Energy

This section does not apply.

For subgrants in excess of \$100,000, the subgrant recipient must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C.

1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

The subgrant recipient must comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871), if any.

73. Other Federal Funds

City should verify that no other federal funds used for same purpose.

The subgrantee agrees that if it currently has an open award of federal funds or if it receives an award of federal funds other than this award, and those 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 being provided under this award, the subgrantee will promptly notify, in writing the grant manager for this award, and, if so requested by OCJG seek a budget modification or change of project scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

74. Monitoring

This is required

The recipient agrees to comply with FDLE's grant monitoring guidelines, protocols, and procedures, and to cooperate with FDLE on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and /or site visits. The recipient agrees to provide FDLE all documentation necessary to complete monitoring of the award. Further, the recipient agrees to abide by reasonable deadlines set by FDLE for providing requested documents. Failure to cooperate with FDLE grant monitoring activities may result in sanctions affecting the recipient's award, including, but not limited to: withholding and/or other restrictions on the recipient's access to funds referral to the Office of the Inspector General for audit review, designation of the recipient as a FDLE High Risk grantee, or termination of an award(s).

75. Unmanned Aerial Vehicles

This section does not appear applicable given use for grant.

The recipient agrees that awarded funds may not be expended on unmanned aircraft, unmanned aircraft systems, or aerial vehicles (US, UAS, or UAV) unless the BJA Director certifies that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order. Additionally, any funding approved for this purpose would be subject to additional reporting, which would be stipulated by FDLE post award.

MEMORANDUM

TO: Craig Leen, City Attorney
Yaneri Figueroa, Assistant City Attorney

FROM: Kara S. Nickel, Stearns Weaver Miller

CC: Abby Corbett, Stearns Weaver Miller

DATE: February 9, 2015

RE: Review of JAG Program Standard Conditions for 2015 Grant

It is my understanding that the City has applied for a grant through the Florida Department of Law Enforcement (FDLE) to obtain \$10,000 for a video enhancement system in the CID of the police department. (Grant number: 2015 JAGD 1677) The grant is part of the federal Edward Byrne Memorial Justice Assistance Grant (JAG) Program. Approval of the grant requires compliance with the "Standard Conditions" published by FDLE. Many of these conditions list references to federal law because the JAG grant funds are from the Department of Justice (DOJ).

I have provided comments on various sections in the margins of the "Standard Conditions" document, which is attached. For other sections, my comments are below.

Section 13(b) – The City must have a system to protect, preserve, use, maintain and dispose of the video enhancement system, which is the property being purchased with the federal funds. This must comply with the Department of Justice Common Rule (which is 28 CFR Pt. 66 - <http://www.gpo.gov/fdsys/pkg/CFR-2010-title28-vol2/pdf/CFR-2010-title28-vol2-part66.pdf>), or with OMB Circular A-110 (http://www.whitehouse.gov/omb/circulars_a110#30). Both the Common Rule and OMB Circular contain provisions governing the use of equipment.¹

- Common Rule: see subpart C, sections 66.20, 66.32 "Equipment", 66.33 "Supplies", 66.36 "Procurement", 66.42 "Retention and access requirements for records"
- OMB Circular A-110: see sections 30, 31, 34, 35, and 36.

The Police Department should review and make sure to comply with these sections, which include having insurance coverage for the equipment.

¹ This section also referred to OMB Circular A-102, which did not appear to be applicable.

Section 33 Civil Rights Compliance.

- Subsection a. lists a variety of federal laws, and prohibits the City from discriminating on the basis of race/color/national origin/religion/sex/disability/age in any funded programs or activities. This section does not impose any additional requirements on the Police Department because the Police Department is already required to abide by the federal, state and local laws that prohibit discrimination in the workplace (for applicants and employees), including on the basis of race, color, national origin, religion, sex, disability and age. Additionally, the Police Department is required to abide by the City's policies prohibiting discrimination against applicants and employees on the basis of all legally recognized statuses under federal, state and local law. *See* Personnel Rules 21.0 and 27.0.
- Subsection b. is not applicable because there are no program participants or beneficiaries.
- Subsection c. is not applicable because the Police Department is not "passing through" the funds, but rather is purchasing one piece of equipment.
- Subsection d. is titled "Equal Employment Opportunity Plans" and requires a qualifying subgrant recipient to prepare an equal employment opportunity plan related to the employment practices of women and minorities (Black, Hispanic, Asian & Pacific Islander, American Indian or Alaskan Native) using the DOJ's on-line form.² This will require statistical analysis of the Police Department workforce, the positions in the workforce, and the relevant labor market. It is my understanding that the Police Department does not have any such analysis currently in place.

A qualifying subgrant recipient is one that has 50 or more employees and has received any single award of \$25,000 or more from the Department of Justice. The Standard Conditions document does not specify a date for when this single grant of \$25,000 must have been received, i.e., whether it is for 2015 only or for some other time period. As a result I reviewed the relevant federal regulation, 28 CFR §42.302(d), which indicates that the term "received" is any single grant of \$25,000 or more since the Safe Streets Act was enacted in 1968.³ While the City's current JAG grant for 2015 is \$10,000, the City

² The link to prepare the plan is located at <http://ojp.gov/about/ocr/ecop.htm>, and information on what information is needed to complete the plan is located at http://ojp.gov/about/ocr/faq_eeop.htm#4.

³ The Edward Byrne Memorial Justice Assistance Grant Program (JAG) is covered by the equal employment opportunity program requirements of the Safe Streets Act's regulations, 28 CFR §§42.301-.308. (<http://ojp.gov/about/ocr/pdfs/SSANondiscriminationProvision.pdf>).

received a Byrne JAG grant of \$56,648 in 2009 as part of the stimulus funds. (The grant was for computer software and software to enable officers to receive mobile updates – see http://projects.propublica.org/recovery/gov_entities/1500/list/5) All of the DOJ-JAG grant amounts since 2009 have been for an amount of \$10,000 or less.

Given this, I recommend that the City discuss this issue with FDLE grant administrator to determine if the EEO Plan requirement is applicable to the City, particularly given that all grants for the last 5 years have been well under the \$25,000 threshold. If a plan is not applicable to the City, then there is no further action required by this subsection.

In the event that an EEO program is required, the City is required to prepare the program and maintain it on file in the event it is requested by DOJ; the City is not required to submit the program to DOJ because the City has never received a single grant of \$500,000. See subsection d.(1) and d.(2). The City would also have to submit an EEO certification to FDLE. There does not appear to be any guidance on the format for this certification, which should be addressed with the FDLE grant administrator as well.

- Subsection m. is entitled “Rehabilitation Act of 1973” and requires a qualifying subgrant recipient to take three actions related to discrimination on the basis of disability: (i) adopt grievance procedures with due process standards for complaints alleging disability discrimination in employment practices and the delivery of services; (ii) designate a coordinator for disability discrimination issues; and (iii) notify employees and applicants that the City does not discriminate on the basis of disability.⁴ The City has (ii) and (iii) already in place, but does not have a due process grievance procedure for disability related complaints by employees.

Pursuant to 28 CFR §42.505(c), a qualifying subgrant recipient is one “employing [50] or more persons and receiving Federal financial assistance from the [DOJ] of \$25,000 or more.” As written, this appears to suggest that the City must be *currently* receiving \$25,000 or more from the DOJ in order for the above three requirements to apply. In fact, this language is different than that used in 28 CFR §42.302(d) for the threshold for development of an equal opportunity employment plan, as discussed above.

I recommend that the City discuss this issue with FDLE grant administrator to determine if this interpretation is accurate. If so, then the City is not required to take any action for this section.

⁴ The third requirement also requires notice to participants and beneficiaries, but there are none under the current grant because it is being used to purchase equipment.

Section 50. Privacy Certification. This section appears to apply solely to the use and disclosure of research and statistical information that is obtained, collected or produced by various agencies of the DOJ, including Bureau of Justice Assistance, or BJA (which awards the JAG grants), or under an awarded grant. See 42 U.S.C. 3789g and 29 CFR Part 22. As the City is purchasing a piece of equipment with the grant money and is not creating or using any research or statistical information, this section does not appear applicable.

That being said, the City is required to submit a privacy certification to FDLE as a condition of grant approval. See 28 CFR §22.23(a) (<http://www.law.cornell.edu/cfr/text/28/22.23>) I recommend that the City review its initial grant application as the privacy certification may have been required at that time and already completed by the City.

If not already completed, the privacy certification must “briefly describe the project and shall contain assurance by the applicant that:”

(1) Data identifiable to a private person will not be used or revealed, except as authorized under 28 CFR §§ 22.21, 22.22.

(2) Access to data will be limited to those employees having a need therefore and that such persons shall be advised of and agree in writing to comply with these regulations.

(3) All subcontracts which require access to identifiable data will contain conditions meeting the requirements of 28 CFR § 22.24.

(4) To the extent required by 28 CF § 22.27 any private persons from whom identifiable data are collected or obtained, either orally or by means of written questionnaire, shall be advised that the data will only be used or revealed for research or statistical purposes and that compliance with requests for information is not mandatory. Where the notification requirement is to be waived, pursuant to 28 CFR § 22.27(c), a justification must be included in the Privacy Certificate.

(5) Adequate precautions will be taken to insure administrative and physical security of identifiable data.

(6) A log will be maintained indicating that identifiable data have been transmitted to persons other than BJA, OJJDP, BJS, NIJ, or OJP or grantee/contractor staff or subcontractors, that such data have been returned, or that alternative arrangements have been agreed upon for future maintenance of such data.

(7) Project plans will be designed to preserve anonymity of private persons to whom information relates, including, where appropriate, name-stripping, coding of data, or other similar procedures.

(8) Project findings and reports prepared for dissemination will not contain information which can reasonably be expected to be identifiable to a private person except as authorized under 28 CFR § 22.22.⁵

⁵ Please see the attached link for 28 CFR Part 22, which will contain all of the provisions referenced in (1-8) above. <http://www.law.cornell.edu/cfr/text/28/part-22>

Additionally, the Privacy Certification must have an attachment that contains a description of physical and/or administrative procedures to be followed to insure the security of the data to meet the requirements of 28 CFR § 22.25.