

**MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF SALINAS AND COUNTY OF MONTEREY**

**2015 LOCAL SOLICITATION:
EDWARD BYRNE MEMORIAL
JUSTICE ASSISTANCE GRANT (JAG) PROGRAM**

RECITALS

This Agreement is made and entered into this October 1, 2015, by and amongst the **City of Salinas** and the **County of Monterey**, in support of the parties' application for an Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2015 Local Solicitation award from the Bureau of Justice Assistance (BJA), U.S. Department of Justice.

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of the Agreement is in the best interest of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and

WHEREAS, the City of Salinas and County of Monterey are to receive a disparate allocation of JAG funds in the total amount of \$92,244; and

WHEREAS, the City of Salinas and County of Monterey intend to submit a joint application for the aggregate of funds to be allocated to them, specifying the amount of the funds that are to be distributed to each of them, and the purposes for which the funds will be used;

NOW, THEREFORE, the City of Salinas and County of Monterey agree as follows:

TERMS

1. Application for JAG Funds. The City of Salinas and County of Monterey are certified by BJA as disparate and submitted a joint application by June 26, 2015, for the aggregate of funds to be allocated to them, specifying the amount of the funds that are to be distributed to each of them, and the purposes for which the funds will be used.

2. Allocation of JAG Funds. The City of Salinas and County of Monterey agree to apportion the total Local Solicitation JAG award of **\$92,244**, in the following amounts:

City of Salinas, Salinas Police Department	\$ 68,213
City of Salinas, for Administrative Costs	\$9,224
[10% of total]	
County of Monterey, District Attorney's Office	\$ 14,807

3. Fiscal Agent for Receipt and Distribution of JAG Funds. The City of Salinas shall be the Fiscal Agent for the receipt of JAG funds, and as Fiscal Agent, shall be responsible for the oversight of the administration and distribution of the JAG funds. The City of Salinas shall be entitled to receive \$9,224 for services provided as Fiscal Agent.

4. Authorized Uses and Grant Requirements of JAG Funds. The City of Salinas and County of Monterey agree to develop individualized spending plans as to each party's respective grant allocation. All parties to this Agreement, whether the actual grantee (the City of Salinas) or a subgrantee (the County of Monterey) shall comply with all requirements set forth in the 2015 Local Solicitation: Edward Byrne Memorial Justice Assistance Grant (JAG) Program and mandatory award terms and conditions set for by the Office of Justice Programs.

5. Reporting Requirements of JAG Funds. Each party agrees to meet the reporting requirements of the JAG grant program, which requires detailed reporting, including reporting on subawards, not later than thirty calendar days after the end of each calendar quarter. In order for the Fiscal Agent to comply with the reporting requirements of the JAG program, all parties shall provide a quarterly report to the Fiscal Agent no later than twenty calendar days after the end of each calendar quarter.

6. Establishment of Trust Fund(s). As Fiscal Agent for the receipt and distribution of JAG funds, the City of Salinas shall establish a trust fund in which to deposit the JAG funds. At the City of Salinas' discretion, the trust fund may or may not be an interest bearing account. The County of Monterey shall also establish a trust fund in which to deposit funds if they elect to receive JAG funds in advance.

7. Term of Agreement. This Agreement shall commence on October 1, 2015, and shall remain in full force and effect through the full appropriation of 2015 JAG funds.

8. Administrative Costs. The City of Salinas agrees to limit the expenditure of Local Solicitation JAG funds to be used for administrative costs to manage the Local Solicitation JAG funds, including the costs associated with submitting quarterly financial and annual progress reports as required by BJA.

9. Limits on Liability. Nothing in the performance of this Agreement shall impose any liability for claims against the City of Salinas and County of Monterey other than claims for which liability may be imposed by the California Torts Claims Act; further, each party to this Agreement shall be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

10. Third Party Rights under Agreement. The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

11. Rights and Obligations under Agreement. By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

12. Termination. Unless otherwise terminated as provided in this Agreement, this Agreement will continue in effect through the full period of appropriation of 2015 Local Solicitation JAG funds.

13. Notices. Unless otherwise provided in this Agreement, any notice, request, consent, instruction, or other document to be given under this Agreement by the City of Salinas or County of Monterey to each other shall be in writing and shall be effective on the date received, as follows:

City of Salinas:

Ray Corpuz, City Manager
City of Salinas
200 Lincoln Avenue
Salinas, CA 93901

County of Monterey:

Lew Bauman, Chief Administrative Officer
County of Monterey
168 W. Alisal St., 3rd floor
Salinas, CA 93901

14. Entire Agreement. This Agreement constitutes the entire agreement between the City of Salinas and County of Monterey relating to the 2015 Local Solicitation JAG funds and as the final expression of the parties with respect to the included terms and conditions, and as a complete and exclusive statement of the terms and conditions of the agreement. The City of Salinas and County of Monterey acknowledge that any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force unless it is in writing and signed by the City of Salinas and County of Monterey.

15. Modifications. No amendments to or changes to this Agreement may be made, except by a writing expressly authorized and signed by the City of Salinas and County of Monterey.

16. Severability. It is the intent of the parties that in the event that any provision herein is held to be invalid, the remaining provisions shall continue in full force and effect unless enforcement of this Agreement so modified would frustrate the purposes of this Agreement.

17. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement.

IN WITNESS WHEREOF, the undersigned, as authorized representatives of the City of Salinas and County of Monterey have executed this Agreement on the date first written above.

City of Salinas

Ray Corpuz, City Manager

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney

ATTEST:

Patricia Barajas, City Clerk

County of Monterey

Lew Bauman
County Administrative Officer

APPROVED AS TO FORM:

_____, County Counsel

Attachment A

Office of Justice Program Requirements, 2015 Local JAG

Successful applicants must agree to comply with additional requirements prior to receiving grant funding, including:

Civil Rights Compliance

As a condition for receiving funding from OJP, recipients must comply with applicable federal civil rights laws, including Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and the Justice Department's regulation for the Equal Treatment of Faith-Based Organizations. Depending on the funding source, a recipient must also comply with the nondiscrimination provisions within the applicable program statutes, which may include the Omnibus Crime Control and Safe Streets Act of 1968, the Victims of Crime Act, or the Juvenile Justice and Delinquency Prevention Act. Collectively, these federal laws prohibit a recipient of OJP funding from discriminating either in *employment* (subject to the exemption for certain faith-based organizations discussed below; see "Funding to Faith-based Organizations") or in the *delivery of services or benefits* on the basis of race, color, national origin, sex, religion, or disability. In addition, OJP recipients may not discriminate on the basis of age in the delivery of services or benefits. See more information at <http://www.ojp.usdoj.gov/about/ocr/statutes.htm>.

Compliance with Title VI of the Civil Rights Act of 1964, which prohibits recipients from discriminating on the basis of national origin in the delivery of services or benefits, entails taking reasonable steps to ensure that persons with limited English proficiency (LEP) have meaningful access to funded programs or activities. An LEP person is one whose first language is not English and who has a limited ability to read, write, speak, or understand English. To assist recipients in meeting their obligation to serve LEP persons, the Department of Justice (DOJ) has published a guidance document, which is available at <http://www.lep.gov>. OJP encourages applicants and recipients to include within their program budgets the costs for providing interpretation and translation services to eligible LEP service populations.

For technical assistance on complying with the civil rights laws linked to the receipt of federal financial assistance from OJP, please contact the:

Office of Justice Programs
Office for Civil Rights
810 7th Street NW
Washington, DC 20531
202-307-0690
Fax: 202-616-9865
TTY: 202-307-2027

Funding to Faith-Based Organizations

In 2002, President George W. Bush issued Executive Order 13279 and in 2004, DOJ issued the regulation, Equal Treatment for Faith-Based Organizations, 28 C.F.R. Part 38. In general, the Executive Order and regulation require funding organizations to treat faith-based organizations (FBOs) the same as any other applicant or recipient of DOJ funding, neither favoring nor discriminating against FBOs in making and administering grant awards, and require that FBOs be allowed to retain their independence, autonomy, expression, and religious character when competing for DOJ financial assistance used to support social service programs and participating in the social service programs supported with DOJ financial assistance.

The Executive Order and regulation also prohibit recipient FBOs from using Justice Department funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Funded FBOs may,

of course, engage in inherently religious activities; however, these activities must be separate in time or location from the federally assisted program. Moreover, funded FBOs must not compel program beneficiaries to participate in inherently religious activities. Funded faith-based organizations must also not discriminate on the basis of religion in the delivery of services or benefits.

Some program statutes, including the Omnibus Crime Control and Safe Streets Act of 1968, the Victims of Crime Act, and the Juvenile Justice and Delinquency Prevention Act, contain express nondiscrimination provisions that prohibit all recipients of funding under these statutes from discriminating on the basis of religion in employment. Despite these nondiscrimination provisions, the Justice Department has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit FBOs applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering of religion in employment decisions by grantees.

If the statute that authorizes a DOJ funding program generally forbids consideration of religion in employment decisions by grantees, an FBO may receive DOJ funds and continue to consider religion when hiring staff if it meets the following criteria:

1. The FBO demonstrates that its program for which it seeks federal funding is an exercise of religion;
2. The FBO demonstrates that requiring it to either forgo its religious preference in hiring or forgo the federal funding would substantially burden its exercise of religion; and
3. The funding entity is unable to demonstrate that applying the nondiscrimination provision to this FBO would both further a compelling government interest and be the least restrictive means of furthering this interest.

The OJP and state administering agencies will grant exemptions to the prohibition against hiring discrimination on the basis of religion in the program statutes on a case-by-case basis to FBOs that certify to the following, unless there is good reason to question its truthfulness:

1. The FBO will offer all federally-funded services to all qualified beneficiaries without regard for the religious or non-religious beliefs of those individuals; and
2. Any activities of the FBO that contain inherently religious content will be kept separate in time or location from any services supported by direct federal funding, and if provided under such conditions, will be offered only on a voluntary basis; and
3. The FBO is a religious organization that sincerely believes that providing the services in question is an expression of its religious beliefs; that employing individuals of particular religious belief is important to its religious exercise; and that having to abandon its religious hiring practice to receive federal funding would substantially burden its religious exercise.

FBOs that are seeking federal financial assistance under the Safe Streets Act, VOCA, and JJDPa as well as an exemption to their prohibition against religious discrimination in hiring, must complete and retain **an original, signed document for their records** (see https://www.ojp.usdoj.gov/funding/forms/fbo_sample.pdf), certifying to the three provisions set forth above, **and then, must submit a copy of the signed Certificate of Exemption to the DOJ through the Grants Management System, after receipt of an award.** For more information, please consult the Office for Civil Rights.

Confidentiality

DOJ regulations (28 CFR Part 22) require recipients of OJP funding to submit a Privacy Certificate as a condition of approval of any grant application or contract proposal that contains a research or statistical component under which "information identifiable to a private person" will be collected, analyzed, used, or

disclosed. The funding recipient's Privacy Certificate includes a description of its policies and procedures to be followed to protect the confidentiality of identifiable data. 28 CFR Section 22.23. The Department's regulations provide, among other matters, that: "Research or statistical information identifiable to a private person may be used only for research or statistical purposes." 28 CFR Section 22.21. Moreover, any private person from whom information identifiable to a private person is collected or obtained (either orally or by means of written questionnaire or other document) must be advised that the information will only be used or disclosed for research or statistical purposes and that compliance with the request for information is voluntary and may be terminated at any time. 28 CFR Section 22.27.

Research and the Protection of Human Subjects

OJP has developed a decision tree (http://www.ojp.usdoj.gov/funding/pdfs/decision_tree.pdf) to assist applicants in determining whether an activity they plan to undertake with OJP funds constitutes research involving human subjects.

DOJ regulations (28 CFR Part 46) protect the human subjects of federally funded research. In brief, 28 CFR Part 46 requires that most research involving human subjects that is conducted or supported by a Federal department or agency be reviewed and approved by an Institutional Review Board (IRB), in accordance with the regulations, before Federal funds are expended for that research. As a rule, persons who participate in Federally-funded research must provide their "informed consent" and must be permitted to terminate their participation at any time. Funding recipients, before they will be allowed to spend OJP funds on any research activity involving human subjects, must submit appropriate documentation to OJP showing compliance with 28 CFR Part 46 requirements, as requested by OJP.

General information regarding Data Confidentiality and Protection of Human Research Subjects (and Model Privacy Certificates and other forms):

Standard Forms and Instructions, at <http://www.ojp.usdoj.gov/funding/forms.htm>

Anti-Lobbying Act

The Anti-Lobbying Act (18 U.S.C. § 1913) recently was amended to expand significantly the restriction on use of appropriated funding for lobbying. This expansion also makes the anti-lobbying restrictions enforceable via large civil penalties, with civil fines between \$10,000 and \$100,000 per each individual occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by 31 U.S.C. § 1352.

The Office of Management and Budget (OMB) is currently in the process of amending the OMB cost circulars and the common rule (codified at 28 C.F.R. Part 69 for U.S. Department of Justice grantees) to reflect these modifications. However, in the interest of full disclosure, no federally appropriated funding made available under this grant program may be used, either directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express approval by OJP. Any violation of this prohibition is subject to a minimum \$10,000 fine for each occurrence. This prohibition applies to all activity, even if currently allowed within the parameters of the existing OMB circulars.

Financial and Government Audit Requirements

Federal grants are governed by the provisions of the OMB circulars applicable to financial assistance and OJP's Financial Guide (<http://www.ojp.usdoj.gov/financialguide/index.htm>), which includes information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records. This document will govern how all successful applicants administer funds.

Audits of state and local units of government, institutions of higher education, and other nonprofit institutions must comply with the organizational audit requirements of OMB circular A-133, which states that recipients who

expend \$500,000 or more of federal funds during their fiscal year are required to submit a single organization wide financial and compliance audit report to the **Federal Audit Clearinghouse** within 9 months after the close of each fiscal year during the term of the award.

Grantees must comply with the following OJP reporting requirements:

Federal Financial Reports (FFR, SF-425). Grantees must submit these quarterly financial reports by the 30th day following the end of each calendar quarter, and a final report is due 90 days following the end of the award period. Grantees should submit SF-425 reports online through the Grants Management System (GMS). Grant recipients who do not submit SF-425 reports by the due date will be unable to draw down funds.

Categorical Assistance Progress Reports (OJP Form 4587/1). Grantees should complete and submit these semiannual reports within 30 days after the end of the reporting periods, which are June 30 and December 31 for the life of the award. Grantees should submit progress reports through GMS using the "Application" module. Grantees may address questions to the GMS Help Desk at 1-888-549-9901.

National Environmental Policy Act (if applicable)

All OJP awards are subject to the National Environmental Policy Act (NEPA) and other related Federal laws, if applicable. 42 USC Section 4321 et seq. DOJ has established procedures to implement NEPA. See 28 CFR Part 61. The regulations state that "all federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision-making and to prepare detailed environmental statements on . . . major federal actions significantly affecting the quality of the human environment." 28 CFR section 61.2. Under the regulations, DOJ, among other things, is required to "[c]onsider from the earliest possible point in the process all relevant environmental documents in evaluating proposals for Department action[.]" 28 CFR Section 61.6.

OJP has responsibility to ensure compliance with NEPA and 28 CFR Part 61, including Appendix D. For many projects that are funded by OJP, NEPA may have no applicability. However, if OJP funds will be used, for example, to pay for renovation projects or new construction, programs involving the use of chemicals, or any other activity, including research and technology development, that may have an effect on the environment, at a minimum, the funding recipient must provide a full description of proposed project activities to OJP, and an Environmental Assessment must be prepared. Prior to allowing a recipient to spend OJP funds for such a project, OJP must make a finding that the project does not significantly affect the human environment and that further environmental assessment is not necessary.

DOJ Information Technology Standards (if applicable)

As appropriate, all equipment and software developed under awards that result from this solicitation must be compliant with DOJ information technology interface standards, including the National Criminal Intelligence Sharing Plan, the Global Justice XML Data Model, and the Law Enforcement Information Sharing Plan. A list of additional standards can be found at the OJP Standards Clearinghouse.

Single Point of Contact Review

Executive Order 12372 requires applicants from state and local units of government or other organizations providing services within a state to submit a copy of the application to the state Single Point of Contact (SPOC) if one exists and if the state has selected this program for review. Applicants must contact their state SPOCs to determine whether their programs have been selected for state review. The applicant should enter the date that the application was sent to the SPOC or the reason such submission is not required in Block 3 of the Overview section of the GMS application.

Non-Supplanting of State and Local Funds

Grantees must use federal funds to supplement existing funds for program activities and may not replace (supplant) nonfederal funds that they have appropriated for the same purpose. Potential supplanting will be the subject of monitoring and an audit. Violations can result in a range of penalties, including suspension of current and future funds under this program, suspension or debarment from federal grants, recoupment of monies provided under this grant, and civil and/or criminal penalties.

Criminal Penalty for False Statements

False statements or claims made in connection with OJP grants may result in fines, imprisonment, and debarment from participating in federal grants or contracts, and/or other remedy available by law.

Compliance with Office of Justice Programs Financial Guide

The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the OJP Financial Guide.

Suspension or Termination of Funding

OJP may suspend funding in whole or in part, terminate funding, or impose other sanctions on a recipient for the following reasons:

Failing to comply substantially with the requirements or statutory objectives of the appropriate Act, program guidelines issued thereunder, or other provisions of federal law.

Failing to make satisfactory progress toward the goals, objectives, or strategies set forth in the application.

Failing to adhere to the requirements in the agreement, standard conditions, or special conditions.

Proposing or implementing substantial plan changes to the extent that, if originally submitted, the application would not have been selected for funding.

Failing to submit reports.

Filing a false certification in this application or other report or document.

Before imposing sanctions, OJP will provide reasonable notice to the recipient of its intent to impose sanctions and will attempt to resolve the problem informally. Hearing and appeal procedures will follow those in DOJ regulations in 28 CFR Part 18.

Non-Profit Organizations

In all OJP funded programs for which non-profit organizations are eligible subrecipients, with the exception of those funded under authority of the Juvenile Justice and Delinquency Prevention Act, DOJ's policy is that an organization can demonstrate its non-profit status in any one of four methods:

1. Submission of proof of 501(c)(3) status from the Internal Revenue Service.
2. Submission of a statement from the state taxing authority or state Secretary of State, or other similar official certifying that the organization is a non-profit operating within the state, and that no part of its net earnings may lawfully benefit any private shareholder or individual.
3. Submission of a certified copy of the applicant's certificate of incorporation or similar document.

4. Submission of any item above, if that item applies to a state or national parent organization, together with a statement by the state or parent organization that the applicant is a local nonprofit affiliate.

All nonprofit sub-recipients of formula funds provided under the Juvenile Justice and Delinquency Prevention Act must have 501(c)(3) status recognized by the Internal Revenue Service.

For-Profit Organizations

For-profit organizations that receive grant funds from OJP should be aware that additional special conditions are placed on awards to such organizations. Among other things, commercial organizations must agree not to make a profit as a result of an award and not to charge a management fee for the performance of an award. Also, commercial organizations must agree to comply with the contract cost principles of subpart 31.2 of the Federal Acquisition Regulations.

Government Performance and Results Act (GPRA)

The funding recipient agrees to collect data (on a quarterly, semi-annually, or annual basis, as requested) appropriate for facilitating reporting requirements established by Public Law 103-62 for the Government Performance and Results Act. The funding recipient will ensure that valid and auditable source documentation is available to support all data collected for each performance measure specified in the program solicitation.

Rights in Intellectual Property

DOJ reserves certain rights with respect to data, patentable inventions, works subject to copyright, and other intellectual property associated with an award of Federal funds. See 28 CFR §§ 66.34, 70.36, and 37 CFR Part 401.

Federal Funding Accountability and Transparency Act of 2006 (FFATA)

Applicants receiving an award from OJP should be aware of the requirements of the Federal Funding Accountability and Transparency Act of 2006 (FFATA), which calls for the establishment of a single searchable website that is accessible by the public and includes the following information for each Federal award:

The name of the entity receiving the award.

The amount of the award.

Information on the award including the transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action.

The location of the entity receiving the award and primary location of performance under the award, including the city, state, congressional district, and country.

A unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity.

Any other relevant information specified by OMB.

Information on both direct grant awards and subawards made by grantees is to be made available. OJP will be responsible for collecting grantee information and providing it to the public website (USASpending.gov), using data provided by grantees through Grants.gov and the OJP Grants Management System. Grantees will be responsible for providing information on subawards, using the [FFATA Subaward Reporting System](#) (FSRS).

See <http://www.ojp.usdoj.gov/funding/ffata.htm> for information on grantee reporting requirements regarding subawards and, in certain cases, executive compensation. (Note that these reporting requirements generally do not apply to awards under \$25,000.)

For more information, visit the USASpending.gov and FSRS websites.

Awards in Excess of \$5,000,000 – Federal Taxes Certification Requirement

A prospective recipient of an award in excess of \$5,000,000 may be required to submit a detailed certification concerning filing of federal tax returns, criminal convictions under the Internal Revenue Code, and unpaid federal tax assessments.

Policy and Guidance for Conference Approval, Planning, and Reporting

Access the detailed policy and guidance at <https://www.ojp.usdoj.gov/funding/confcost.htm>.

OJP Training Guiding Principles for Grantees and Subgrantees

Access the guidance <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm> at <https://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.

Addendum to Attachment A

Office of Justice Program Requirements, 2014 Local JAG

1. Recipients of subawards must have a DUNS (Data Universal Numbering System) number prior to the due date of the recipient's first quarterly report after a subaward is made.
2. Recipients of subawards must adhere to all applicable statutes, regulations, OMB circulars, and guidelines, including the *OJP Financial Guide*. The City of Salinas, as fiscal agent, is responsible for monitoring subawards under the grant in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the *OJP Financial Guide*.