



The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), National Institute of Justice (NIJ) is pleased to announce that it is seeking applications for funding under the Postconviction DNA Testing Assistance Program. This program furthers the Department's mission by offering assistance to States to help defray the costs associated with postconviction DNA testing of cases of violent felony offenses where actual innocence might be demonstrated.

Solicitation: Postconviction DNA Testing Assistance Program

Eligibility

In general, States are eligible to apply for funding. To be eligible for an award, an applicant must submit a certification from the chief legal officer of the State as specified under "Eligibility" on pages 3-4.

Deadline

Registration with Grants.gov is required prior to application submission.
(See "How to Apply," page 8.)

All applications are due by 11:59 p.m. eastern time on May 16, 2011. (See "Deadlines: Registration and Application," page 3.)

Contact Information

For technical assistance with submitting the application, contact the Grants.gov Customer Support Hotline at 800-518-4726 or via e-mail to support@grants.gov.

Note: The Grants.gov Support Hotline hours of operation are 24 hours a day, 7 days a week, except Federal holidays.

For assistance with any other requirement of this solicitation, contact Gerald LaPorte, Forensic Policy Program Manager, at 202-305-1106 or by e-mail to Gerald.Laporte@usdoj.gov.

Grants.gov number assigned to announcement: NIJ-2011-2813

SL# 000953

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Postconviction DNA Testing Assistance Program

CFDA No. 16.741

Overview

The National Institute of Justice (NIJ) is the research, development, and evaluation agency of the U.S. Department of Justice (DOJ) and a component of the Office of Justice Programs (OJP). NIJ provides objective, independent, evidence-based knowledge and tools to enhance the administration of justice and public safety.

With this solicitation, NIJ seeks proposals from States wishing to receive funding to help defray the costs associated with postconviction DNA testing in cases that involve violent felony offenses (as defined by State law) in which actual innocence might be demonstrated. Funds may be used to review such postconviction cases and to locate and analyze biological evidence associated with these cases.

Postconviction DNA testing has received considerable attention in recent years. Since the advent of forensic DNA analysis, a number of people convicted of crimes have been subsequently exonerated through DNA analysis of crime scene evidence that was not tested at the time of trial. Additionally, newer technologies have substantially increased the successful DNA analysis of aged, degraded, limited, or otherwise compromised biological evidence. As a result, crime scene samples once thought to be unsuitable for testing in the past may now yield DNA profiles. Moreover, samples that previously generated inconclusive DNA results may now be amenable to reanalysis using newer methods.

Deadlines: Registration and Application

Registration is required prior to submission. OJP strongly encourages registering with Grants.gov several weeks before the deadline for application submission. The deadline for applying for funding under this announcement is 11:59 p.m. eastern time on May 16, 2011. Please see the “How to Apply” section, page 8, for more details.

Eligibility

States¹ may apply for funding under this solicitation. To be eligible for an award, a State must submit an express certification from the chief legal officer of the State (typically the Attorney General) that the State—

1. Provides postconviction DNA testing of specified biological evidence under a State statute, or under State rules, regulations, or practices, to persons convicted after trial and under a sentence of imprisonment or death for a State offense of murder or forcible rape, in a manner intended to ensure a reasonable process for resolving claims of actual innocence.

¹ For purposes of this solicitation, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

2. Preserves biological evidence secured in relation to the investigation or prosecution of a State offense of murder or forcible rape, under a State statute, local ordinances, or State or local rules, regulations, or practices, in a manner intended to ensure that reasonable measures are taken by all jurisdictions within the State to preserve such evidence.

Any certification that is submitted must be personally executed by the chief legal officer of the State after a determination that the certification may properly be made. To establish eligibility, the certification must be received by NIJ **no later than [60 days after posting]** for inclusion as part of the grant application. See also "What an Application Should Include," below, and Appendix I, which includes a template for the certification.

Note: States are encouraged to review the provisions of section 413 of the Justice for All Act of 2004 (Public Law 108–405). Although not applicable to awards under this FY 2011 solicitation, these or related provisions may apply to future solicitations related to postconviction DNA testing assistance. (A copy of section 413 appears in Appendix II, along with copies of 18 U.S.C. §§ 3600(a) and 3600A, which are referenced therein.)

Program-Specific Information—Postconviction DNA Testing Assistance Program

Funds are to be used by States to help defray the costs of postconviction DNA testing. Specifically, funding may be used to review postconviction cases of violent felony offenses (as defined by State law) and to locate and analyze biological evidence samples associated with these cases.

For the purposes of this announcement—

- "Case review" means review of files or documentation of postconviction cases of violent felony offenses (as defined by State law) by appropriate persons such as prosecutors, public defenders, law enforcement personnel, and medical examiners to determine whether biological evidence exists that might, through DNA analysis, demonstrate the actual innocence of the person previously convicted.
- "Locate evidence" means seek to locate, following a case review, biological evidence that, through DNA analysis, might demonstrate actual innocence, through activities such as the searching of files, storage facilities, and evidence rooms.
- "DNA analysis of biological evidence" includes the handling, screening, and DNA analysis of biological evidence located in connection with a case review.

All DNA analyses conducted using funding from this program must be performed by a laboratory (government-owned or fee-for-service) that is accredited and that undergoes external audits at least once every 2 years to demonstrate compliance with the applicable DNA Quality Assurance Standards established by the Director of the FBI.

Each DNA analysis conducted under this program must be maintained pursuant to any applicable Federal privacy requirements.

Goals, Objectives, and Deliverables

It is expected that States receiving Postconviction DNA Testing Assistance funds will—

1. Review appropriate postconviction cases to identify those in which DNA testing could prove the actual innocence of a person convicted of a State violent felony offense(s) as defined by State law.
2. Locate biological evidence associated with such postconviction cases.
3. Perform DNA analysis of appropriate biological evidence.

Awardees must submit data in their progress reports detailing the number and types of cases reviewed with grant funds, the number of cases where an evidence search was conducted, the number of cases where biological evidence existed, number of cases where biological evidence was destroyed or missing, the approximate number of hours in each case spent on case review, locating evidence and DNA analysis, the number of cases where DNA analysis was performed, and the number of profiles uploaded into CODIS.

Amount and Length of Awards

Total funding for this solicitation and the number of awards made will depend on the availability of funds, the quality of the applications, and other pertinent factors. **All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by law.**

In general, NIJ will limit its grants under this program to a maximum period of 18 months after the start of the award.

Permissible Uses of Funds

The following types of expenditures may be permitted under this program:

- 1. Supplies.** Funds may be used to acquire laboratory supplies for DNA analysis of biological evidence.
- 2. Overtime.** Funds may be used for overtime for people directly engaged in case review, location of evidence, or DNA analysis of biological evidence. Any payments for overtime must be in accordance with the applicable provisions of the OJP Financial Guide, available at www.ojp.usdoj.gov/financialguide.
- 3. Consultant and Contractor Services.** Funds may be used to hire consultants and/or temporary contract staff to conduct case reviews, locate evidence, or conduct DNA analysis of biological evidence. Funds may also be used for contracts with accredited fee-for-service vendors to conduct DNA analysis of biological evidence.
- 4. Computer Equipment.** Funds may be used to upgrade, replace, lease, or purchase computer hardware or software that will be used exclusively for case review, location of evidence, or DNA analysis of biological evidence.

5. Salary and Benefits of Additional Employees. Funds may be used for salaries and benefits of additional full- or part-time employees to the extent such employees are directly engaged in case review, location of evidence, or DNA analysis of biological evidence. Applicants should provide documentation that any new full- or part-time employee(s) will be directly engaged in these activities.

What will not be funded

Among other things, Federal funds awarded under this program may not be used for:

1. Work that will be funded under another specific solicitation.
2. Construction.
3. Renovation.
4. Laboratory Equipment. Funds may not be used to upgrade, replace, lease, or purchase laboratory equipment.
5. Salaries and Benefits for Existing Staff. Funds may not be used to pay salaries and/or benefits for existing staff, other than overtime as discussed above.

Budget Information

Limitation on Use of Award Funds for Employee Compensation; Waiver: With respect to any award of more than \$250,000 made under this solicitation, Federal funds may not be used to pay total cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110% of the maximum annual salary payable to a member of the Federal Government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (The 2011 salary table for SES employees is available at www.opm.gov/oca/11tables/indexSES.asp.) Note: A recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-Federal funds. (Any such additional compensation will not be considered matching funds where match requirements apply.)

The limitation on compensation rates allowable under an award may be waived on an individual basis at the discretion of the Assistant Attorney General (AAG) for OJP. An applicant that wishes to request a waiver must include a detailed justification in the budget narrative of its application. Unless the applicant submits a waiver request and justification with the application, the applicant should anticipate that OJP will request the applicant to adjust and resubmit its budget.

The justification should include: the particular qualifications and expertise of the individual, the uniqueness of the service being provided, the individual's specific knowledge of the program or project being undertaken with award funds, and a statement explaining that the individual's salary is commensurate with the regular and customary rate for an individual with his/her qualifications and expertise, and for the work that is to be done.

Match Requirement: See "Cofunding" paragraph under "What an Application Should Include" (below).

Performance Measures

To assist in fulfilling the Department's responsibilities under the Government Performance and Results Act (GPRA), Public Law 103-62, applicants that receive funding under this solicitation

must provide data that measure the results of their work. Any award recipient will be required, post award, to provide the data requested in the “Data Grantee Provides” column so that OJP can calculate values for the “Performance Measures” column. Performance measures for this solicitation are as follows:

Objective	Performance Measure(s)	Data Grantee Provides
To help defray the costs associated with post-conviction DNA testing.	<ol style="list-style-type: none"> 1. Number of case reviews conducted with grant funds. 2. Number of cases where a search to locate evidence was conducted. 3. Number of cases where biological evidence existed. 4. Number of cases where biological evidence was destroyed or missing. 5. Approximate number of hours in each case spent on case review, locating evidence and DNA analysis. 6. Number of cases where DNA analysis was performed. 7. Number of profiles uploaded into CODIS. 	<ol style="list-style-type: none"> 1. Number of case reviews conducted with grant funds. 2. Number of cases where a search to locate evidence was conducted. 3. Number of cases where biological evidence existed. 4. Number of cases where biological evidence was destroyed or missing. 5. Approximate number of hours in each case spent on case review, locating evidence and DNA analysis. 6. Number of cases where DNA analysis was performed. 7. Number of profiles uploaded into CODIS.

Submission of performance measures data is not required for the application. Instead, applicants should discuss in their applications their proposed methods for collecting data for performance measures. Please refer to the section “What an Application Should Include” (below) for additional information.

Notice of New Post-Award Reporting Requirements

Applicants should anticipate that all recipients (other than individuals) of awards of \$25,000 or more under this solicitation, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), will be required to report award information on any first-tier subawards totaling \$25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the reporting requirements should it receive funding. Reports regarding subawards will be made through the FFATA Subaward Reporting System (FSRS), found at www.fsrs.gov.

Please note also that applicants should anticipate that no subaward of an award made under this solicitation may be made to a subrecipient (other than an individual) unless the potential subrecipient acquires and provides a Data Universal Numbering System (DUNS) number.

How to Apply

Applications will be submitted through Grants.gov. Grants.gov is a “one-stop storefront” that provides a unified process for all customers of Federal awards to find funding opportunities and apply for funding. Complete instructions on how to register and submit an application can be found at www.Grants.gov. If the applicant experiences technical difficulties at any point during this process, please call the Grants.gov Customer Support Hotline at **800-518-4726**, 24 hours a day, 7 days a week, except Federal holidays. Registering with Grants.gov is a one-time process; however, **processing delays may occur, and it can take up to several weeks** for first-time registrants to receive confirmation and a user password. OJP highly recommends that applicants start the registration process as early as possible to prevent delays in submitting an application package by the specified application deadline.

All applicants are required to complete the following steps:

1. **Acquire a DUNS number.** A DUNS number is required for Grants.gov registration. In general, the Office of Management and Budget requires that all applicants (other than individuals) for Federal funds include a DUNS (Data Universal Numbering System) number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point-of-contact information for Federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Obtain a DUNS number by calling Dun and Bradstreet at 866-705-5711 or by applying online at www.dnb.com. Individuals are exempt from this requirement.
2. **Acquire or renew registration with the Central Contractor Registration (CCR) database.** OJP requires that all applicants (other than individuals) for Federal financial assistance maintain current registrations in the Central Contractor Registration (CCR) database. An applicant must be registered in the CCR to successfully register in Grants.gov. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Please note, however, that applicants must **update or renew their CCR registration annually** to maintain an active status. Information about CCR registration procedures can be accessed at www.ccr.gov.
3. **Acquire an Authorized Organization Representative (AOR) and a Grants.gov username and password.** Complete the AOR profile on Grants.gov and create a username and password. The applicant organization’s DUNS Number must be used to complete this step. For more information about the registration process, go to www.grants.gov/applicants/get_registered.jsp.
4. **Acquire confirmation for the AOR from the E-Business Point of Contact (E-Biz POC).** The E-Biz POC at the applicant organization must log into Grants.gov to confirm the applicant organization’s AOR. Please note that there can be more than one AOR for the organization.

5. **Search for the funding opportunity on Grants.gov.** Please use the following identifying information when searching for the funding opportunity on Grants.gov. The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 16.741, and the funding opportunity number is NIJ–2011–2813.
6. **Submit an application consistent with this solicitation by following the directions in Grants.gov.** Within 24–48 hours after submitting the electronic application, the applicant should receive an e-mail validation message from Grants.gov. The validation message will state whether the application has been received and validated, or rejected, with an explanation. **Important:** Applicants are urged to submit applications **at least 72 hours prior** to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

Note: Grants.gov will forward the application to OJP’s Grants Management System (GMS). GMS does not accept executable file types as application attachments. These disallowed file types include, but are not limited to, the following extensions: “.com,” “.bat,” “.exe,” “.vbs,” “.cfg,” “.dat,” “.db,” “.dbf,” “.dll,” “.ini,” “.log,” “.ora,” “.sys,” and “.zip.”

Experiencing Unforeseen Grants.gov Technical Issues

If an applicant experiences unforeseen Grants.gov technical issues beyond the applicant’s control that prevent submission of its application by the deadline, the applicant must contact NIJ staff **within 24 hours after the deadline** and request approval to submit its application. At that time, NIJ staff will instruct the applicant to submit specific information detailing the technical difficulties. The applicant must e-mail: a description of the technical difficulties, a timeline of submission efforts, the complete grant application, the applicant DUNS number, and Grants.gov Help Desk tracking number(s) received. After the program office reviews all of the information submitted, and contacts the Grants.gov Help Desk to validate the technical issues reported, OJP will contact the applicant to either approve or deny the request to submit a late application. If the technical issues reported cannot be validated, the application will be rejected as untimely.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to begin the registration process in sufficient time, (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site, (3) failure to follow all of the instructions in the OJP solicitation, and (4) technical issues experienced with the applicant’s computer or information technology (IT) environment.

Notifications regarding known technical problems with Grants.gov, if any, are posted at the top of the OJP funding Web page, www.ojp.usdoj.gov/funding/solicitations.htm.

What an Application Should Include

This section describes what an application should include and sets out a number of elements. Applicants should anticipate that failure to submit an application that contains all of the specified elements may negatively affect the review of the application; and, should a decision be made to make an award, it may result in the inclusion of special conditions that preclude access to or use of award funds pending satisfaction of the conditions.

Moreover, applicants should anticipate that some application elements are so critical that applications unresponsive to the scope of the solicitation, or that do not include a program

narrative, budget detail worksheet including a budget narrative, and the required express certification from the chief legal officer of the State (see “Eligibility,” pages 3-4, and Appendix I) will neither proceed to peer review nor receive further consideration.

OJP strongly recommends use of appropriately descriptive file names (e.g., “Program Narrative,” “Budget Detail Worksheet and Budget Narrative,” “Timelines,” “Memoranda of Understanding,” “Resumes”) for all attachments. OJP recommends that resumes be included in a single file.

1. Information to complete the Application for Federal Assistance (SF-424)

The SF-424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. Grants.gov and GMS take information from the applicant’s profile to populate the fields on this form. When selecting "type of applicant," if the applicant is a for-profit entity, please select "For-Profit Organization" or "Small Business" (as applicable).

2. Program Narrative

The program narrative section of the application should not exceed 25 double-spaced pages in 12-point font with 1-inch margins. Abstract, table of contents, charts, figures, appendices, and government forms do not count toward the 25-page limit for the narrative section, and should not be included in the main body of the program narrative.

If the program narrative fails to comply with these length-related restrictions, noncompliance may be considered in peer review and in final award decisions.

Program Narrative Guidelines:

- a. **Project Abstract** (not counted against the 25-page program narrative limit and not to exceed 600 words).
- b. **Table of Contents and Figures** (not counted against the 25-page program narrative limit).
- c. **Main body.** The main body of the program narrative should describe the project in depth. The following sections should be included as part of the program narrative:
 - Statement of the Problem.
 - Project/Program Design and Implementation.
 - Capabilities/Competencies.
 - Impact/Outcomes and Evaluation.
 - Plan for Collecting the Data Required for This Solicitation’s Performance Measures. **Note:** Submission of performance measures data is not required for the application. Performance measures are included as an alert that successful applicants will be required to submit specific data to NIJ as part of their reporting requirements. For the application, the applicant should indicate an understanding of these requirements and discuss how the applicant will gather the required data, should the applicant receive funding.

Note: Within the above 5 sections, the narrative should address.

- Purpose, goals, objectives, and expected results.

- Implementation approach, including case review selection criteria.
 - Management plan and organization.
 - Need and relevance to the goals and objectives of the program.
- e. **Appendices** (not counted against the 25-page program narrative limit) include:
- Bibliography/references (if applicable).
 - Any questionnaires, tables/charts/graphs, or maps pertaining to the proposed project.
 - Curriculum vitae, resumes or biographical sketches of key personnel (if available).
 - Project timeline with expected milestones.
 - Letters of cooperation/support or administrative agreements from organizations collaborating in the project (if applicable).
 - Human Subjects Protection Paperwork including Institutional Review Board (IRB) documentation and forms (see www.ojp.gov/nij/funding/humansubjects/human-subjects.htm).
 - Privacy Certificate (for further guidance go to www.ojp.gov/nij/funding/humansubjects/privacy-certificate-guidance.htm).
 - List of previous and current NIJ awards to applicant organization.
 - List of other agencies, organizations, or funding sources to which this proposal has been submitted (if applicable).
 - Other materials specified by the solicitation.

3. Budget Detail Worksheet and Budget Narrative

a. Budget Detail Worksheet

A sample Budget Detail Worksheet can be found at www.ojp.gov/funding/forms/budget_detail.pdf. If the budget is submitted in a different format, the budget categories listed in the sample budget worksheet should be included.

For questions pertaining to budget and examples of allowable and unallowable costs, please see the OJP Financial Guide at www.ojp.usdoj.gov/financialguide/index.htm.

b. Budget Narrative

The Budget Narrative should thoroughly and clearly describe every category of expense listed in the Budget Detail Worksheet. The narrative should be mathematically sound and correspond with the information and figures provided in the Budget Detail Worksheet. The narrative should explain how all costs were estimated and calculated and how they are relevant to the completion of the proposed project. The narrative may include tables for clarification purposes but need not be in a spreadsheet format. As with the Budget Detail Worksheet, the Budget Narrative should be broken down by year.

Cofunding: A grant made by NIJ under this solicitation may account for up to 100 percent of the total cost of the project. The application should indicate whether it is feasible for the applicant to contribute cash, facilities, or services as non-Federal support for the project. The application should identify generally any such

contributions that the applicant expects to make, and the proposed budget should indicate in detail which items, if any, will be supported with non-Federal contributions.

4. **Indirect Cost Rate Agreement** (if applicable)

Indirect costs are allowed only if the applicant has a federally approved indirect cost rate. (This requirement does not apply to units of local government.) A copy of the rate approval should be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant Federal agency, which will review all documentation and approve a rate for the applicant organization or, if the applicant's accounting system permits, costs may be allocated in the direct cost categories. If DOJ is the cognizant Federal agency, obtain information needed to submit an indirect cost rate proposal at www.ojp.usdoj.gov/financialguide/part3/part3chap17.htm.

5. **Additional Attachment**

Certification as to Provision of Postconviction DNA Testing and Preservation of Biological Evidence. As described above in the "Eligibility" section, to be eligible for an award, a State must submit a specific certification personally executed by its chief legal officer (typically the Attorney General) regarding the provision of postconviction DNA testing and preservation of biological evidence. A template for the certification appears in Appendix I. As noted earlier, any such certification must be received by NIJ **no later than May 16, 2011, or the application will neither proceed to peer review nor receive further consideration.**

6. **Other Standard Forms**

Additional forms that may be required in connection with an award are available on OJP's funding page at www.ojp.usdoj.gov/funding/forms.htm. For successful applicants, receipt of funds may be contingent upon submission of all necessary forms. Please note in particular the following forms.

- a. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (required to be submitted in GMS prior to the receipt of any award funds).
- b. Disclosure of Lobbying Activities (required for any applicant that expends any funds for lobbying activities; this form must be downloaded, completed, and then uploaded).
- c. Accounting System and Financial Capability Questionnaire (required for any applicant other than an individual that is a non-governmental entity and that has not received any award from OJP within the past 3 years; this form must be downloaded, completed, and then uploaded).
- d. Standard Assurances (required to be submitted in GMS prior to the receipt of any award funds).

Selection Criteria

Statement of the Problem (Understanding of the problem and its importance)—10%

1. Awareness of the state of current DNA technology and DNA testing relative to postconviction cases.

Project/Program Design and Implementation (Quality and technical merit)—30%

1. How requested funds will be used to help defray costs of postconviction DNA testing.
2. Need and relevance to the goals and objectives of the program.
3. Feasibility of proposed project and awareness of pitfalls.
4. Innovation and creativity (when appropriate).

Capabilities/Competencies (Capabilities, demonstrated productivity, and experience of applicants)—25%

1. Qualifications and experience of proposed staff.
2. Demonstrated ability of proposed staff and organization to manage the effort.
3. Adequacy of the plan to manage the project, including how various tasks are subdivided and resources are used.
4. Successful past performance on NIJ grants and contracts (when applicable).

Budget—10%

1. Total cost of the project relative to the perceived benefit.
2. Appropriateness of the budget relative to the level of effort.
3. Use of existing resources to conserve costs.

Impact/Outcomes and Evaluation—25%

1. Potential for significant outcomes.
2. Plan for collecting data for performance measures.
3. Relevance for improving the policy and practice of criminal justice and related agencies in the United States and improving public safety.

Review Process

OJP is committed to ensuring a fair and open process for awarding grants. NIJ reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation.

Peer reviewers will review the applications submitted under this solicitation that meet basic minimum requirements. NIJ may use either internal peer reviewers, external peer reviewers, or a combination to review the applications under this solicitation. An external peer reviewer is an expert in the field of the subject matter of a given solicitation who is NOT a current U.S. Department of Justice employee. An internal reviewer is a current U.S. Department of Justice employee who is well-versed or has expertise in the subject matter of this solicitation. Eligible applications will be evaluated, scored, and rated by a peer review panel. Peer reviewers' ratings and any resulting recommendations are advisory only. In addition to peer review ratings, considerations for award recommendations and decisions may include, but are not limited to, underserved populations, geographic diversity, strategic priorities, past performance, and available funding.

The Office of the Chief Financial Officer (OCFO), in consultation with NIJ, conducts a financial review of applications for potential discretionary awards to evaluate the fiscal integrity and financial capability of applicants; examines proposed costs to determine if the budget detail worksheet and budget narrative accurately explain project costs; and determines whether costs are reasonable, necessary, and allowable under applicable Federal cost principles and agency regulations.

Absent explicit statutory authorization or written delegation of authority to the contrary, all final award decisions will be made by the Assistant Attorney General (AAG), who also may give consideration to factors including, but not limited to, underserved populations, geographic diversity, strategic priorities, past performance, and available funding when making awards.

Additional Requirements

Applicants selected for awards must agree to comply with additional legal requirements upon acceptance of an award. OJP strongly encourages applicants to review the information pertaining to these additional requirements prior to submitting an application. Additional information for each requirement can be found at www.ojp.usdoj.gov/funding/other_requirements.htm.

- Civil Rights Compliance
- Faith-Based and Other Community Organizations
- Confidentiality
- Research and the Protection of Human Subjects
- Anti-Lobbying Act
- Financial and Government Audit Requirements
- National Environmental Policy Act (NEPA)
- DOJ Information Technology Standards (if applicable)
- Single Point of Contact Review
- Non-Supplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with Office of Justice Programs Financial Guide
- Suspension or Termination of Funding
- Nonprofit Organizations

- For-profit Organizations
- Government Performance and Results Act (GPRA)
- Rights in Intellectual Property
- Federal Funding Accountability and Transparency Act (FFATA) of 2006
- Awards in Excess of \$5,000,000 – Federal Taxes Certification Requirement
- Active CCR Registration

If a proposal is funded, the award recipient will be required to submit several reports and other materials, including quarterly financial reports, semi-annual progress reports, a final progress report, and, if applicable, an annual audit report in accordance with Office of Management and Budget Circular A-133. Future awards and fund drawdowns may be withheld if reports are delinquent.

Application Checklist

Postconviction DNA Testing Assistance Program

The application checklist has been created to assist in developing an application.

Eligibility Requirement:

_____ Certification as to Provision of Postconviction DNA Testing and Preservation of Biological Evidence (see pages 3-4 and Appendix I)

What an Application Should Include:

- _____ Application for Federal Assistance (SF-424) (see page 10)
- _____ Program Narrative (see page 10)
- _____ Appendices to the Program Narrative (see page 11)
 - _____ Bibliography/references (if applicable)
 - _____ Any questionnaires, tables/charts/graphs, or maps pertaining to the proposed project
 - _____ Curriculum vitae, resumes or biographical sketches of key personnel (if applicable)
 - _____ Project timeline with expected milestones
 - _____ Letters of cooperation/support or administrative agreements from organizations collaborating in the project (if applicable)
 - _____ Human Subjects Protection Paperwork
 - _____ Privacy Certificate
 - _____ List of previous and current NIJ awards to applicant organization
 - _____ List of other agencies, organizations, or funding sources to which this proposal has been submitted (if applicable)
- _____ Budget Detail Worksheet (see page 11)
- _____ Budget Narrative (see page 11)
- _____ Indirect Cost Rate Agreement (if applicable) (see page 12)
- _____ Program Narrative/Abstract Format:
 - _____ Double-spaced
 - _____ 12-point standard font
 - _____ 1" standard margins
 - _____ Narrative is 25 pages or less
- _____ Other Standard Forms as applicable (see page 12), including:
 - _____ Disclosure of Lobbying Activities (if applicable)
 - _____ Accounting System and Financial Capability Questionnaire (if applicable)

Appendix I: Certification Template

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
NATIONAL INSTITUTE OF JUSTICE

FY 2011 Postconviction DNA Testing Assistance Program

**Certification as to Provision of Postconviction DNA Testing
and Preservation of Biological Evidence**

On behalf of the applicant State (as defined in the solicitation) named below, I certify the following to the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice:

- (A) The State provides postconviction DNA testing of specified biological evidence under a State statute, or under State rules, regulations, or practices, to persons convicted after trial and under a sentence of imprisonment or death for a State offense of murder or forcible rape, in a manner intended to ensure a reasonable process for resolving claims of actual innocence; and
- (B) The State preserves biological evidence secured in relation to the investigation or prosecution of a State offense of murder or forcible rape under a State statute, local ordinances, or State or local rules, regulations, or practices, in a manner intended to ensure that reasonable measures are taken by all jurisdictions within the State to preserve such evidence.

I am the chief legal officer of the applicant State and have authority to make this certification. I am aware that a false statement in this certification may be subject to criminal prosecution, including under 18 U.S.C. § 1001. I also acknowledge that certifications provided in connection with Office of Justice Programs grants are subject to review by the Office of Justice Programs and/or by the Department of Justice's Office of the Inspector General.

Signature of Certifying Official

Printed Name of Certifying Official

Title of Certifying Official

Name of Applicant State

Date

Appendix II: Selected Statutes

(See “NOTE” in the “Eligibility” section of the solicitation.)

Section 413 of the Justice for All Act of 2004 (Public Law 108–405) provides:

Incentive grants to States to ensure consideration of claims of actual innocence.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 303, 305, 308, and 412 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 303, 305, 308, or 412, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act [October 30, 2004] (or extended or renewed after such date), to persons convicted after trial and under a sentence of imprisonment or death for a State felony offense, in a manner that ensures a reasonable process for resolving claims of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act [October 30, 2004], or under a State rule, regulation, or practice, to persons under a sentence of imprisonment or death for a State felony offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act [October 30, 2004] (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act [October 30, 2004], in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

18 U.S.C. § 3600(a) provides:

DNA testing

(a) In general.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the "applicant"), the court that entered the judgment of conviction shall order DNA testing of specific evidence if the court finds that all of the following apply:

(1) The applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

(B) another Federal or State offense, if—

(i) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

(ii) in the case of a State offense—

(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense.

(2) The specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1).

(3) The specific evidence to be tested—

(A) was not previously subjected to DNA testing and the applicant did not—

(i) knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004 [October 30, 2004]; or

(ii) knowingly fail to request DNA testing of that evidence in a prior motion for postconviction DNA testing; or

(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing.

(4) The specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing.

(5) The proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices.

(6) The applicant identifies a theory of defense that—

(A) is not inconsistent with an affirmative defense presented at trial; and

(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1).

(7) If the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial.

(8) The proposed DNA testing of the specific evidence may produce new material evidence that would—

(A) support the theory of defense referenced in paragraph (6); and

(B) raise a reasonable probability that the applicant did not commit the offense.

(9) The applicant certifies that the applicant will provide a DNA sample for purposes of comparison.

(10) The motion is made in a timely fashion, subject to the following conditions:

(A) There shall be a rebuttable presumption of timeliness if the motion is made within 60 months of enactment of the Justice For All Act of 2004 [October 30, 2004] or within 36 months of conviction, whichever comes later. Such presumption may be rebutted upon a showing—

(i) that the applicant's motion for a DNA test is based solely upon information used in a previously denied motion; or

(ii) of clear and convincing evidence that the applicant's filing is done solely to cause delay or harass.

(B) There shall be a rebuttable presumption against timeliness for any motion not satisfying subparagraph (A) above. Such presumption may be rebutted upon the court's finding—

(i) that the applicant was or is incompetent and such incompetence substantially contributed to the delay in the applicant's motion for a DNA test;

(ii) the evidence to be tested is newly discovered DNA evidence;

(iii) that the applicant's motion is not based solely upon the applicant's own assertion of innocence and, after considering all relevant facts and circumstances surrounding the motion, a denial would result in a manifest injustice; or

(iv) upon good cause shown.

(C) For purposes of this paragraph—

(i) the term "incompetence" has the meaning as defined in section 4241 of title 18, United States Code;

(ii) the term "manifest" means that which is unmistakable, clear, plain, or indisputable and requires that the opposite conclusion be clearly evident.

18 U.S.C. § 3600A provides:

Preservation of biological evidence

(a) In general.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

(b) Defined term.—For purposes of this section, the term "biological evidence" means—

(1) a sexual assault forensic examination kit; or

(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

(c) Applicability.—Subsection (a) shall not apply if—

(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

(2) the defendant knowingly and voluntarily waived the right to request DNA testing of the biological evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004 [October 30, 2004];

(3) after a conviction becomes final and the defendant has exhausted all opportunities for direct review of the conviction, the defendant is notified that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice;

(4) (A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing; or

(5) the biological evidence has already been subjected to DNA testing under section 3600 and the results included the defendant as the source of such evidence.

(d) Other preservation requirement.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

(e) Regulations.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004 [October 30, 2004], the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

(f) Criminal penalty.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

(g) Habeas corpus.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.