

**CERTIFICATION OF ASSURANCE OF COMPLIANCE  
Postconviction Testing of DNA Evidence (DNAE) Fund**

The Applicant must complete a Certification of Assurance of Compliance-DNAE (Cal OES 2-104o), which includes details regarding Federal Grant Funds, Equal Employment Opportunity Program, Drug Free Workplace Compliance, California Environmental Quality Act, Lobbying, Debarment and Suspension requirements, Proof of Authority from City Council/Governing Board, Civil Rights Compliance and the special conditions for Subaward with the above mentioned fund. The applicant is required to submit the necessary assurances and documentation before finalization of the Grant Subaward. In signing the Grant Subaward Face Sheet, the applicant formally notifies Cal OES that the applicant will comply with all pertinent requirements.

Resolutions are no longer required as submission documents. Cal OES has incorporated the resolution into the Certification of Assurance of Compliance, Section VII, entitled, "Proof of Authority from City Council/Governing Board." The Applicant is required to obtain written authorization (original signature) from the City Council/Governing board that the official executing the agreement is, in fact, authorized to do so, and will maintain said written authorization on file and readily available upon demand. This requirement does not apply to state agencies.

**CERTIFICATION OF ASSURANCE OF COMPLIANCE  
Postconviction Testing of DNA Evidence (DNAE) Fund**

I, \_\_\_\_\_ hereby certify that  
(official authorized to sign Subaward; same person as Section 15 on Subaward Face Sheet)

Subrecipient: \_\_\_\_\_

Implementing Agency: \_\_\_\_\_

Project Title: \_\_\_\_\_

is responsible for reviewing the *Subrecipient Handbook* and adhering to all of the Subaward requirements (state and/or federal) as directed by Cal OES including, but not limited to, the following areas:

**I. Federal Grant Funds**

Subrecipients expending \$750,000 or more in federal grant funds annually are required to secure an audit pursuant to OMB Uniform Guidance 2 CFR Part 200, Subpart F and are allowed to utilize federal grant funds to budget for the audit costs. See Section 8000 of the Subrecipient Handbook for more detail.

- The above named Subrecipient receives \$750,000 or more in federal grant funds annually.
- The above named Subrecipient does not receive \$750,000 or more in federal grant funds annually.

**II. Equal Employment Opportunity – (Subrecipient Handbook Section 2151)**

It is the public policy of the State of California to promote equal employment opportunity (EEO) by prohibiting discrimination or harassment in employment because of race, color, religion, religious creed (including religious dress and grooming practices), national origin, ancestry, citizenship, physical or mental disability, medical condition (including cancer and genetic characteristics), genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, age, sexual orientation, veteran and/or military status, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and any other status protected by state or federal law. **Cal OES-funded projects certify that they will comply with all state and federal requirements regarding equal employment opportunity, nondiscrimination and civil rights.**

Please provide the following information:

Equal Employment Opportunity Officer: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**III. Drug-Free Workplace Act of 1990 – (Subrecipient Handbook, Section 2152)**

The State of California requires that every person or organization subawarded a grant or contract shall certify it will provide a drug-free workplace.

**IV. California Environmental Quality Act (CEQA) – (Subrecipient Handbook, Section 2153)**

The California Environmental Quality Act (CEQA) (*Public Resources Code, Section 21000 et seq.*) requires all Cal OES-funded projects to certify compliance with CEQA. Projects receiving funding must coordinate with their city or county planning agency to ensure that the project is compliance with CEQA requirements.

**V. Lobbying – (Subrecipient Handbook Section 2154)**

Cal OES grant funds, grant property, or grant funded positions shall not be used for any lobbying activities, including, but not limited to, being paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

**VI. Debarment and Suspension – (Subrecipient Handbook Section 2155)**

*(This applies to federally funded grants only.)*

Cal OES-funded projects must certify that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department of agency.

**VII. Proof of Authority from City Council/Governing Board – (Subrecipient Handbook Section 1350)**

The above-named organization (Applicant) accepts responsibility for and will comply with the requirement to obtain a signed resolution from the city council/governing board in support of this program. The applicant agrees to provide all matching funds required for said project (including any amendment thereof) under the Program and the funding terms and conditions of Cal OES, and that any cash match will be appropriated as required. It is agreed that any liability arising out of the performance of this Subaward, including civil court actions for damages, shall be the responsibility of the grant Subrecipient and the authorizing agency. The State of California and Cal OES disclaim responsibility of any such liability. Furthermore, it is also agreed that grant funds received from Cal OES shall not be used to supplant expenditures controlled by the city council/governing board.

The applicant is required to obtain written authorization from the city council/governing board that the official executing this agreement is, in fact, authorized to do so. The applicant is also required to maintain said written authorization on file and readily available upon demand.

### **VIII. Civil Rights Compliance**

The Subrecipient complies will all laws that prohibit excluding, denying or discriminating against any person based on actual or perceived race, color, national origin, disability, religion, age, sex, gender identity, and sexual orientation in both the delivery of services and employment practices and does not use federal financial assistance to engage in explicitly religious activities.

### **IX. Special Conditions for Grant Subaward with Postconviction Testing of DNA Evidence (DNAE) Funds**

1. Requirements of the Subaward; remedies for non-compliance or for materially false statements

The conditions of this Subaward are material requirements of the Subaward. Compliance with any certifications or assurances submitted by or on behalf of the Subrecipient that relate to conduct during the period of performance also is a material requirement of this Subaward.

Failure to comply with any one or more of these Subaward requirements, whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the Subaward period, may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the Subrecipient and the Subaward. Among other things, the OJP may withhold Subaward funds, disallow costs, or suspend or terminate the Subaward. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this Subaward (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this Subaward be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or unenforceable; such provision shall be deemed severable from this Subaward.

## 2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2018 Subaward from Cal OES.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2018 Subaward supplements funds previously awarded by OJP under the same award number (e.g., funds Subawarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that Subaward number (regardless of the Subaward date, and regardless of whether derived from the initial Subaward or a supplemental Subaward) that are obligated on or after the acceptance date of this FY 2018 Subaward.

## 3. Record retention and access

All grant records must be retained for seven years from the end of the Grant Subaward performance period. If the Subrecipient's source documentation records are retained in a database system, it must cover the entire performance period and be retrievable. If an audit, investigation, review, litigation, or any other action occurs during the Subrecipient's seven year retention period, the Subrecipient shall retain the records until the resolution of such process, or until the end of the seven year period, whichever is longer.

## 4. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website, including any updated version that may be posted during the period of performance. The Subrecipient agrees to comply with the DOJ Grants Financial Guide.

## 5. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP Subawards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this Subaward document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in Subaward conditions,

references set out in material incorporated by reference through Subaward conditions, and references set out in other Subaward requirements.

6. Requirements related to System for Award Management and Universal Identifier Requirements

The Subrecipient must comply with applicable requirements regarding the [System for Award Management \(SAM\)](#), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The Subrecipient also must comply with applicable restrictions on Subawards to first-tier Subrecipients, including restrictions on Subawards to entities that do not acquire and provide (to the Subrecipient) the unique entity identifier required for SAM registration.

The details of the Subrecipient's obligations related to [SAM and to unique entity identifiers](#) are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm>, and are incorporated by reference here.

This condition does not apply to a Subaward to an individual who received the Subaward as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

7. Requirement to report actual or imminent breach of personally identifiable information (PII)

The Subrecipient, and any Subrecipient at any tier, must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a Subrecipient) 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or 2) uses or operates a "Federal information system" (OMB Circular A-130). The Subrecipient's breach procedures must include a requirement to report actual or imminent breach of PII to a Cal OES Program Specialist no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

8. All Subawards must have specific federal authorization

The Subrecipient, and any Subrecipient at any tier, must comply with all applicable requirements for authorization of any Subaward. This condition applies to agreements that, for purposes of federal grants administrative requirements, OJP considers a "Subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for [authorization of any Subaward](#) are posted on the OJP web site at

<https://ojp.gov/funding/Explore/SubawardAuthorization.htm>, and are incorporated by reference here.

9. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate Subaward)

The Subrecipient, and any Subrecipient at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of Subrecipients, or individuals defined (for purposes of this condition) as "employees" of the Subrecipient or of any Subrecipient.

The details of the Subrecipient's obligations related to [prohibited conduct related to trafficking](#) in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm>, and are incorporated by reference here.

10. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The Subrecipient, and any Subrecipient at any tier, must comply with all applicable laws, regulations, policies, and official Cal OES and DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this Subaward appears in the DOJ Grants Financial Guide and in the Cal OES Subrecipient Handbook.

11.

12. OJP Training Guiding Principles Any training or training materials that the Subrecipient, or any Subrecipient at any tier, develops or delivers with OJP Subaward funds must adhere to the [OJP Training Guiding Principles for Grantees and Subgrantees](#), available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.

13. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The Subrecipient, and any Subrecipient at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

14. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The Subrecipient, and any Subrecipient at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

15. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The Subrecipient, and any Subrecipient at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to Subrecipient organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to Subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the [Electronic Code of Federal Regulations](https://www.ecfr.gov/cgi-bin/ECFR?page=browse) (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

16. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds Subawarded by OJP may not be used by the Subrecipient, or any Subrecipient at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds Subawarded by Cal OES from being used by the Subrecipient, or any Subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the Subawarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such Subaward. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a Subrecipient would or might fall within the scope of these prohibitions, the Subrecipient is to contact Cal OES for guidance, and may not proceed without the express prior approval of Cal OES.

17. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2018)

The Subrecipient, and any Subrecipient at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. [Pertinent restrictions](https://ojp.gov/funding/Explore/FY18AppropriationsRestrictions.htm), including from various "general provisions" in the Consolidated Appropriations Act, 2018, are set out at <https://ojp.gov/funding/Explore/FY18AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a Subrecipient would or might fall within the scope of an appropriations-law restriction, the Subrecipient is to contact Cal OES for guidance, and may not proceed without the express prior approval of Cal OES.

18. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct

The Subrecipient must promptly refer to Cal OES any credible evidence that a principal, employee, agent, Subrecipient, contractor, subcontractor, or other person has, in connection with funds under this Subaward (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this Subaward should be reported to Cal OES.

19. Restrictions and certifications regarding non-disclosure agreements and related matters

No Subrecipient under this Subaward, or entity that receives a procurement contract or subcontract with any funds under this Subaward, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this Subaward, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive

compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

- 1) In accepting this Subaward, the Subrecipient
    - a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
    - b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of Subaward funds, will provide prompt notification to Cal OES, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by Cal OES.
  - 2) If the Subrecipient does or is authorized under this Subaward to make Subawards, procurement contracts, or both
    - a. it represents that (1) it has determined that no other entity that the Subrecipient's application proposes may or will receive Subaward funds (whether through a Subaward, procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and (2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
    - b. it certifies that, if it learns or is notified that any Subrecipient, contractor, or subcontractor entity that receives funds under this Subaward is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of Subaward funds to or by that entity, will provide prompt notification to Cal OES, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by Cal OES.
20. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The Subrecipient, and any Subrecipient at any tier, must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that

prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The Subrecipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this Subaward, the Subrecipient is to contact Cal OES for guidance.

## 21. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages Subrecipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this Subaward, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

## 22. Accreditation and Privacy Requirements; CODIS; No Research

### 1) Accreditation

The Subrecipient shall ensure that each DNA analysis conducted under this Subaward will be performed either (1) by accredited government-owned laboratories, or (2) through an accredited fee-for-service vendor. The accreditation must be by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community. The laboratory must undergo external audits not less than once every 2 years that demonstrate compliance with the DNA Quality Assurance Standards established by the Director of the Federal Bureau of Investigation.

The Subrecipient shall ensure that each DNA analysis conducted and each DNA profile generated under this Subaward, and each stored DNA sample that results from this Subaward, are maintained in accordance with any applicable federal privacy requirements and restrictions on disclosure.

The Subrecipient agrees to notify Cal OES promptly upon any change in the accreditation status of any of its forensic science laboratories, if applicable.

The Subrecipient shall ensure that all eligible forensic DNA profiles obtained with funding under this Subaward will be entered into the Combined DNA Index

System (CODIS), and, where applicable, uploaded to the National DNA Index System (NDIS). No DNA profile generated with funding from this Subaward may be entered into any non-governmental database without prior approval from Cal OES.

The Subrecipient shall ensure that none of the funds provided under this Subaward are used for research or statistical projects or activities as defined by 28 CFR Part 22 or for research as defined by 28 CFR Part 46. Any questions concerning this provision should be directed to the Cal OES Grant Specialist for the Subaward.

## 2) Nonsupplanting of State or Local Funds

The Subrecipient shall ensure that federal funds made available through this Subaward will not supplant State or local government funds, but instead will be used to increase the amount of funds that would, in the absence of federal funds, be available from State or local government sources for activities funded through this Subaward. The Subrecipient agrees to notify Cal OES promptly if the Subrecipient receives new State or local government funding for any of the purposes included in the approved application for this Subaward.

## 3) Evaluations

The Subrecipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

## 23. General

Unless otherwise expressly authorized in writing (in advance) by Cal OES, the use of funds provided under this Subaward is limited to case review, location of evidence, DNA analysis of biological evidence, and limited case identification. If included in the approved budget, up to 15 percent of the total amount of federal Subaward funds may be used for permissible case identification activities.

"Case identification" means performing outreach or initial screening activities, other than "case review" as defined below, designed to identify postconviction cases of violent felony offenses (as defined by State law) where DNA analysis might demonstrate actual innocence. Permissible outreach and initial screening mechanisms are face-to-face meetings, closed-circuit television meetings, eligibility letters/questionnaires/applications, telephone calls, and computerized searches of State court records.

"Case review" means review of files or documentation of postconviction cases of violent felony offenses (as defined by State law) by appropriate persons (e.g.,

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 seeking 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.

Preservation of biological evidence certification(s) required from State(s)

The Subrecipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

24. The Subrecipient shall submit a report within 60 days of the end of the Subaward period documenting all relevant project activities during the entire period of support under this Subaward. At a minimum, with respect to funds provided under this FY 2018 Subaward, the final report shall provide: (1) a summary and assessment of the program carried out with the funds made available under this FY 2018 Subaward; (2) data associated with the performance measures set out in the FY 2018 program announcement. Data associated with the performance measures include the number and types of cases reviewed with funds from this FY 2018 Subaward; the number of cases in which an evidence search was conducted; the number of cases in which biological evidence existed; the number of cases in which biological evidence had been destroyed or was missing; the approximate number of hours spent on case identification, case review, and location of evidence, respectively; the number of cases in which DNA analysis was performed as well as the total number of pieces of evidence analyzed; the number of DNA tests conducted using STR and mtDNA test methods, respectively; the number of analyzed cases that yielded a viable DNA profile; the number of profiles uploaded into CODIS; if applicable, the number of matches resulting from profiles uploaded into CODIS; and the numbers of cases with confirmatory, exculpatory, and inconclusive results, respectively. The Subrecipient shall ensure that all data and information necessary for the report is collected throughout the Subaward period. The report must be submitted to your Cal OES Program Specialist.
25. To assist in information sharing, the Subaward Subrecipient shall provide the Cal OES Program Specialist with a copy of publications (including those prepared for conferences and other presentations) resulting from this Subaward, prior to or simultaneous with their public release. NIJ defines publications as any written, visual or sound material substantively based on the project, formally prepared by the Subaward Subrecipient for dissemination to the public. Submission of publications

prior to or simultaneous with their public release aids Cal OES in responding to any inquiries that may arise. Any publications - excluding press releases and newsletters - whether published at the Subrecipient's or government's expense, shall contain the following statement: "This project was supported by Award No. \_\_\_\_\_, awarded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect those of the Department of Justice." This statement shall appear on the first page of written publications. For audio and video publications, it shall be included immediately after the title of the publication in the audio or video file.

26. The Subrecipient shall transmit to the Cal OES Program Specialist copies of all official Subaward-related press releases at least ten working days prior to public release. Advance notice permits time for coordination of release of information by Cal OES where appropriate and to respond to press or public inquiries.
27. The Project Director and key program personnel designated in the application shall be replaced only for compelling reasons. Successors to key personnel must be approved, and such approval is contingent upon submission of appropriate information, including, but not limited to, a resume. Cal OES will not unreasonably withhold approval. Changes in other program personnel require only notification to Cal OES and submission of resumes, unless otherwise designated in the Subaward document.
28. Pursuant to 28 C.F.R. Part 18, OJP may suspend or terminate funding under this Subaward before the completion of the project funded by this Subaward, for the Subrecipient's failure to comply with these special conditions or with the project's goals, plans and methodology set forth in the approved application. In the case of suspension, the Subrecipient will be unable to draw down funds until OJP determines that the Subrecipient is in compliance.
29. Copyright; Data rights

The Subrecipient acknowledges that OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under Subaward; and (2) any rights of copyright to which a Subrecipient purchases ownership with Federal support.

The Subrecipient acknowledges that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under a Subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227- 14 (Rights in Data - General).

It is the responsibility of the Subrecipient to ensure that this condition is included in any Subaward under this Subaward.

The Subrecipient has the responsibility to obtain from Subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the Subrecipient's obligations to the Government under this Subaward. If a proposed Subrecipient, contractor, or subcontractor refuses to accept terms affording the Government such rights, the Subrecipient shall promptly bring such refusal to the attention of the Cal OES Program Specialist for the Subaward and not proceed with the agreement in question without further authorization from Cal OES.

30. With respect to this Subaward, federal funds may not be used to pay cash compensation (salary plus bonuses) to any employee of the Subaward Subrecipient 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. (A Subaward Subrecipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.)

This limitation on compensation rates allowable under this Subaward may be waived on an individual basis at the discretion of the OJP official indicated in the program announcement under which this Subaward is made.

31. The Subrecipient agrees to comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under this Subaward.

**Environmental Assessment (EA):** The Subrecipient agrees and understands that funded activities (whether conducted by the Subrecipient or contractors) may require the preparation of an EA as defined by the Council on Environmental Quality's Regulations for implementing the Procedural Provisions of the National Environmental Policy Act (NEPA), found at 40 CFR Part 1500. An EA is a concise public document that briefly provides sufficient analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact for the proposed activity. If in completing an EA for a proposed activity, potential adverse environmental impacts are identified, the EA will serve as a vehicle for developing either alternative approaches or mitigation measures for avoiding or reducing the identified adverse environmental impacts.

**Modifications:** Throughout the term of this Subaward, the Subrecipient agrees that for any activity that is the subject of a completed EA, it will inform Cal OES of (1) any change(s) that it is considering making to the previously assessed activity that may be relevant to environmental impact; or (2) any proposed new activities or changed circumstances that may require assessment as to environmental impact, such as new activities that involve the use of chemicals or involve construction or major

renovation. The Subrecipient will not implement a proposed change or new activity until NIJ, with the assistance of the recipient, has determined whether the proposed change or activity (or changed circumstances) will require additional review under NEPA. Approval for implementation will not be unreasonably withheld as long as any requested modification(s) is consistent with eligible program purposes and found acceptable under an NIJ-conducted environmental impact review process.

32. The Subrecipient may not obligate, expend, or draw down any funds under this Subaward until a revised budget reflecting the final Subaward amount has been received and approved by the National Institute of Justice, and a Grant Adjustment Notice (GAN) has been issued removing this condition.
33. The Subrecipient agrees promptly to provide, upon request, financial or programmatic-related documentation related to this Subaward, including documentation of expenditures and achievements.
34. The Subrecipient understands that it will be subject to additional financial and programmatic on-site monitoring, which may be on short notice, and agrees that it will cooperate with any such monitoring.
35. The Subrecipient must follow the guidelines outlines in the most current version of the Cal OES Subrecipient Handbook.

All appropriate documentation must be maintained on file by the project and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both and the Subrecipient may be ineligible for subaward of any future grants if the Cal OES determines that any of the following has occurred: (1) the Subrecipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

**CERTIFICATION**

I, the official named below, am the same individual authorized to sign the Grant Subaward [Section 15 on Grant Subaward Face Sheet], and hereby swear that I am duly authorized legally to bind the contractor or grant Subrecipient to the above described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

Authorized Official's Signature: \_\_\_\_\_

Authorized Official's Typed Name: \_\_\_\_\_

Authorized Official's Title: \_\_\_\_\_

Date Executed: \_\_\_\_\_

Federal Employer ID #: \_\_\_\_\_ Federal DUNS # \_\_\_\_\_

Current System for Award Management (SAM) Expiration Date: \_\_\_\_\_

Executed in the City/County of: \_\_\_\_\_

**AUTHORIZED BY:** (not applicable to State agencies)

City Financial Officer

County Financial Officer

City Manager

County Manager

Governing Board Chair

Signature: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_