

**Recovery Act:  
Correctional Facilities on Tribal Land Competitive Grant Announcement**

**Frequently Asked Questions (FAQs)**

**1. Who is eligible to apply?**

For categories I-IV: Applicants are limited to federally recognized Indian tribes, including eligible Alaska Native villages and corporations, and authorized intertribal consortia. (Note: "Indian Tribe" is defined under the Indian Self Determination Act, 25 U.S.C. 450b(e)). Tribes are encouraged to partner with other tribes or state and local entities in order to pursue regional efforts as appropriate.

For category V: Tribal and non-tribal for-profit (commercial organizations), non-profit organizations, faith-based and community organizations, institutions of higher learning, and consortiums with demonstrated national level experience in working with tribal representatives to plan, renovate, and construct correctional facilities that serve local and regional needs.

**2. What is a consortium?**

A consortium is two or more tribes that agree to partner together to submit an application; however, only one tribe may serve as the consortium's applicant agency. (Note: A tribe may either submit its own application or be part of a consortium, but not both.) In order for the consortium's submission to be valid, applicants **must** include written authorization from each federally recognized tribe and certify that the partnership was established before the solicitation's deadline.

**3. Can a tribe partner with another tribe, state, and/or local government?**

Yes. Applicants may apply for a single-tribe facility, a regional tribal facility, or a regional facility in partnership with non-tribal local and/or state government agencies.

To be considered for a regional tribal facility, two or more tribes must partner together, but only one tribe can submit the application and be designated the fiscal agent. To be considered for a regional facility in partnership with non-tribal government agencies, one or more tribes must partner with one or more non-tribal local and/or state government agencies, but only one tribe can submit the application and be designated the fiscal agent.

Applicants proposing joint ventures or partnerships should be aware that grant funds may only be used for the portion of the facility used for individuals subject to tribal jurisdiction. This could be either the construction costs of areas dedicated for tribal use or a percentage of total construction cost, consistent with total number of bed spaces actually set aside for tribal use. Applications that propose joint ventures or partnerships to construct or renovate a facility to house or provide services to other juvenile/adult populations, must demonstrate how the facility planning and construction/renovation will address compliance with standards to house or provide services to non-Bureau of Indian Affairs (BIA)/tribal populations.

**4. Can a tribe submit more than one application under the program?**

Yes. **Applicants may submit an application under any one of the categories.** Should an application span multiple categories or encompass elements from different categories,

applicants must identify and submit their application under the one category that best describes the project. Applicants should not submit duplicate applications to multiple categories. **Applicants must clearly indicate in the abstract and on the first page of the program narrative which category they are applying under.**

**5. If a tribe has an existing FY 2007 or 2008 renovation grant, is it eligible to apply for funding under the Recovery Act Correctional Facilities on Tribal Land Program?**

Yes, but it cannot apply for the same type of facility or work as was proposed in the FY 2007 and 2008 funding, nor can it supplant that funding with the Recovery Act funding.

**6. If a tribe applied for the FY 2009 Correctional Facilities on Tribal Land Program, can it apply for the Recovery Act Correctional Facilities on Tribal Land Program?**

Yes it can, but if an award is made under the Recovery Act funding, an award for the same type of project will not be made under the FY 2009 funding, nor will a FY 2009 award be able to be used to supplement or supplant Recovery Act funding. However, if the tribe applies for a different type of project under the Recovery Act, an award can be made for that project.

**7. Can territories or indigenous Hawaiian organizations apply directly?**

No, only federally recognized Indian tribes, including eligible Alaska Native villages and corporations and authorized intertribal consortiums, may apply directly for funding opportunities under this program.

**8. Is a tribal resolution required as part of the application package?**

Yes. All applications must be accompanied by a current authorizing resolution of the governing body or other enactment of the tribal council or comparable government body. Applicants unable to provide a signed tribal resolution by the application deadline must contact BJA **prior to the application deadline** to request an extension for submitting the tribal resolution **ONLY**; the application is due May 4, 2009.

**9. Will BJA offer any technical assistance to grant recipients under this program?**

Yes. BJA will partner with a technical assistance provider that will provide training and technical assistance to grant recipients via workshop(s), targeted assistance, and other means.

**10. May the applicant designate which of the performance measures listed applies to its project, or is the applicant expected to address all performance measures?**

Applicants are expected to address all performance measures that are applicable to the category of funding for which they are applying. This is clearly denoted in the solicitation. They must describe their ability, through a formal process, to collect information related to the performance measures listed in the solicitation.

**11. What are the requirements of the American Recovery and Reinvestment Act that the tribe must follow?**

**A. Recovery Act: Buy American**

All applicants that propose to use grant funds to construct, alter, maintain, or repair a public building or public work should be aware that the Recovery Act (in section 1605) contains a "Buy American" provision that applies to iron, steel, and manufactured goods, subject to certain exceptions. The provision is to be applied in a manner consistent with United States obligations under international agreements. For the text of section 1605, please refer to the "OJP Recovery Act Additional Requirements" web page at

[www.ojp.usdoj.gov/recovery/solicitationrequirements.htm](http://www.ojp.usdoj.gov/recovery/solicitationrequirements.htm). Government-wide guidance on this provision is not yet available, but is expected. Check back for updates.

#### **B. Recovery Act: Wage Rate Requirements**

All applicants should be aware that the Recovery Act contains a provision on wage rate requirements that concerns projects funded or assisted by Recovery Act funds that employ laborers and mechanics. See section 1606 of the Recovery Act, the text of which appears on the “OJP Recovery Act Additional Requirements” web page at [www.ojp.usdoj.gov/recovery/solicitationrequirements.htm](http://www.ojp.usdoj.gov/recovery/solicitationrequirements.htm). Government-wide guidance on this provision is not yet available, but is expected. Check back for updates.

#### **C. Recovery Act: Preference for Quick-Start Activities**

Pursuant to section 1602 of the Recovery Act, recipients of funds under this solicitation for infrastructure investment are to give preference to activities that can be started and completed expeditiously, and also are expected to use grant funds in a manner that maximizes job creation and economic benefit. For the details of this requirement, please refer to the text of section 1602, which appears on the “OJP’s Recovery Act Additional Requirements” web page at [www.ojp.usdoj.gov/recovery/solicitationrequirements.htm](http://www.ojp.usdoj.gov/recovery/solicitationrequirements.htm).

#### **D. Recovery Act: Contracts**

Generally speaking, the Recovery Act places special emphasis on the use of fixed-price contracts awarded through competitive procedures. As information becomes available, OJP will provide guidance to applicants as to what, if any, particular procurement requirements or procedures may apply to contracts awarded with Recovery Act grant funds, apart from those that appear in 28 C.F.R. Part 66 and 28 C.F.R. Part 70. Check back for updates.

#### **E. Recovery Act: Limit on Funds**

The Recovery Act specifically provides that funds may not be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

#### **F. Recovery Act: Use of Funds in Conjunction with Funds from Other Sources.**

Recovery Act funds may be used in conjunction with other funding as necessary to complete projects, but tracking and reporting of Recovery Act funds must be separate, to meet the reporting and other requirements of the Recovery Act and other applicable law. There can be no commingling of funds. (See “Accountability and Transparency under the Recovery Act,” below.)

#### **G. Recovery Act: Separate Tracking and Reporting of Recovery Act Funds and Outcomes**

Consistent with the special purposes and goals of the Recovery Act, and its strong emphasis on accountability and transparency, it is essential that all funds from a Recovery Act grant be tracked, accounted for, and reported on separately from all other funds (including funds from non-Recovery-Act grants awarded for the same or similar purposes or programs). Recipients must also be prepared to track and report on the specific outcomes and benefits attributable to use of Recovery Act funds. The accounting systems of all recipients and subrecipients must ensure that funds from any award under this Recovery Act solicitation are not commingled with funds from any other source.

## H. Recovery Act: Quarterly Financial and Programmatic Reporting

Consistent with the Recovery Act emphasis on accountability and transparency, reporting requirements under Recovery Act grant programs will differ from and expand upon OJP's standard reporting requirements for grants. In particular, section 1512(c) of the Recovery Act sets out detailed requirements for quarterly reports that must be submitted within 10 days of the end of each calendar quarter. Receipt of funds will be contingent on meeting the Recovery Act reporting requirements.

Under this Recovery Act program, quarterly financial and programmatic reporting will be required, and will be **due within 10 calendar days after the end of each calendar quarter**, starting July 10, 2009. The information from grantee reports will be posted on a public web site. To the extent that grant funds are available to pay a grantee's administrative expenses, those funds may be used to assist the grantee in meeting the accelerated time-frame and extensive reporting requirements of the Recovery Act.

Recovery Act grant recipients may expect that the information posted by OJP will identify grantees that are delinquent in their reporting. In addition, in keeping with standard OJP practice, grant recipients who do not submit required reports by the due date will not be permitted to draw down funds thereafter, during the pendency of the delinquency, and may be subject to other appropriate actions by OJP including, but not limited to, restrictions on eligibility for other OJP awards, restrictions on draw-down on other OJP awards, and suspension or termination of the Recovery Act award.

Additional instructions and guidance regarding the required reporting will be provided as they become available. Check back for updates. For planning purposes, however, all applicants should be aware that the Recovery Act section 1512(c) provides as follows:

Recipient Reports- Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains--

- (1) the total amount of recovery funds received from that agency;
- (2) the amount of recovery funds received that were expended or obligated to projects or activities; and
- (3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including--
  - (A) the name of the project or activity;
  - (B) a description of the project or activity;
  - (C) an evaluation of the completion status of the project or activity;
  - (D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
  - (E) for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.
- (4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

**I. Recovery Act: Subawards under Recovery Act Grants**

Reporting: DUNS and CCR. As indicated above, quarterly reporting requirements for Recovery Act awards include reporting with respect to subawards. In order to facilitate that reporting, award recipients must work with their first-tier subawardees (if any) to ensure that, no later than the due date of the award recipient's first quarterly report after a subaward is made, the subawardee has a DUNS numbers and is registered with the Central Contractor Registration (CCR) database. See "Deadline: Registration," above, for more information on CCR and DUNS numbers.

Monitoring of subawards. All applicants should bear in mind that any recipient of an award under this solicitation will be responsible for monitoring of subawards under the grant in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the OJP Financial Guide.

**J. Reporting Fraud, Waste, Error, and Abuse**

Each grantee or subgrantee awarded funds made available under the Recovery Act is to promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has submitted false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Recovery Act funds.

Report potential fraud, waste or abuse to the Department of Justice, Office of the Inspector General, <http://www.usdoj.gov/oig/index.html>.

**12. Is a match required?**

Yes, there is a 10 percent non-federal match requirement for applications in Categories I-IV. Applicants may satisfy this match requirement with either cash or in-kind services. The applicant must identify the source of the 10 percent non-federal portion of the budget and how match funds will be used. The formula for calculating match is:

Award amount = Adjusted Project Costs  
Federal Share

Recipient's share x Adjusted Project Cost = required match

**Example:** For a federal award amount of \$500,000, match would be calculated as follows:  
 $\frac{\$500,000}{90\%} = \$555,555$        $10\% \times \$555,555 = \$55,555$  match

**13. Is there a budget format or sample that is available?**

Applicants must submit a budget worksheet and budget narrative in one file. A fillable budget detail worksheet is available on the Office of Justice Programs web site at [www.ojp.usdoj.gov/funding/forms/budget\\_detail.pdf](http://www.ojp.usdoj.gov/funding/forms/budget_detail.pdf).

**14. Do tribes have to allocate a specific amount over the project period to cover travel and other costs for attending BJA training-related meetings?**

Technical assistance and training remains a critical component toward planning, implementing, enhancing, and sustaining tribal justice systems. Grantees are required to set aside funds to cover travel and costs for BJA/OJP-sponsored/approved trainings.

**15. Does the 15-page limit include Attachments 1, 2, 3, and 4 or only Attachment 1?**

The 15-page limit pertains only to the Program Narrative, Attachment 2. This includes the following sections: Statement of the Problem, Project/Program Design and Implementation, Capabilities/Competencies, and Impact/Outcomes and Evaluation/Plan for Collecting Data for Performance Measures. See page 17 of the solicitation for further details.

**16. Is an indirect cost rate needed for these grant applications?**

The general indirect cost rate rules apply. An indirect cost rate is not required, but is permitted. For more information, refer to OJP's [Financial Guide](#).

**17. How soon should a tribe be expected to begin their renovation and/or construction project after receiving an award?**

Work on the project should begin within 180 days of receipt of the award. BJA will give priority to those tribes that can demonstrate their ability to begin projects in less than the 180-day time period. In these cases, the tribe's project is considered to be "shovel ready."

**18. If a tribe is seeking construction funding for a new project, can they include costs for roads, sewer, and water hook-ups, land preparation, and other items normally associated with construction site work?**

Yes, but those costs should be kept to a minimum. The funding is to be primarily used for the construction of the facility; however, BJA understands the need to fund certain other costs associated with the construction of the facility.

**19. Must an applicant demonstrate its bed space needs and its violent crime statistics?**

Yes. An applicant tribe must provide its bed space needs, as well as provide what its violent crime statistics are for the past fiscal year. In addition, any tribes, state, or local governments partnering with the applicant tribe must also provide their bed space needs and violent crime statistics.

**20. Under Category IV, what are the alternative sentencing facilities that can be constructed and what kinds of services should we plan to provide in these facilities?**

Transitional housing facilities for offenders transitioning back to the community, half-way housing facilities for violators of community based supervision (probation, parole, other), juvenile residential facilities, day reporting centers, and pretrial/probation offices. Services are residential beds for the transitional housing, half-way housing, and juvenile residential facilities. All facilities, including the residential facilities under the alternative sentencing facilities should include space for: substance abuse and mental health screening, assessment and treatment services, offender supervision, and other services such as employment assistance, educational services, family reunification, and domestic violence counseling and safety planning.

**21. Will BJA provide funding for staffing, operations, and management of the facilities?**

No. BJA will only provide funding for the construction and/or renovation of facilities. Tribes should indicate in their application their plans to provide staffing, operations, and management costs. This includes demonstrating, in their application, how they are consulting with BIA and other federal agencies to provide these types of activities.

**22. Does my tribe have to have a BIA needs-assessment in order to apply?**

Although it is not required, it is strongly encouraged that the tribe ensure that BIA conduct an assessment of needs and document that BIA supports the tribe's application submission

if the tribe is applying for funds for activities in categories I - III. For category IV, tribes should have a BIA assessment of needs for the residential part of the facility.

**23. If the tribe is going to partner with another tribe, state, or local government on the project, must it include any documentation supporting that partnership?**

Yes. If one or more tribes is going to partner with the applicant tribe, it must also submit a signed tribal resolution. If the applicant tribe is partnering with a state and/or local government, a memorandum of understanding and/or letter of support from the state or local government must be attached to the application.

**24. Who is eligible to apply for the training and technical assistance part of the solicitation?**

Applicants in this category are limited to tribal and non-tribal for-profit (commercial) organizations, non-profit organizations, faith-based and community organizations, institutions of higher learning, and consortiums with demonstrated national level experience in working with tribal representatives to plan, renovate, and construct correctional facilities that serve local and regional needs.

**25. Will more than one award be made in category V?**

It is possible, based on available funding and applications received, that more than one training and technical assistance award could be made.

**26. What kinds of assistance should applicants for category V be able to provide to Indian tribes?**

- Provide targeted technical assistance to BJA grantees to plan, renovate, and construct correctional facilities. Technical assistance formats should include telephone, written, and/or onsite assistance, as appropriate.
- Develop and deliver planning curricula for tribal representatives to: establish/enhance (tribal/non-tribal) multi-agency cooperation and collaborations.
- Conduct communitywide assessments to ensure that community-based resources/efforts are used effectively and which new and/or expanded facilities are developed only when warranted.
- Develop a comprehensive strategic community justice plan that encompasses the design, use, capacity, and cost of adult and/or juvenile justice sanctions and services.
- Explore a range of correctional building options including prototypical or quasi-prototypical concepts/designs for local correctional facilities, multi-service centers, support offices, and regional facilities.
- Apply community-based alternatives to help control and prevent jail overcrowding.
- Provide logistical support for up to two Office of Justice Programs (OJP)/Bureau of Justice Assistance (BJA) events that focus on planning, renovating, and/or constructing correctional facilities on tribal lands. Logistical support includes agenda production, meeting facilitation, and providing travel and accommodation support for tribal participants not having access to federal grant resources. Every effort will be made to align training opportunities with the Interdepartmental Tribal Justice, Safety and Wellness sessions hosted by OJP.
- Develop and maintain a distance-learning technical assistance capacity to complement classroom training.
- Develop and disseminate written materials that support and complement the training sessions. No less than two new publications, determined in conjunction with BJA, must be produced and disseminated during the grant period.

- Support OJP's Tribal Justice and Safety web site by establishing and maintaining a section dedicated to assisting tribes effectively plan, renovate, and/or construct facilities associated with the incarceration and rehabilitation of juvenile and adult offenders subject to tribal jurisdiction.

**27. Is the training and technical assistance (TTA ) provider required to defray the travel costs for grantees/participants to attend workshops?**

Yes. The TTA provider is required to defray the travel costs for grantee representatives to attend training events supported under this cooperative agreement. Therefore, applicants should allocate funds for this cost in the proposed budget.

**28. Can a tribe purchase a facility currently owned by the state or a locality, and then renovate it to fit its needs? Can the tribe use Recovery Act grant funds to do that?**

Yes. A tribe may purchase and renovate an existing facility for use in the incarceration of offenders subject to tribal jurisdiction, although any such facility would have to be located "on tribal lands." Special rules regarding purchase of real estate may apply. Contact BJA for particular guidance.

**29. What are the suggested funding levels for the facilities noted in Categories I-IV?**

Based on input from BJA's tribal training and technical assistance partners and BJA's own review of tribal renovation and planning grant programs, the following funding levels will serve as a guide for applicants:

- Category I: Construction of Detention Facilities for Adult and Juvenile Offenders—up to \$30 million
- Category II: Construction of Single-Tribe or Regional Multi-Purpose Justice Centers—up to \$15 million
- Category III: Renovation of Existing Detention Facilities—up to \$ 5 million
- Category IV: Construction of Alternative Sentencing Facilities—up to \$ 1 million

**30. What will be the funding level for Category V, Training and Technical Assistance for Correctional Facilities on Tribal Lands Program?**

Up to \$4.5 million will be available to one or more providers of training and technical assistance.

**31. Can my organization use federal funding sources such as the Bureau of Indian Affairs to meet the match requirement for this program?**

In accordance with the Office of Justice Programs Financial Guide, cash match may be applied from 1) funds appropriated by Congress for the activities of any agency of a tribal government or the Bureau of Indian Affairs performing law enforcement functions on tribal lands and 2) sources otherwise authorized by law.