

ATTACHMENT A-1, AGENCY SPECIFIC TERMS AND CONDITIONS

I. Budget Amendments

- a. Budget amendments for contracts are governed in accordance with the State of New York Contract for Grants.
- b. Requests for any budget modifications shall be made in writing, in a manner prescribed by DCJS, by an authorized representative of the Contractor and must be approved in writing (email) by DCJS.

II. Time and Effort Reporting

- a. The Contractor shall maintain specific documentation as support for project related personal service costs. For all Contractor's staff whose salaries are paid in whole or in part from grant funds provided under this Contract, the Contractor shall maintain a time recording system which shows the time devoted to the grant project.
- b. The system may consist of time sheets, computerized workload distribution reports, or equivalent systems. DCJS reserves the right to determine what may constitute an equivalent alternative at the discretion of the Agency Head, or their designee.

III. Space / Rent Costs

- a. Space or rent costs provided for by this Contract shall be supported by a written lease or other related DCJS approved documentation, maintained on file, and made available by the Contractor upon request.

IV. Consultant Agreement

- a. The Contractor's use of a consultant shall be supported by a written agreement between the Contractor and the consultant. A consultant is defined as an individual or organization hired by the Contractor for the stated purpose of providing expertise with a view to accomplishing a specific task relative to the funded project. A copy of the agreement shall be submitted to DCJS and uploaded into the applicable state grants management system before any reimbursement is sought by the Contractor for costs associated with the consultant.
- b. All consultant services shall be obtained in a manner that provides for fair and open competition. The Contractor shall retain copies of all solicitations or quotes seeking a consultant, written agreements, and documentation justifying the cost and selection of the consultant.
 - i. Any agreement funded by federal funds must adhere to the consultant rate limits contained within the Department of Justice's Financial Guide.
 - ii. Procurement of a consultant shall be undertaken consistent with the procedures outlined in the Procurement section of this Attachment.

- c. A Contractor who proposes to obtain consultant services from a vendor without competitive bidding, shall obtain the prior written approval of the Deputy Commissioner of the Office of Program Development and Funding, or their designee. The request for approval shall be in writing and set forth, at a minimum, a detailed justification for selection and the basis upon which the price was determined to be reasonable.
 - i. Please note that this represents an exception to the procurement guidelines that follow.
- d. Notwithstanding the provisions of this section, the Parties agree that DCJS' prior written approval is not required for the use of a consultant when such agreement is secured in relationship to a criminal matter as an expert witness, consultant or investigator. The Parties agree that the use of a consultant shall be supported by a written agreement and that all supporting documentation identifying the criminal matter involved, services provided, time commitment and schedule shall be retained by the Contractor and submitted upon request.

V. Procurement

- a. All procurements shall be conducted in the following manner. Written justification and documentation for all procurements must be maintained on file and made available upon request. Detailed itemization forms for non-personal service expenditures, in a format determined by DCJS, shall accompany each voucher and Fiscal Cost Report requesting payment. All procurements must be made in a fair and open manner.
 - i. A Contractor that is a local government must conduct procurements in accordance with General Municipal Law Article 5-A and any other applicable regulations.
 - ii. A Contractor that is a not-for-profit organization shall make all procurements as noted below.
- b. If the Contractor is eligible to purchase an item or service from a government contract or is able to purchase such item or service elsewhere at a lower than or equal price, then such purchase may be made immediately. Documentation must be maintained that illustrates that price comparison.
- c. Thresholds:
 - i. **Purchases up to \$5,000**
 - A Contractor may purchase any single piece of equipment, single service or multiples of each, that cost up to \$5,000 at their discretion.
 - Please Note: Minority and Women-Owned Business Enterprises (MWBEs) goals still apply.

ii. Purchases between \$5,000-\$50,000

- A Contractor must first obtain at least 3 written quotes on the vendor's stationery prior to the purchase. Please note that emailed quotes or quotes received electronically are sufficient as long as it is clear from which vendor it originated and includes sufficient detail.
- For purchases over \$25,000 DCJS recommends, but does not require, that quotes be solicited via an advertisement or soliciting a large group of appropriate vendors/contractors to demonstrate appropriate market rate.
- A Contractor must maintain a record of the quotes obtained.
- Please Note: MWBE goals still apply.

iii. Purchases over \$50,000

- A Contractor must utilize a competitive bidding process.
- Please Note: MWBE goals still apply.

iv. Competitive Bidding Procurement Process (must include):

- Open and fair solicitation of the opportunity to provide services or purchase goods.
 - Information provided equally to all interested parties.
 - Solicitation lists reasonable deadlines for interested applicants.
 - A methodology for evaluating bids must be consistently applied to all applicants.
 - A justification for which bid was selected must be recorded to justify the selection.
 - Maintenance of a record of the competitive procurement process for audit purposes.
- v. Any Contractor who proposes to purchase from a vendor without competitive bidding, above the \$50,000 threshold, or who believes they have a justification for not following the processes detailed above for purchases under \$50,000, must obtain the prior written approval of the

Deputy Commissioner of the Office of Program Development and Funding, or their designee, in the form of an approved [Single/Sole Source Authorization Form](#).

- The circumstances leading to the selection of the vendor/contractor, including the alternatives considered and the rationale for selecting the specific vendor/contractor, must be included in the single or sole request. It must also include the method for determining the reasonableness of cost.
- Proof of reasonableness of cost must be documented.
- Ensure selected vendor(s) are qualified (licensed and/or certified where applicable) consistent with New York State contractual requirements.
- Please note that the burden for justification falls on the Contractor and approval is not guaranteed.

VI. Participation By Minority Group Members And Women With Respect To Grant Contracts: Requirements And Procedures (state-funded grants only)

a. Contract Goals

- i. For purposes of this Contract, DCJS has established an overall goal of 30% for Minority and Women-Owned Business Enterprises (MWBE) participation which are specified as part of the Contract on the Local Assistance MWBE Sub-Contractor Supplier Utilization Form 3301.
- ii. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in the Contract workplan, the Contractor shall reference the directory of New York State Certified MWBEs.
- iii. The Contractor acknowledges that if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to DCJS for liquidated or other appropriate damages, as set forth herein.

b. Equal Employment Opportunity (EEO)

i. Staffing Plan

- The Local Assistance MWBE Equal Employment Opportunity Staffing Plan Form is required for contracts with a total expenditure in excess of \$250,000.
- The Contractor shall submit the staffing plan to document the composition of the proposed workforce to be utilized in the

performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form and submit it as part of their bid or proposal or within a reasonable time, but before a contract can be executed.

ii. Workforce Employment Utilization Report

- If the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form is required, once a contract has been awarded and during the term of Contract, the Contractor is responsible for updating and providing notice to DCJS of any changes to the previously submitted Local Assistance MWBE Equal Employment Opportunity Staffing Plan. This information is to be submitted annually or as otherwise required by DCJS during the term of the Contract, for the purpose of reporting the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Local Assistance MWBE Workforce Employment Utilization Report form must be used to report this information.
- Separate forms shall be completed by the Contractor and any Subcontractor performing work on the Contract.
- In limited instances, the Contractor may not be able to separate out the workforce utilized in the performance of the Contract from the Contractor's and/or subcontractor's total workforce, the Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided is the Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

c. MWBE Utilization Plan

- i. The Contractor represents and warrants that the Contractor has submitted a Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form prior to the execution of the Contract.
- ii. The Contractor agrees to use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in the Contract workplan.
- iii. The Contractor further agrees that a failure to submit and/or use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DCJS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

d. MWBE Subcontractor Utilization Quarterly Report

- i. The Contractor is required to report MWBE Subcontractor utilization, as part of the quarterly claim process, to DCJS over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

e. Waivers

- i. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, DCJS shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- ii. If DCJS, upon review of the Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Plan, the Detailed Itemization Forms or the Local Assistance MWBE Workforce Employment Utilization Report, determines that a Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, DCJS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

f. Liquidated Damages – MWBE Participation

- i. Where DCJS determines that the Contractor is not in compliance with the requirements of the Contract and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, such finding constitutes a breach of contract and DCJS may withhold payment from the Contractor as liquidated damages and/or provide for other appropriate remedies.
- ii. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- iii. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by DCJS, the Contractor shall pay such liquidated damages to DCJS within thirty (30) days after they are assessed by DCJS unless prior to the

expiration of such thirtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the DCJS.

VII. Equipment Inventory

- a. Applicable equipment purchased with funds provided by this Contract, shall be assigned a unique inventory number. The Contractor shall list all equipment purchased with such funds on the Equipment Inventory Form and attach it in the applicable state grants management system at the time the last program progress report is filed or at the request of DCJS. Items of equipment costing less than \$500 do not need to be listed on the Equipment Inventory Form although the Contractor is encouraged to maintain an internal inventory for audit purposes. Upon completion of all contractual requirements by the Contractor, DCJS will permit continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in conducting a public safety program or continues to be used for grant eligible purposes, unless otherwise notified by DCJS.

VIII. Accounting and Audits

- a. If the Contractor receives funding from two or more sources, all necessary steps shall be taken to ensure that grant funds are not commingled with any other Contractor funds, and that grant-related transactions are not commingled. This includes, but is not limited to, the establishment of unique budget codes, a separate cost center, or a separate chart of accounts.

IX. Non-Compliance

- a. DCJS reserves the right to suspend program funds if the Contractor is found to be in noncompliance with the provisions of this Contract or other grant contracts between the Contractor and DCJS or, if the Contractor or principals of the Contractor are under investigation by a New York State or local law enforcement agency for noncompliance with State or Federal laws or regulatory provisions or, if in DCJS' judgment, the services provided by the Contractor under the Contract are unsatisfactory or untimely.
- b. DCJS shall provide the Contractor with written notice of noncompliance. Upon the Contractor's failure to correct or comply with the written notice by DCJS, DCJS reserves the right to terminate this Contract, recoup funds and recover any assets purchased with the proceeds of this Contract. DCJS reserves the right to use approved grant-related expenditures to offset disallowed expenditures from any grant funded through its offices upon issuance of a final audit report and appropriate notification to the Contractor, or upon reasonable assurance that the Contractor is not in compliance with the terms of the Contract.

X. Program Income

- a. Program income is gross income earned by the Contractor that is directly generated by a supported activity or earned as a result of the grant award during the period of performance. Program income earned by the Contractor during the funding period as a direct result of the grant award shall be reported in writing to DCJS in a manner or format prescribed by DCJS, in addition to any other applicable reporting requirements. This includes income received from seized and forfeited assets, cash, the sale of grant purchased property, royalties, fees for services, and registration/tuition fees. Interest earned on grant funds is not program income unless otherwise specified. The Contractor shall report the receipt and expenditures of grant program income to DCJS. All income, including interest, generated using these grant funds shall be used to enhance the grant project.

XI. Lapsing Appropriations

- a. Unless otherwise specified, in accordance with the State Finance Law, the availability of all State funds for liabilities already incurred thereunder shall cease on September 15th of the year following the fiscal year in which the funds were appropriated, unless such funds are reappropriated by the New York State Legislature. To ensure payment, vouchers should be received by DCJS by August 1st of the year following the fiscal year in which the funds were appropriated.

XII. Subawards/Subcontractors

- a. None of the goals, objectives or tasks set forth in this Contract shall be subawarded to another organization without specific prior written approval by DCJS. Where the intention to make subawards is clearly indicated in the application in the applicable grants management system, DCJS' reserves the right to deem the approval given if these activities are funded as proposed and executed as such in a contractual agreement.
- b. If this Contract makes provisions for the Contractor to subaward funds to other recipients, the Contractor agrees that all subcontractors shall be held accountable by the Contractor for all terms and conditions set forth in this Contract. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor shall guarantee the work of any subcontractor.
- c. The Contractor agrees that all subcontractor arrangements shall be formalized in writing between the parties involved; and shall include at a minimum:
 - i. Activities to be performed.
 - ii. Time schedule.
 - iii. Project policies.
 - iv. Other policies and procedures to be followed.
 - v. Dollar limitation of the agreement.

- vi. New York State Contract for Grants, Appendix A-Standard Clauses for New York State Contracts, Attachment A-1, Attachment A-2, Attachment A-3 (if applicable), Attachment C, Certified Assurances for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension (if applicable) and any special conditions set forth in Appendix D of the Contract.
 - vii. Applicable Federal and/or State cost principles to be used in determining allowable costs.
- d. The Contractor will not be reimbursed for subgranted funds unless all expenditures by a subcontractor are listed on applicable forms. Backup documentation for such expenditures shall be made available upon request. All expenditures shall be programmatically consistent with the goals and objectives of this Contract and with the financial plan set forth in Attachment B or B-1.

XIII. Work Product Ownership and Distribution/DCJS Logo

- a. DCJS reserves the right to determine whether any work product under this Contract by the contractor is the exclusive property of DCJS. Any work product deemed property of DCJS shall not be disseminated by any means, in whole or in part, unless express written permission in advance is granted by the DCJS Deputy Commissioner of the Office of Program Development and Funding (OPDF) and the Contractor adheres to any conditions or limitations with respect to usage. Where the Contractor uses their pre-existing materials in connection with this Contract, DCJS may use any said material, in whole or in part, with proper attribution to the Contractor.
- b. No materials or presentations resulting from Contract activities nor any Contractor's website or social platform may use the DCJS logo in any form without the prior written approval from the Executive Deputy Commissioner of DCJS or their designee. Requests for such approval shall be submitted in writing to the DCJS Deputy Commissioner of the Office of Program Development and Funding (OPDF) and/or DCJS General Counsel at least thirty (30) calendar days before requested use. DCJS' determination of any requests shall be made on a case-by-case basis.

XIV. Publications

- a. The Contractor will submit to DCJS for review all proposed publications (written, visual, or audio) prior to their public release if funded with grant funds under this Contract. Any such publications shall contain the following statement: "This project is supported by a grant from the New York State Division of Criminal Justice Services. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the Division of Criminal Justice Services."

XV. Delayed Implementation

- a. The Contractor agrees that if the project is not operational within 60 days of the original starting date of the grant period, it will report in writing to the DCJS Office of Program Development and Funding (OPDF) the steps taken to initiate the project, the reasons for delay, and the expected starting date. If the project is not operational within 90 days of the original starting date of the grant period, the Contractor will submit a second written report to OPDF explaining the delay. The State may either cancel the project and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.

XVI. Changes at the Discretion of DCJS

- a. This Contract may be extended, increased, decreased, terminated, renewed, amended or renegotiated at the discretion of the Division of Criminal Justice Services.

XVII. Non-Supplanting

- a. The Contractor shall not deliberately reduce funds available for a stated purpose because of the availability of funds under this grant. Funds shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for grant activities.
- b. Additionally, a Contractor may not reduce State, or local funds that have been allocated for such permissible activity because Federal funds are available (or expected to be available) to fund that same activity. State and Federal funds must be used to supplement existing State, local or other funds for program activities. Supplantation determinations are made by the Deputy Commissioner for the Office of Program Development and Funding, or their designee.
- c. Non-supplanting does not apply to grants made with State funds where DCJS receives a Legislative Initiative Form (LIF) from the State Legislature.

XVIII. Compliance with New York State Policies and Standards

- a. All information management software which a Contractor may purchase, utilize or develop with funds provided under the terms of this Contract shall comply with all applicable New York State Office of Information Technology Services security [policies and related standards](#).
- b. In addition, all such information management software and/or hardware which a Contractor may purchase, utilize or develop with funds provided under the terms of this Contract shall comply with established DCJS standards as outlined in the following documents:
 - i. [New York State Criminal Justice Electronic Biometric Transmission Standard](#)

- ii. [New York State Standard Practices for the Processing of Fingerprintable Criminal Cases](#)
- iii. [New York State Standard Practices for Fingerprinting Juveniles](#)
- iv. [New York State Incident Based Reporting System Standards](#)

XIX. IJPortal

- a. Contractors who are law enforcement agencies shall enroll as a user of the [eJustice NY Integrated Justice Portal \(IJPortal\)](#) and make use of the IJPortal services as applicable.

XX. Incident-Based Reporting (IBR)/UCR Data Entry Interface

- a. Incident-Based Reporting (IBR) agencies are required to use the IJPortal IBR Submission Interface to upload their monthly NYSIBR extract file, and the IJPortal UCR Data Entry Interface to submit their monthly Hate Crime and Law Enforcement Officers Killed or Assaulted (LEOKA) reports.
- b. Summary (UCR) reporting agencies are required to use the IJPortal UCR Data Entry Interface to submit all monthly UCR reports including the Return A (Monthly Offenses known to Police), Arrests of Persons 18 and Over, Arrests of Persons Under 18, Supplemental Homicide Report (SHR), Arson, Hate Crime, and the Law Enforcement Officers Killed or Assaulted (LEOKA).
- c. Law enforcement agencies are required to submit all monthly crime reports to DCJS through the Integrated Justice Portal (IJPortal) IBR/UCR Reporting Interface within 30 calendar days after the close of the reporting period. Failure to submit this information may result in grant funds being withheld.
- d. Instructions for accessing and submitting crime reports through the IJPortal can be found at: [New York State Integrated Justice Portal \(IJPortal\) Incident-Based Reporting File Submission Instructions](#)
- e. All law enforcement agencies shall stay current with their monthly submissions. When the police department is unable to submit the data within 30 days, the Chief shall submit the reasoning to DCJS, while ensuring the data is submitted as soon as possible. If it is deemed that the reasoning for the late submission was out of the control of the police department, a waiver may be granted to avoid the fiscal penalty.
- f. Law enforcement agencies shall submit full UCR Part 1 crime reports, including supplemental homicide reports, to DCJS by 30 days following the end of the month. These monthly reports may be submitted either under the Uniform Crime Reporting System (UCR) or under the Incident Based Reporting System (IBR). Quick Reports will not be accepted. Failure to submit this information may result in grant funds being withheld.

- g. UCR agencies shall fill out the Domestic Violence Victim Data table in accordance with the domestic violence reporting requirements. These requirements can be found on-line [here](#).
- i. Failure to submit this information may result in grant funds being withheld. Agencies reporting through IBR do not submit a supplemental report for domestic violence. The required data is automatically collected through the monthly submission of the IBR file.

XXI. Sexual Harassment Prevention Policy Certification

- a. As of January 1, 2019, bidders on procurements subject to competitive bidding in New York State, are required to submit a certification with every bid that states they have a policy addressing sexual harassment prevention and that they provide sexual harassment training to all employees on an annual basis.
- b. Pursuant to State Finance Law §139-l, bidders responding to a competitively bid Request for Applications (RFAs) must certify that by submission of their bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies its own organization, under penalty of perjury, that the bidder has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees.
- c. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law. Bidders that do not certify will not be considered for award; provided however, that if the bidder cannot make the certification, the bidder provides a signed statement with their bid detailing the reasons why the certification cannot be made.
- d. In addition to requiring this certification for competitively bid RFAs, DCJS has included this requirement for all Contractors receiving funds from DCJS. Contractors must provide annual certification that they have implemented a written policy addressing sexual harassment prevention in the workplace.