

# Subawards under OJP Awards and Procurement Contracts under Awards: A Toolkit for OJP Recipients

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Pursuant to the (DOJ) Part 200 Uniform Requirements, including the awarding-agency authority described in 2 C.F.R. 200.330, all OJP recipients, as well as all subrecipients of an OJP award at any tier, are to follow this guidance. (The Part 200 Uniform Requirements are the requirements set out at 2 C.F.R. Part 200, as adopted and modified by the Department of Justice at 2 C.F.R. Part 2800.)

Other federal grant-making agencies may choose not to provide guidance, may provide somewhat different guidance, or may use award conditions regarding subawards and procurement contracts that differ from those used by OJP. The OJP conditions included in the award document and this OJP guidance govern OJP awards.

## Purpose and Scope

This Office of Justice Programs “toolkit” provides guidance designed to help recipients of OJP grants and cooperative agreements (as well as prospective applicants for such OJP awards) understand—

- Which (if any) of the recipient’s proposed actions OJP will consider “subawards” for purposes of federal grants administrative requirements.
- Which (if any) of the recipient’s proposed actions OJP will consider “procurement contracts under an OJP award” for purposes of those federal requirements.
- Common federal administrative requirements that apply to all (or virtually all) subawards of OJP awards.
- Common federal administrative requirements that apply to all (or virtually all) procurement contracts under OJP awards.
- OJP resources on related topics.

This toolkit discusses how OJP will categorize an agreement by an OJP award recipient with an outside entity (or other third party) **for purposes of the federal grants administrative requirements**. (The rules discussed here do **not** determine how an agreement under an OJP award should be treated for purposes of State law requirements, or for other non-federal purposes.)

OJP expects to update and expand this toolkit in the coming months. Please refer back to this webpage on a regular basis.

## Important Notes on Scope

- This toolkit focuses on OJP awards made during or after January 2015 (and that are directly affected by the Part 200 Uniform Requirements). The underlying principles, however, apply to all OJP awards, **including** those made before January 2015. That is, the basic principles that determine whether an agreement is a “subaward,” or instead is a “procurement contract under an award,” have changed little over the years.
- Although this toolkit focuses on agreements being entered into by **recipients** of OJP awards, the same underlying principles apply to agreements that **subrecipients** of OJP awards may enter into under a subaward. For purposes of federal grants administrative requirements, essentially the same principles apply regarding what constitutes a (second-tier or other lower-tier) “subaward” and what instead is a “procurement contract under a subaward.”
- This guidance does **not** encompass certain less-common types of agreements that a recipient may enter into (or payments it may make) under an OJP award. For example, it does not cover—
  - Incentives provided directly to individuals who are the subjects of research.
  - Payments made directly to individual members of the public (not recipient employees) for costs they incur to attend trainings (or similar events) that are made available by recipients or subrecipients under an OJP award.
  - Compensation payments made directly to individuals who are victims of crime.

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## Some important terms

As used in this OJP toolkit:

“**Recipient**” means a legal entity that receives a grant or cooperative agreement **directly** from OJP. The name of the recipient appears in Box 1 of the award document, and under “Legal Name” in Box 5 of the Standard Form 424 submitted in connection with the application to OJP. (An “organizational unit” of a recipient also may be listed in Box 5 of the SF-424, but the recipient is the entity listed in Box 1 of the award document, **not** any “organizational unit” identified in the SF 424.)

“**Subrecipient**” means a legal entity that receives a “**subaward**” from a “recipient,” or a legal entity that receives a “subaward” from a “subrecipient.” When OJP refers here (or in award conditions) to a subrecipient “at any tier,” it refers to all subrecipients, not just subrecipients that receive a subaward **directly** from the recipient.

“**Contractor**” means a legal entity that enters into a “**procurement contract under an award**” with a “recipient,” or with a “subrecipient.”

“**Subcontractor**” means a legal entity that enters into a subcontract with a “contractor.” In general, federal grants administrative rules and requirements **do not deal with subcontracts or subcontractors** in any way. The relationship between a contractor under an OJP award and subcontractor typically is governed by other rules and requirements, **not** by federal grants administrative requirements.

## Why a toolkit? Federal requirements for “subawards” and for “procurement contracts under awards” differ dramatically

If a recipient enters into an agreement that is a “subaward” of an OJP award, specific rules apply – many of which are set by federal statutes and DOJ regulations; others by award conditions. These rules place particular responsibilities on an OJP recipient for any subawards the OJP recipient may make. The rules determine much of what the written subaward agreement itself must require or provide. And, what is just as important, the rules determine much of what an OJP recipient must do both **before** and **after** it makes a subaward.

If a recipient enters into an agreement that is a “procurement contract under an OJP award” (rather than a “subaward”), a dramatically different set of federal rules applies.

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*A “subaward” is not the same as a “procurement contract under an award.” Different rules apply to each. And the differences are significant.*

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Later sections of this OJP toolkit will identify various federal grants administrative requirements that commonly apply to “subawards,” as well as those that apply to “procurement contracts under an OJP award.” The chart below provides just a few examples.

***Examples of Federal Grants Administrative Requirements***

| Subaward under an OJP Award  | Procurement Contract under an Award  |
|--|--|
| <p>A recipient must have specific federal authorization to enter into a subaward, which may take several forms.</p> <p>A recipient must require a subrecipient to comply with – and must monitor a subrecipient for compliance with – many or all of the conditions and restrictions that apply to the OJP award to the recipient.</p> <p>A subrecipient typically must comply (and be required to comply) with the requirements that apply to recipients under the Part 200 Uniform Requirements.</p> <p>A recipient must, among other things, require a subrecipient to–</p> <ul style="list-style-type: none"> <li>○ Provide appropriate progress reports and financial reports to the recipient.</li> <li>○ Be accountable to the recipient for how it uses the federal funds provided under the subaward.</li> <li>○ Follow applicable federal rules regarding financial management, internal controls, cost principles, and audit requirements.</li> <li>○ Collect and provide performance data for the recipient to include in its reports to OJP.</li> </ul> <p>As with recipients, a subrecipient may <b>not</b> earn a profit.</p> | <p>A recipient typically may enter into a procurement contract for items listed in the OJP-cleared budget <b>without</b> additional post-award approval.</p> <p>OJP requires specific post-award approval to use a non-competitive approach in any procurement contract that would exceed \$150,000.</p> <p>A recipient must comply with the <b>Procurement Standards</b> of the Part 200 Uniform Requirements, and also with the recipient’s own written procurement policies and procedures, to the extent they are consistent with the Procurement Standards and other applicable federal law.</p> <p>The recipient must provide for full and open competition to the extent required by the Procurement Standards and OJP award conditions.</p> <p>A procurement contract must include all applicable contract provisions set out in Appendix II of 2 C.F.R. Part 200.</p> <p>Federal grants administrative requirements do <b>not</b> require a procurement “contractor” to report to the recipient how the contractor spent the funds it was paid under the procurement contract.</p> <p>It typically is not necessary (or appropriate) for a procurement contractor to provide data on its work to the recipient for inclusion in the recipient’s reports on the OJP performance measures for the award.</p> <p>A procurement “contractor” under an OJP award <b>may</b> earn a profit.</p> |

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*It is **vital** that each OJP recipient understand which (if any) of its actions are “subawards” (for purposes of OJP and other federal grants administrative requirements), and which are instead “procurement contracts under an award.”*

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## What makes an agreement a “subaward”?

For purposes of federal grants administrative requirements, the fundamental principle that distinguishes “subawards” from “procurement contracts under OJP awards” is this:

If an OJP recipient agrees to provide award funds to outside entity (or another third party), so that the outside entity will **carry out part of the OJP award** or program, OJP will consider the agreement between the recipient and the outside entity a “subaward.” If, instead, an OJP recipient agrees to provide funds to an outside entity, and, in exchange, the outside entity will simply provide the recipient with goods or services **ancillary** to the award, **rather than** “carry out part of the OJP award,” OJP will consider the agreement a “procurement contract (or procurement transaction) under the OJP award,” **not** a “subaward.”

The critical question, then, is whether the outside entity is “**carry[ing] out part of the OJP award** or program.” The answer lies in **the relationship** between– (1) what the outside entity will do under its agreement with the recipient, and (2) what the recipient has committed (to OJP) to do to further the **public purpose(s)** of the OJP award.

OJP grants and cooperative agreements are intended to further various public purposes. Through its solicitations, OJP invites applicants to propose to undertake work to further one or more of these public purposes. In its application, among other things, the applicant describes how it will further the public purpose(s) of the OJP program or solicitation, its plan and capabilities/competencies to carry out the work, and the associated costs.

## Some common types of public purposes of OJP awards

Through grants or cooperative agreements–

- To encourage and support States, units of local government, and Indian tribes to provide certain services or types of services (or products) related to crime or criminal justice (including victimization, crime prevention, delinquency prevention, and juvenile justice) to the public they serve.
- To provide crime- or criminal-justice-related services (and, in the case of crime victims, compensation) to individual members of the public, such as victims of crime, or at-risk youth.

- To develop (or adapt or otherwise improve) training and technical assistance materials to meet the needs of entities or individuals working to address crime, improve criminal justice, or assist victims of crime.
- To provide training or technical assistance to entities or individuals working to address crime, improve criminal justice, or assist victims of crime.
- To develop (or develop improvements to) technology useful in addressing crime, improving criminal justice, or assisting victims of crime.
- To collect and analyze data, or conduct research and evaluation, on issues related to crime, criminal justice, and victimization.

Because of the nature of OJP’s awards and the public purposes of its programs, it is often quite clear whether (for purposes of federal grants administrative requirements) a particular agreement is a “subaward,” or whether it instead is a “procurement contract under an OJP award.”

### Some examples of “subawards”

- If OJP funds a recipient to provide various types of services to a particular population, and the recipient proposes to pay an outside entity (or other third party) to provide one or more of those services (or to provide one or more of those services to one segment of the population the award is intended to assist), the outside entity **would be** “carrying out part of the award,” and OJP will consider an agreement between the recipient and the outside entity to be a subaward.
  - For example, if a recipient that receives OJP funds to provide a suite of services (including legal services) to victims of crime enters into an agreement to pay award funds to another entity to provide legal services to victims as contemplated by the award, OJP will consider the agreement a subaward.
- ➡ **Tip:** If a recipient proposes to enter into an agreement with an outside entity to provide particular services to members of the public (*e.g.*, victims of crime) who are the intended “beneficiaries” of the OJP award, and the responsibilities of the outside entity will include determining whether a specific individual is **eligible** to receive those services, it is especially clear that the agreement must be characterized as a subaward.
- If OJP funds a recipient to develop (or improve) a particular product or a set of products, and the recipient proposes to enter into an agreement to pay an outside entity (or other third party) to develop or improve one of the products (or to develop or improve a part of one of the products), the outside entity **would be** “carrying out part of the award,” and OJP will consider the agreement with the outside entity to be a subaward.

- The “product” in this example could be a new technology, or a modification of an existing technology to make it more useful in addressing crime, improving criminal justice, or assisting victims of crime.
- The “product” also could be a set of training materials, a curriculum, a resource guide, or a guide to “best practices” or “promising programs.”

➡ **Tip:** In general, if an outside entity will use its own judgments, discretion, and expertise to develop all or part of a product that the recipient has agreed to develop as a public purpose of the award, the agreement is likely to be a subaward.

- If OJP funds a recipient to conduct research and analysis on an issue in criminal justice, and the recipient proposes to enter into an agreement to pay an outside entity (or other third party) to conduct part of the research or analysis, the outside entity **would be** “carrying out part of the award,” and OJP will consider the agreement with the research entity to be a subaward.
- If OJP funds a recipient to implement and evaluate a potentially-promising new approach to crime prevention, and the recipient’s application indicates (or the OJP solicitation requires) that the evaluation will be conducted by an independent research entity, when the independent research entity conducts the evaluation pursuant to an agreement with the recipient, the research entity **would be** “carrying out part of the award,” and OJP will consider the agreement with the research entity to be a subaward.

➡ **Tip:** In any OJP award in which the recipient entity proposes to “collaborate” (or “partner”) with another entity to accomplish its work (particularly when the OJP solicitation requires or encourages such a collaboration), an agreement by the recipient to pay the collaborator is very likely to be a “subaward” for purposes of federal grants administrative requirements, rather than a “procurement contract under the OJP award.”

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*Consider the relationship between (1) what the outside entity will do under its agreement with the recipient, and (2) what the recipient has committed (to OJP) to do to further the public purpose of the OJP award.*

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## What makes an agreement a “procurement contract under an OJP award”?

With regard to a proposed “procurement contract under an OJP award,” the central question remains the same: **What is the relationship** between– (1) what the outside entity or other third party will do under its agreement with the recipient, and (2) what the recipient has committed (to OJP) to do to further the **public purpose(s)** of the OJP award.

If the OJP recipient proposes to enter into an agreement to pay award funds to an outside entity, and the outside entity will **not** be carrying out all or part of a **public purpose** of the award as described and discussed above, but instead will only be providing “ancillary” goods or services the recipient needs (frequently, to perform the recipient’s own work under the award), OJP will consider the agreement to be a “procurement contract under an award.”

➡ **Tip:** If an OJP recipient is purchasing or leasing an item from an outside entity that makes the identical (or virtually identical) item widely available to others (*e.g.*, to the mass market), absent unusual circumstances, OJP will consider the purchase or lease of the item by the recipient to be a “procurement contract under an award.”

Some examples of items that frequently may fall into this category:

- Office equipment for use by recipient employees (*e.g.*, laptops, printers/copiers)
- Office supplies for use by recipient employees (*e.g.*, paper, toner)
- Software licenses for widely-available programs such as Microsoft Office or Adobe Acrobat
- Sports equipment for use in a youth program funded by the OJP award
- Reference books
- Purchase of a license needed to include particular copyrighted material in training materials to be produced and distributed in connection with an OJP award
- Chemical reagents for use by recipient employees (*e.g.*, in a recipient’s forensic laboratory or in a recipient’s research facility)
- Cell phones for use by recipient employees
- Body-worn cameras for law enforcement officers employed by the recipient
- Body armor (ballistic-resistant or stab-resistant) for law enforcement officers employed by the recipient

➡ **Tip:** If the recipient is obtaining services from an outside entity that makes identical services widely available to others (*e.g.*, to the mass market) – that is, services that are **not** designed, modified, or adapted to meet particular needs of the recipient – absent unusual circumstances, OJP will consider the agreement to obtain the services to be a “procurement contract under an award.”

Some examples of services that frequently may fall into this category:

- Internet service for recipient employees
- Cell phone service for recipient employees



- Maintenance and “customer support” help-desk services contract for (off-the-shelf) laptop or desktop computers used by recipient employees
- Basic website hosting services (**not** including website design and development)
- Printing or mailing services
- Copying services (*e.g.*, for training materials)
- Lodging at a hotel (*e.g.*, for non-employee participants in a training that is being provided as part of an OJP award)

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*Neither the label a recipient gives an agreement nor the way the recipient categorizes the agreement for its own internal (or other non-federal) purposes determines whether – for purposes of federal grants administrative requirements – an agreement is a “subaward” or is instead a “procurement contract under an award.”*

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## **How do Formula Programs and Awards to State Administering Agencies (SAAs) Fit In?**

At first glance, OJP “formula” grant programs and programs that make funds available to SAAs for subawards to other entities (*e.g.*, units of local government) may seem to be something of a special case. In addition to one or more of the common “public purposes” of OJP awards listed earlier, such programs may have an additional “public purpose,” namely, supporting States, units of local government, and/or Indian tribes in obtaining products or services they themselves need in relation to their own functions and responsibilities with respect to crime or criminal justice.

But even if one of the public purposes of an OJP formula award is to support States, units of local government, and/or Indian tribes in obtaining products or services they may need, the same basic principles apply.

- If a recipient of such an award proposes – or is required by law or by award conditions – to enter into an agreement with another governmental entity **to assist or enable the other governmental entity to obtain products or services** the other governmental entity may need (or that it may wish to provide) in relation to crime or criminal justice, the agreement is “carrying out part of the public purpose” of the award, and OJP will consider the agreement to be a “subaward.”
  - Agreements between designated SAAs and units of local government under OJP “formula” programs often will fall into this category. (See the Appendix to this OJP toolkit for some examples of OJP “formula” programs and associated agreements that are considered “subawards authorized by statute.”)

- If a recipient of such an award proposes to enter into an agreement to pay an outside entity to provide the recipient itself with products or services that are identical or virtually identical to those available on the mass market (as described in the preceding section of this OJP toolkit), OJP will consider the agreement to be a “procurement contract under an award.”
  - One example of this would be an agreement between a recipient of an award under the DNA Capacity Enhancement and Backlog Reduction Program and a private, for-profit DNA laboratory, under which the private laboratory will conduct DNA analyses of samples from crime scenes
- If a recipient of such an award proposes to enter into an agreement with an outside entity to provide crime- or criminal-justice-related services (such as crime victim assistance services) to members of the public it serves (or some segment of that public), the agreement would be “carrying out part of the public purpose” of the award, and OJP typically will consider the agreement to be a “subaward.”

Some examples of OJP “formula” programs in which a **public purpose** of the award is to assist States, units of local government, and/or Indian tribes in obtaining products or services they may need (or that they may wish to provide to the public they serve) in relation to crime or criminal justice include—

- Edward Byrne Memorial Justice Assistance Grant Program (administered by OJP’s Bureau of Justice Assistance).
- OJJDP Title II (“Part B”) Formula Grants Program (administered by OJP’s Office of Juvenile Justice and Delinquency Prevention).
- VOCA Victim Assistance Formula Program (administered by OJP’s Office for Victims of Crime).
- DNA Capacity Enhancement and Backlog Reduction Program (administered by OJP’s National Institute of Justice).
- Paul Coverdell Forensic Sciences Improvement Grants Program (administered by OJP’s National Institute of Justice).

## Some practical pointers

- ✓ Neither the label a recipient gives an agreement, nor the manner in which the recipient categorizes the agreement for its own internal or other non-federal purposes, determines whether the agreement – for purposes of federal grants administrative requirements – is a “subaward” or is instead a “procurement contract under an award.”

- ✓ For the most part, one cannot determine whether a particular action or agreement is a “subaward,” or is instead a “procurement contract under an award,” without examining the **relationship** between the action or agreement and the public purpose(s) of the particular OJP award.
  - ✓ Financial clearance by OJP of a recipient’s budget for an award does **not** determine whether – for purposes of federal grants administrative requirements – OJP will consider an item listed in the budget a “subaward,” or instead consider it a “procurement contract under an award.” This is true even if the budget labels or lists a proposed action or agreement as a subaward, or instead lists it as a procurement contract.
  - ✓ The fact that a cost typically is allowable under applicable cost principles does **not** determine whether an agreement with an outside entity to provide an item or service would be a “subaward,” or whether it instead would be a “procurement contract under the award.” All costs charged to an OJP award must be “allowable.”
  - ✓ The fact that a good or service is “commercially available” does **not** itself determine whether an agreement to pay an outside entity for that good or service will be considered a “procurement contract under an award.”
  - ✓ The fact that a recipient may be proposing to enter into an agreement for goods or services with an individual (other than an employee of the recipient) does **not** affect whether the agreement will be considered a “subaward” or instead be considered a “procurement contract under the award.”
    - The federal administrative requirements that apply to an agreement for goods or services that a recipient enters into with an individual in his or her personal capacity (that is, independent of any organization or business with which the individual is associated) vary somewhat from the requirements that apply to an agreement a recipient may enter into with a public or private entity. The same basic concepts and principles, however, apply with respect to whether an agreement is a “subaward,” or instead is a “procurement contact under an OJP award.”
- ➡ **Tip:** Absent unusual circumstances, for purposes of applicable federal grants administrative requirements, OJP will consider a “consultant” to be **either** a “subrecipient” or a procurement “contractor,” and will apply the general principles set out in this OJP toolkit. “Consultant” is **not** an independent third category.

## Common Administrative Requirements: Subawards under OJP Awards

For additional details, refer to the Part 200 Uniform Requirements (in particular, the requirements set out in 2 C.F.R. 200.331, and the acronyms and definitions that appear in Subpart A of 2 C.F.R. Part 200).

- A recipient may not enter into a “subaward” without federal authorization (which may take one of several forms).
  - Unless an applicable statute or DOJ regulation specifically authorizes or requires subawards, OJP must authorize a recipient to enter into a subaward
  - As discussed in the [Award Condition: All subawards \("subgrants"\) must have specific federal authorization](#) (incorporated by reference in many OJP awards made in FY 2016), the authorization may take various forms
- A recipient typically may not make a subaward to any entity that does not acquire and provide (to the recipient) the unique entity identifier required for registration in the federal System for Award Management.
  - See the [Award condition: System for Award Management \(SAM\) and Universal Identifier Requirements](#) (incorporated by reference into OJP awards).
- A recipient typically must report first-tier subawards of \$25,000 or more to the FFATA Subaward Reporting System, and otherwise comply with the [Award Condition: Reporting Subawards and Executive Compensation](#).
- A recipient must assess each subrecipient’s risk of noncompliance with award conditions and applicable federal law, and must take its assessment into account in its monitoring of the subrecipient.
- A recipient must require each subrecipient to provide the progress and financial reports and performance data necessary for the recipient to make complete reports to OJP on progress under the award and on data pertinent to the OJP performance measures.
- A recipient must require – through a written subaward agreement and through monitoring – that a subrecipient comply with all applicable requirements of the Part 200 Uniform Requirements.
  - Absent unusual circumstances, any recipient that makes a subaward must pass through these requirements.
  - These requirements include, among other things, requirements regarding financial management, internal controls, cost principles, allowable costs, indirect costs, and records retention and access.

- Subrecipients, like recipients, are subject to the audit requirements set out in the Part 200 Uniform Requirements (at Subpart F of 2 C.F.R. Part 200), or to related requirements set out in award conditions.
- A subrecipient that itself makes (lower-tier) subawards must be required to comply with the provisions of Part 200 Uniform Requirements concerning Subrecipient Monitoring and Management. Similarly, a subrecipient that itself enters into procurement contracts under the subaward must be required to comply with the Procurement Standards set out in the Part 200 Uniform Requirements.
- A recipient must require a subrecipient – through the written agreement and through monitoring – to comply with all applicable conditions and restrictions included in the OJP award, including all “pass-through” requirements.

Some examples–

- General appropriations-law restrictions on use of federal funds. See, *e.g.*, [Award Condition: General appropriations-law restrictions on use of federal award funds \(FY 2016\)](#)
- Requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons. See [Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons](#).
- Restrictions on “lobbying”
- Restrictions on nondisclosure agreements
- Compliance with 28 C.F.R. Part 38 (pertaining to civil rights and nondiscrimination)
- Compliance with 28 C.F.R. Part 42 (pertaining to civil rights and nondiscrimination)
- Compliance with applicable laws and official Department of Justice guidance governing the use of federal funds for expenses related to conferences (as that term is defined by the DOJ)
- Reporting of potential fraud, waste, and abuse, and similar misconduct to the DOJ Office of the Inspector General
- A recipient must monitor a subrecipient, including for compliance with award conditions and applicable requirements of the Part 200 Uniform Requirements.

## Common Administrative Requirements: Procurement Contracts under OJP Awards

For additional details, refer to the Part 200 Uniform Requirements (in particular, the **Procurement Standards** set out in Subpart D of 2 C.F.R. Part 200, and the acronyms and definitions that appear in Subpart A of 2 C.F.R. Part 200).

In connection with any “procurement contract under an OJP award”–

- A recipient must comply with the **Procurement Standards**, and also with the recipient’s own written procurement policies and procedures, to the extent they are consistent with the Procurement Standards and other applicable federal law.
  - For important background information, see the *OJP Quick Guide: Procurement Standards and the Part 200 Uniform Requirements*. [\[Add hyperlink, once it is posted\]](#)
  - For detailed guidance, refer to the [Guide to Procurement under DOJ Grants and Cooperative Agreements \(July 2016\)](#) (issued by the OJP Office of the Chief Financial Officer).
- A recipient must provide for **full and open competition** in procurements to the extent required by the Procurement Standards and OJP award conditions.
  - The Procurement Standards include specific rules for “micropurchases” and “small purchases.”
  - The Procurement Standards incorporate certain priorities for small businesses, and woman- or minority-owned businesses.
  - No employee, officer, or agent of an OJP recipient who has a real or apparent **conflict of interest** may participate in the selection, award, or administration of a procurement contract under an OJP award.
  - By OJP award condition, if a proposed procurement contract would exceed the simplified acquisition threshold – currently, \$150,000 – and the recipient wishes to proceed without competition, the recipient must request **specific advance authorization from OJP to use a non-competitive approach** for the procurement. (Refer to the [Award Condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract \(if contract would exceed \\$150,000\)](#), applicable to most FY 2016 awards.)
- A recipient must **document the history of each procurement** under an OJP award, including the **rationale** for each of the following– (1) method of procurement, (2) selection of contract type, (2) contractor selection or rejection, and (4) basis for contract price.
- A recipient must perform (and document) a **cost or price analysis** before awarding or modifying any procurement contract that would exceed the simplified acquisition

threshold (currently, \$150,000). The required cost or price analysis must incorporate independent estimates developed prior to the receipt of bids or proposals.

- In its procurement contracts, a recipient must include **all applicable contract provisions** set out in the Part 200 Uniform Requirements in Appendix II of 2 C.F.R. Part 200.

## Related Resources

- Pertinent resources available through OJP's [Part 200 Uniform Requirements](#) webpage include –

**ADD hyperlink to each of the following documents, once they are posted:**

*OJP Introduction to the Part 200 Uniform Requirements: The Impact of 2 C.F.R. Part 200 (the “Supercircular”) on OJP Grants and Cooperative Agreements*

*OJP Selected Highlights of the Part 200 Uniform Requirements*

*The Part 200 Uniform Requirements – Answers to Frequently-Asked Questions (OJP)*

*OJP Quick Guide: Indirect cost rates and the Part 200 Uniform Requirements*

*OJP Quick Guide: Procurement standards and the Part 200 Uniform Requirements*

*OJP Quick Guide: Audit requirements for OJP Awards under the Part 200 Uniform Requirements*

- [Award Condition: All subawards \("subgrants"\) must have specific federal authorization](#) (incorporated by reference in many OJP awards made in FY 2016)
- [Award Condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract \(if contract would exceed \\$150,000\)](#) (incorporated by reference in many OJP awards made in FY 2016)
- [Guide to Procurement under DOJ Grants and Cooperative Agreements \(July 2016\)](#) (issued by the OJP Office of the Chief Financial Officer)

## Questions?

Questions regarding this OJP toolkit should be directed to OJP. In addition, an OJP recipient is to seek clarification from OJP if it is uncertain whether OJP would consider a particular agreement with an outside entity (or other third party) a “subaward,” or instead would consider it a “procurement contract under the award.”

## APPENDIX

### Some examples of “subawards authorized by statute” in OJP programs

| OJP Program  | Proposed Action/Agreement  | OJP will consider the Action/Agreement |
|--|--|--|
| Edward Byrne Memorial Justice Assistance Grant (“JAG”) Program | State provides funds to unit of local government, or to nonprofit neighborhood or nonprofit community-based organization, for the purposes described in 42 U.S.C. 3751(a)                  | Subaward; authorized by statute        |
|  | Unit of local government provides funds to nonprofit neighborhood or nonprofit community-based organization, for the purposes described in 42 U.S.C. 3751(a)                               | Subaward; authorized by statute        |
|  | State provides funds to unit of local government in compliance with “variable pass-through” requirements pursuant to 42 U.S.C. 3755(c)(2), for the purposes described in 42 U.S.C. 3751(a) | Subaward; authorized by statute        |
|  | State provides funds to a unit of local government that is a “less than \$10,000 jurisdiction” pursuant to 42 USC 3755(e)(2), for the purposes described in 42 U.S.C. 3751(a)              | Subaward; authorized by statute        |
|  | Unit of local government provides funds to a “disparate jurisdiction” pursuant to 42 U.S.C. 3755(d)(4), for the purposes described in 42 U.S.C. 3751(a)                                    | Subaward; authorized by statute        |



| <b>OJP Program (cont'd)</b>  | <b>Proposed Action/Agreement</b>  | <b>OJP will consider the Action/Agreement</b> |
|--|---|---|
| Paul Coverdell Forensic Sciences Improvement Grants Program                | State provides funds to unit of local government to carry out part of a program intended to improve the quality and timeliness of forensic science or medical examiner services in the State, including such services provided by a laboratory operated by the unit of local government | Subaward; authorized by statute               |
| JJJPA Title II ("Part B") Formula Grants Program                           | State provides funds to unit of local government, local organization, or eligible Indian tribe, for programs identified in the approved application/State plan submitted pursuant to 42 U.S.C. 5633(a)  | Subaward; authorized by statute               |
| Residential Substance Abuse Treatment ("RSAT") for State Prisoners Program | State provides funds to unit of local government, for the purposes described in 42 U.S.C. 3796ff  | Subaward; authorized by statute               |
|  | State provides funds to unit of local government in compliance with local allocation requirements, pursuant to 42 U.S.C. 3796ff-3(c), for the purposes stated therein   | Subaward; authorized by statute               |
| VOCA Victim Assistance Formula Program                                     | State provides funds to a public agency or nonprofit organization that is an "eligible crime victim assistance program" under 42 U.S.C. 10603(b), for services to victims of crime  | Subaward; authorized by statute               |