



U.S. Department of Justice

Office of the Inspector General

May 11, 2009

MANAGEMENT ADVISORY MEMORANDUM FOR:

LAURIE O. ROBINSON
ACTING ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS

A handwritten signature in blue ink, appearing to read "R BeauDET", written over the printed name of Raymond J. BeauDET.

FROM: RAYMOND J. BEAUDET
ASSISTANT INSPECTOR GENERAL FOR AUDIT

SUBJECT: Formula Grant Allocations and Awards for the Office of
Victims of Crime Awards Authorized by the Recovery Act

This memorandum is to advise you of work conducted and issues identified as part of our ongoing audit of the Office of Victims of Crime's (OVC) management and implementation of funds authorized by the American Recovery and Reinvestment Act of 2009 (Recovery Act).¹ Specifically, this memorandum contains the results of our review of the funding allocations and awards made under the Victims of Crime Act (VOCA) Compensation Formula Grant Program (VOCA Victim Compensation Program) and VOCA Victim Assistance Formula Grant Program (VOCA Victim Assistance Program) and identifies several grantees that should be considered for increased monitoring to ensure that Recovery Act funds are properly expended and the goals of the Recovery Act are substantially achieved.

Background

The Recovery Act appropriated \$100 million in funding to the OVC. Of the \$100 million, the OVC has designated \$5 million to fund the FY 2009 National Field-Generated Training, Technical Assistance, and Demonstration Projects discretionary grant program and \$95 million to fund two formula grant programs:

¹ The information contained in this memorandum is not intended to be used as the primary basis for management decisions, but rather identifies risk areas that have the potential to impact the successful administration and oversight of OVC Recovery Act funding.

- \$47.5 million for the VOCA Victim Compensation Program, and
- \$47.5 million for the VOCA Victim Assistance Program.

Each state, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and any other possession or territory of the United States that administer VOCA-funded crime victim compensation programs and VOCA-funded crime victim assistance programs to support the provision of services to victims of crime is eligible to receive funding. In order to receive funding, eligible state agencies must meet the eligibility requirements specified in VOCA of 1984.² The Recovery Act - VOCA Victim Compensation Program and the VOCA Victim Assistance Program are administered by OVC under the applicable provisions of VOCA, 42 U.S.C. 10602(a), the Final Program Guidelines for the VOCA Victim Compensation Program (published in the Federal Register on May 16, 2001), the VOCA Victim Assistance Program (published in the Federal Register on April 22, 1997), and the applicable provisions of the American Recovery and Reinvestment Act of 2009, H.R. 1., signed by the President on February 17, 2009.

Verification of Formula Allocations

In support of its Recovery Act efforts, the OVC posted solicitations for the VOCA Victim Compensation Program and the VOCA Victim Assistance Program on Grants.gov, the Office of Justice Programs' (OJP) website, and the OVC's website. Allocations of funds under each grant program were also made available on the OVC's website. The funding allocations for the VOCA Victim Compensation Program were developed by OJP's Office of the Chief Financial Officer (OCFO) and allocated funds to each state or territory based upon the fiscal year (FY) 2009 VOCA Formula Grant allocations (statutorily mandated to be 60 percent of a state or territory's prior year certified VOCA payout).³ The funds appropriated under the Recovery Act were not sufficient to allocate the full FY 2009 VOCA Formula Grant funds to each state or territory, therefore, each state or territory was allocated VOCA Victim Compensation Program funds based on the percentage of the total FY 2009 VOCA Formula Grant funds allocated to each state in accordance with the Victims of Crime Act.⁴ We verified that the data used for the certified VOCA payouts matched the amounts reported by the states and concluded that the OCFO's allocation calculations appear reasonable and accurate and in accordance with the Victims of Crime Act.

² 42 U.S.C. § 10602 (b) (2007)

³ 42 U.S.C. § 10602 (a1) (2007). During our review, we determined that the FY 2008 certified VOCA payouts were not available at the time the Recovery Act VOCA Victim Compensation Program allocations were calculated; as a result, the OCFO used FY 2007 payout data to determine the final allocations made under the program.

⁴ 42 U.S.C. § 10606 (a2) (2007)

Likewise, the final allocation for the VOCA Victim Assistance Program was developed by the OCFO. Under this program, each eligible state received a base amount of \$500,000 and each eligible territory received a base amount of \$200,000. The remaining funds were then allocated to the eligible states and territories based on population. During our review, we verified the accuracy of the OCFO's final allocation for the Program by comparing the OCFO population estimates to estimates obtained from the U.S. Census Bureau, and found the OCFO's allocation calculations for the VOCA Victim Assistance Program appear to be reasonable and accurate.

Review of Applications and Awards

Under both the VOCA Victim Compensation and VOCA Victim Assistance Programs, the OVC required each state or territory to submit its application for funding by March 20, 2009. As shown in Table 1, the OVC received 127 applications under the 2 programs and funded 109. Of the 18 denied applications, 7 were duplicate applications and 11 were from applicants that were not a state or territory's designated VOCA administering agency as required by the solicitations.

TABLE 1. OVC FORMULA GRANT APPLICATIONS AND AWARDS

| PROGRAM | APPLICATIONS RECEIVED | APPLICATIONS FUNDED | APPLICATIONS DENIED |
|----------------------------------|------------------------------|----------------------------|----------------------------|
| VOCA Victim Compensation Program | 61 | 53 | 8 |
| VOCA Victim Assistance Program | 66 | 56 | 10 |
| TOTAL | 127 | 109 | 18 |

Source: OJP's Grant Management System (GMS)

For each application funded under both the VOCA Victim Compensation and VOCA Victim Assistance Programs we reviewed application documentation in OJP's Grant Management System (GMS) to determine if: (1) the application was complete, (2) the amount funded exceeded the amount allocated as determined by the OCFO, and (3) any awards were made to high-risk grantees as determined by both OJP and the OIG.

Application Completeness

For the 109 applications funded under both the VOCA Victim Compensation Program and VOCA Victim Assistance Programs, we determined if the each state or territory submitted all certifications and assurances required by the solicitation and the Recovery Act. Based on our review, we verified that each funded application was complete and that each contained:

- A completed standard form 424;

- An administrative and training funds usage statement;
- The state statute covering the victim compensation program;
- A certification of compliance with “state grantee eligibility requirements” statement;
- A description of the applicant’s plan for the collection of the data required for performance measures;
- A certification as to the Recovery Act reporting requirements; and
- A general certification as to the requirements for receipt of funds for infrastructure investments.

Review of Award Amounts

We compared the final funding allocations to award documentation for both the VOCA Victim Compensation and VOCA Victim Assistance Programs to verify that the amount awarded did not exceed the amount that the OCFO allocated to each state or territory. Based on our review, we verified that the awards made under both the VOCA Victim Compensation and VOCA Victim Assistance Programs did not exceed the allocations calculated by the OCFO and that all of the funds allocated to individual states or territories had been awarded.

Awards made to High-Risk Entities

OJP currently has a process in place to designate certain entities as high-risk. The criteria used to designate an entity as high-risk are broadly defined in 28 C.F.R. § 66.12. At present, such criteria include the following:

- A history of unsatisfactory performance;
- Not financially stable;
- A management system that does not meet the management standards set forth in 28 C.F.R. § 66.20 (standards for financial management systems);
- Non-conformity to terms and conditions of previous awards; or
- Otherwise not responsible.

According to OJP officials, each entity on the high-risk list is reviewed to determine the nature of the reasons for the high-risk designation. If that reason is determined to be an issue that is considered cross-cutting (affecting all sub-agency operations within the entity), then the entire entity and all its sub-agencies would be considered high-risk. OJP develops a variety of corrective action efforts, special conditions, and monitoring activities specific to each high-risk entity.⁵

We obtained OJP's list of high-risk entities and compared it to award documentation for the VOCA Victim Compensation and VOCA Victim Assistance Programs to determine if any awards had been made to entities designated as high-risk. Upon review of OJP's list of high-risk entities, we identified four entities designated as high-risk that had been awarded approximately \$4.5 million of Recovery Act funding under both formula programs, as shown in Table 2.

TABLE 2. AWARDS TO HIGH-RISK ENTITIES

| GRANTEE | AWARD AMOUNT |
|--|---------------------|
| New Jersey Department of Law and Public Safety | \$2,484,671 |
| Commonwealth of Puerto Rico | 145,139 |
| North Carolina Department of Crime Control and Public Safety | \$1,110,000 |
| Puerto Rico Department of Justice | 762,000 |
| TOTAL | \$ 4,501,810 |

Source: GMS

Additionally, we identified four entities that had been awarded approximately \$3.5 million of Recovery Act funds under both formula programs that OJP determined to have cross-cutting issues with high-risk entities, as shown in Table 3. For example, the District of Columbia was designated as a high-risk entity by OJP because the recommendations related to OIG Audit Report No. TO-80-08-042 had been open for more than 6 months. OJP attached additional high-risk special conditions to the awards to these four entities.

⁵ The special conditions include such requirements as: (1) ensuring recipients not obligate, expend, or draw down funds under the awards until outstanding audit issues have been satisfactorily addressed; (2) requiring recipients to agree to promptly provide financial or programmatic documentation related to the awards upon request, including documentation of expenditures and achievements; (3) requiring recipients to agree that at least one key grantee official completes an OJP sponsored financial grant administration training, which will include a session on grant fraud prevention and detection within 120 days of the award; and (4) notifying recipients that they will be subject to additional on-site financial and programmatic monitoring.

TABLE 3. AWARDS TO SUB-AGENCIES OF HIGH-RISK ENTITIES DETERMINED TO HAVE CROSS-CUTTING ISSUES

| AWARD RECIPIENT | HIGH-RISK AGENCY | AWARD AMOUNT |
|---|---|---------------------|
| District of Columbia Superior Court | District of Columbia Government | 770,857 |
| Michigan Department of Community Health | State of Michigan (subrecipient - The Alliance for a Safer Greater Detroit) | 1,497,800 |
| North Carolina Victim Compensation Commission | North Carolina Department of Crime Control and Public Safety | 647,906 |
| District of Columbia Office of the Deputy Mayor for Public Safety and Justice | District of Columbia Government | 539,000 |
| TOTAL | | \$3,455,563 |

Source: GMS and OJP

Finally, as shown in Table 4, we identified five award recipients that received approximately \$4.6 million of Recovery Act funds under both formula grant programs that may also have cross-cutting issues with high-risk entities. Although, OJP did not designate these award recipients as high-risk, the high-risk entities have direct oversight of, or some other close association with the award recipient.

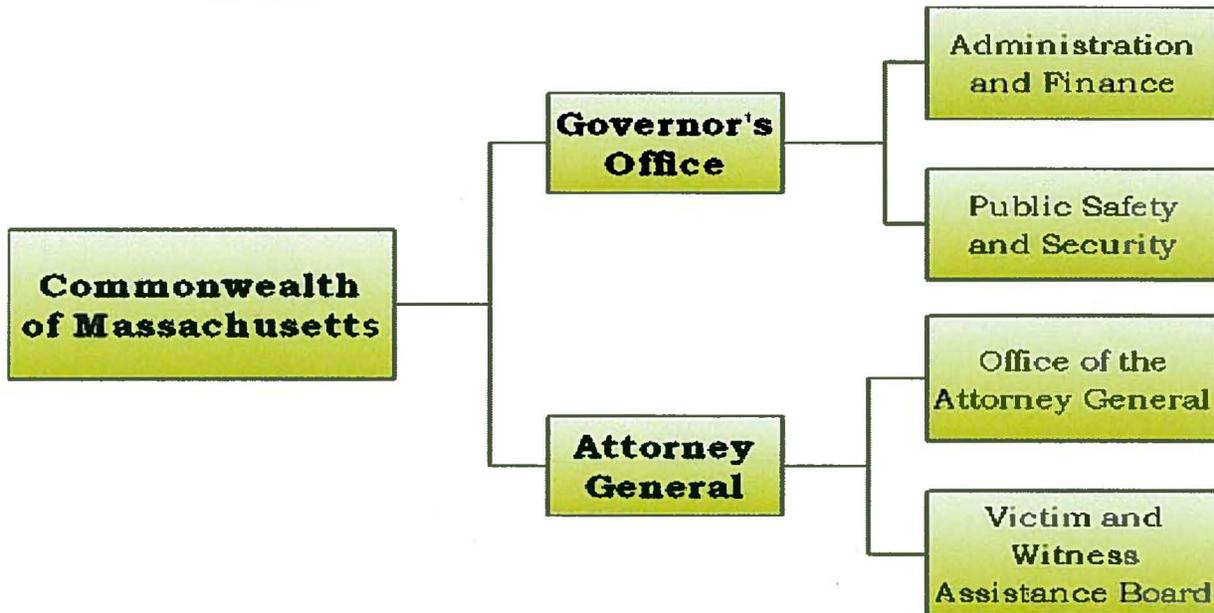
TABLE 4. AWARDS TO SUB-AGENCIES OF HIGH-RISK ENTITIES

| AWARD RECIPIENT | HIGH-RISK AGENCY | AWARD AMOUNT |
|--|---|---------------------|
| Georgia Criminal Justice Coordinating Council | State of Georgia | \$2,156,976 |
| Massachusetts Department of the Attorney General | Commonwealth of Massachusetts | 271,484 |
| Minnesota Department of Public Safety | Minnesota Crime Victims Reparation Commission | 369,897 |
| Massachusetts Victim Witness Assistance Board | Commonwealth of Massachusetts | 930,000 |
| State of Minnesota | Minnesota Crime Victims Reparation Commission | 845,000 |
| TOTAL | | \$4,573,357 |

Source: GMS

For example, as shown in Figure 1, OJP designated the Commonwealth of Massachusetts as a high-risk entity because recommendations related to OIG Audit Report No. TO-80-08-041 had been open for more than 6 months; however, grant funds were awarded to the Massachusetts Department of the Attorney General under the VOCA Victim Compensation Program, a sub-agency of the Commonwealth of Massachusetts.

FIGURE 1. PARTIAL MASSACHUSETTS GOVERNMENTAL ORGANIZATION CHART



Source: Commonwealth of Massachusetts Website, Mass.gov

Although we acknowledge that the Massachusetts Department of the Attorney General and the other sub-agencies of the high-risk entities listed in Table 4 may not have issues that would specifically designate them as high risk, in our judgment since deficiencies have occurred in other sub-agencies directly overseen by high-risk entities, these deficiencies are more likely to occur within the sub-agencies receiving Recovery Act funds and warrants increased monitoring. In order to mitigate the increased risk of non-compliance with Recovery Act requirements, fraud, waste, or abuse of Recovery Act funds, the OVC should consider applying additional monitoring measures to the award recipients listed in Table 4, such as additional site visits, additional desk reviews, or increased communication with award recipients during the award period.

Please advise us of the actions you intend to take regarding the issues discussed in this memorandum within 30 days. If you would like to discuss the information in this memorandum, you may contact me on (202) 616-4633 or David M. Sheeren, Regional Audit Manager, Denver Regional Audit Office, on (303) 335-4001.

cc: LeToya A. Johnson
Deputy Director
Audit and Review Division
Office of Audit, Assessment and Management
Office of Justice Programs



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

JUL 02 2009

Washington, D.C. 20531

MEMORANDUM TO: Glenn A. Fine
Inspector General

THROUGH: Raymond J. Beaudet
Assistant Inspector General for Audit

FROM: Laurie O. Robinson *LOR [Signature]*
Acting Assistant Attorney General

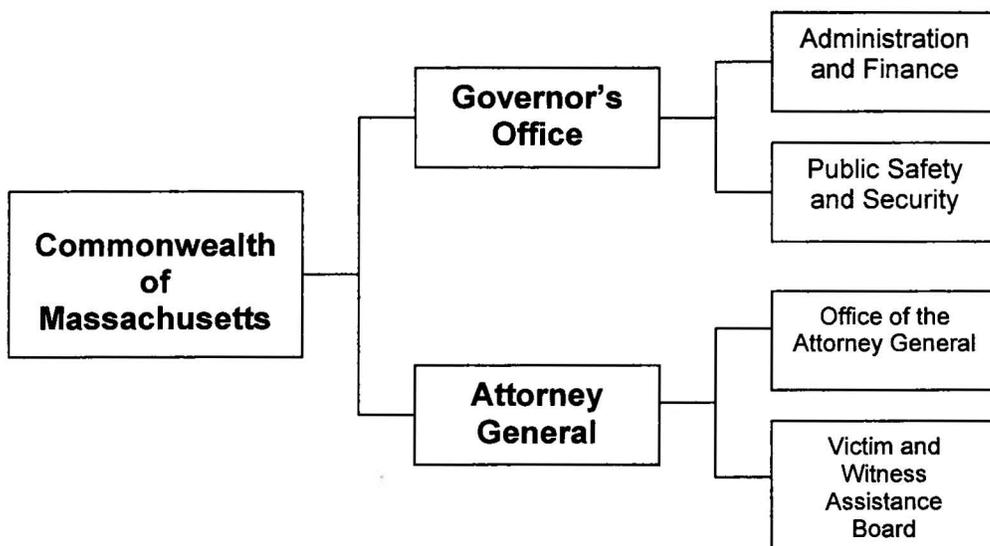
SUBJECT: Office of Justice Programs' Response to Management
Advisory Memorandum, "*Formula Grant Allocations and
Awards for the Office of Victims of Crime Awards
Authorized by the Recovery Act*"

This memorandum provides the Office of Justice Programs' (OJP's) response to correspondence from the Office of the Inspector General (OIG) dated May 11, 2009, regarding the results of your office's review of the funding allocations and awards made under the Victims of Crime Act (VOCA) Compensation Formula and Victim Assistance formula grant programs. As noted in your office's correspondence, the OIG found that the allocation calculations for both formula grant programs appear reasonable and accurate.

With respect to the OIG's review of the grant applications and awards, the correspondence notes that the OIG identified entities that were not designated as high risk, but were a component of a State agency that had oversight responsibility for another agency component that was designated as high-risk. To address this issue, your office recommended that OJP should consider applying additional monitoring measures to all components of a State, if any component of that State is designated as high risk. For example, utilizing the organizational structure included in your correspondence (depicted on page 2 of this correspondence), if the Massachusetts Office of Public Safety and Security, a sub-agency of the Governor's Office, is designated as high risk, then all sub-agencies within the Commonwealth of Massachusetts should be subject to additional monitoring measures.

During Fiscal Year 2009, OJP's Office of Audit, Assessment, and Management operationalized the high risk process after careful consideration of the risks associated with high risk grantees. For your information, attached are copies of the policies and procedures that guide the processes currently in place. As you will note within the attached high risk procedures, when a component of a State is designated as high risk, OJP determines whether the issue leading to

the high risk designation is an isolated issue that affects only that component, or whether the issue is cross-cutting and impacts all Department of Justice awards to that State. Again, for example, utilizing the organizational structure included in your correspondence (depicted below), if the Massachusetts Office of Public Safety and Security has an open recommendation related to unsupported costs on a grant awarded to that office, OJP would deem only that sub-agency as high risk and only that sub-agency would be subject to additional monitoring or other appropriate sanctions. Conversely, if the open recommendation relates to untimely submission of a statewide Single Audit Report, OJP would deem such an issue as cross-cutting. As such, any sub-agency (Administration and Finance, Public Safety and Security, Office of the Attorney General, and Victim and Witness Assistance) of the Commonwealth of Massachusetts that receives an OJP grant would be considered as high-risk and subject to additional monitoring or other appropriate sanctions until the cross-cutting issue is satisfactorily resolved.



We have considered your recommendation. However, we believe the high risk process OJP currently has in place provides an appropriate level of oversight with respect to components of States that have been designated as high risk.

We appreciate your feedback. If you have any questions regarding this response, please feel free to contact me on 202-307-5933, or Maureen Henneberg, Director, Office of Audit, Assessment, and Management, on 202-616-3282.

cc: Mary Lou Leary
 Deputy Assistant Attorney General
 for Policy

Beth McGarry
 Deputy Assistant Attorney General
 for Operations and Management

Joye Frost
Acting Director
Office for Victims of Crime

Marcia K. Paul
Chief Financial Officer
Office of Justice Programs

Maureen Henneberg
Director
Office of Audit, Assessment, and Management

LeToya A. Johnson
Deputy Director, Audit and Review Division
Office of Audit, Assessment, and Management

OJP's High-Risk Grantee Procedures

UNITED STATES
DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS



OJP O 2900.2

9/27/2007

Order

Subject: HIGH-RISK GRANTEE DESIGNATIONS

1. **PURPOSE.** This Order establishes the policies and procedures to be followed by Office of Justice Programs (“OJP”) personnel in connection with making high-risk grantee designations.
2. **SCOPE.** This Order applies to all OJP programmatic and support bureaus and offices (“Components”).
3. **EFFECTIVE DATE.** This Order is effective upon the issuance date.
4. **AUTHORITIES.**
 - a. 42 U.S.C. § 3782 (OJP administrative authority)
 - b. 28 C.F.R. § 66.12 (Special grant or subgrant conditions for “high-risk” grantees)
 - c. 28 C.F.R. pt. 67 (Government-wide Debarment and Suspension (Nonprocurement))
5. **POLICY.** It is the policy of OJP that the Deputy Director for Audit and Review, within the Office of Audit, Assessment, and Management (“OAAM”), be designated as the High-Risk Designation Coordinator for OJP, to have such responsibilities as may be described herein.
6. **RESPONSIBILITIES.** In order to implement this Order, the following responsibilities are assigned:
 - a. High-Risk Designation Coordinator. The High-Risk Designation Coordinator shall, as necessary and appropriate—

Distribution: All OJP Employees

Initiated by: Office of Audit, Assessment and
Management, Audit and Review
Division

- (1) Coordinate within OJP—
 - (a) a streamlined process for taking appropriate action when OJP determines that a grantee meets one or more of the high-risk criteria specified in 28 C.F.R. § 66.12. At present, such criteria include the following:
 - (i) Has a history of unsatisfactory performance;
 - (ii) Is not financially stable;
 - (iii) Has a management system that does not meet the management standards set forth in 28 C.F.R. § 66.20 (standards for financial management systems);
 - (iv) Has not conformed to terms and conditions of previous awards; or
 - (v) Is otherwise not responsible.
 - (2) Work with OJP components to interpret the high-risk criteria identified in 28 C.F.R. § 66.12 and identify potential conditions that may lead to an OJP grantee being designated as high-risk.
 - (3) Establish follow-up and resolution processes, in order to ensure that timely corrective actions are taken to assist the grantees in addressing all of the issues that led to the original high-risk designation.
 - (4) Keep OJP personnel informed of grantees that have been designated as high-risk.
 - (5) Coordinate referrals, if necessary, to the Department of Justice suspending or debaring official with necessary documentation to support the reason(s) the organization should be considered for inclusion into the General Services Administration's Excluded Parties List System (<http://epls.arnet.gov>).
- b. OJP Components. The Head of each OJP Component shall serve as the High-Risk Designation Approving Official within the same, to review and approve referrals for high-risk designation on behalf thereof. This authority may be redelegated to a subordinate.

7. HIGH-RISK REFERRAL PROCESS.

OJP personnel may become aware of serious programmatic or financial noncompliance issues regarding OJP grantees and applicants through a variety of sources. These sources include, but are not limited to, OJP fiscal integrity reviews; OJP programmatic monitoring; OJP financial monitoring; Office of the Inspector General (OIG) audit resolution activity; Single Audit resolution activity; OIG investigations; referrals from other Department of Justice grant-making components; referrals from other Federal grant-making organizations; and the media.

- a. **Making High-Risk Designation Referrals:** Any Component personnel may recommend a grantee for inclusion on the High-Risk Designation List. Any such recommendation must receive the approval of the component's designated High-Risk Designation Approving Official before being sent to the High-Risk Designation Coordinator.

- b. **Cross-cutting High-Risk Referrals:** The High-Risk Designation Coordinator shall review the referral and determine if the issues identified may affect or involve other current OJP grants with the same recipient; if so, the High-Risk Designation Coordinator shall—
 - (1) Notify the High-Risk Designation Approving Official for each affected or involved components of the referral (including providing a list of all active grants and pending applications); and
 - (2) Facilitate a meeting of the grant managers for the active grants and pending applications, as well as the High-Risk Designation Coordinator and representatives of the Office of the Chief Financial Officer and the Office of the General Counsel, to develop a technical assistance plan; develop a corrective action plan; identify immediate actions that may be required of OJP personnel; identify immediate restrictions or actions necessary on current awards as a result of the high-risk designation; and /or identify possible penalties for continued non-compliance. The High-Risk Designation Approving Officials for any affected component may also elect to participate in meeting. (See also (3), below.)

Immediate action required of OJP personnel may include withholding funds on current awards. If such action should be required, the same shall be coordinated with the Office of Chief Financial Officer in accordance with OJP I 4501.1A (*Temporarily Freezing Payments and Suspension or Termination of Grant or Cooperative Agreement Awards*). In addition, immediate action may include conducting a financial and/or programmatic monitoring visit or referring the grantee to the OIG for audit or investigation. Penalties may include imposition of special conditions on pending awards; additional or more detailed financial reporting requirements; additional financial or programmatic monitoring; or imposition of prior approval requirements.

- (3) The decisions of the high-risk discussion group shall be summarized and sent to the affected component High-Risk Designation Approving Officials, the Office of the Chief Financial Officer, and the Office of the General Counsel, for the concurrence of each.

- (4) In the event that the unanimous concurrence described in (3), above, be not obtained, the matter will be referred to the Assistant Attorney General for final determination.
- c. Notice of High-Risk Designation: Once unanimous concurrence (or determination) is obtained under b., above, the High-Risk Designation Coordinator shall, in writing, notify the grantee of the high-risk designation, including—
- (1) The reason for the high-risk designation;
 - (2) The nature of any current restrictions as a result of the high-risk designation;
 - (3) The corrective actions that must be taken;
 - (4) The length of time the restrictions and high-risk designation will be imposed;
 - (5) Future penalties and restrictions that may be imposed if timely corrective action is not taken; and
 - (6) The process for requesting reconsideration of the conditions/restrictions and the high-risk designation.

A copy of the notification shall be filed in Official Grant File (maintained by the Office of the Chief Financial Officer and/or within the Grants Management System).

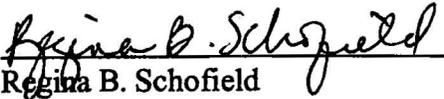
- d. Grant-Specific High-Risk Referrals: Components are encouraged to refer grantees, as appropriate, to the High-Risk Designation List even if the issues identified appear to be grant-specific. Even where coordination with other OJP components may not be required hereunder, including the grantee on the list may afford a useful opportunity for OJP components to share their experiences so that appropriate precautions may be taken for future OJP awards.

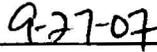
8. **FOLLOW-UP AND DESIGNATION REMOVAL PROCESS.**

- a. Tracking Corrective Action Efforts: The High-Risk Designation Coordinator shall take the lead in tracking implementation of the milestones relative to the corrective actions that must be taken to have a high-risk designation removed. Follow-up on grant-specific programmatic corrective actions that may be required shall be coordinated through the appropriate grant manager. In accordance with normal grant management duties, the appropriate grant manager shall continue to work with the grantee regarding such issues until each has been appropriately resolved. In these cases, the High-Risk Designation Coordinator's responsibility shall be limited to following up with the appropriate grant manager to determine if the corrective action has been implemented.

9/27/2007

- b. **Delinquent Corrective Action Implementation:** In the event that a grantee should not make sufficient progress in addressing the required corrective actions within the timeframes specified, the High-Risk Designation Coordinator shall coordinate efforts with the appropriate OJP components to determine whether more severe penalties, such as the following, may warranted:
- (1) Terminating the award;
 - (2) Freezing grant funds on current OJP grant awards;
 - (3) Barring the grantee from receiving future OJP grant awards; and/or
 - (4) Recommending the grantee for debarment and suspension pursuant to 28 C.F.R. pt. 67 (Government-wide Debarment and Suspension (Nonprocurement));
- c. **Removal of High-Risk Designation:** When all corrective actions have been implemented and/or other conditions have been met (*i.e.*, expiration of fixed period during which a grantee is barred from receiving OJP awards), the High-Risk Designation Coordinator shall notify the appropriate OJP components and the grantee, in writing, that the restrictions imposed have been lifted and the high-risk designation has been removed.


Regina B. Schofield
Assistant Attorney General


Date