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Office of Surface Mining Reclamation and Enforcement

Office of Surface Mining Reclamation and Enforcement Advisory Board; Notice of Establishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (1988). Following consultation with the General Services Administration and the Office of Management and Budget, notice is hereby given that the Secretary of the Interior is administratively establishing an advisory board to be known as the Office of Surface Mining Reclamation and Enforcement General Advisory Board.

The purpose of the Advisory Board is to provide a forum to discuss a variety of regulatory and reclamation issues of concern to the public, primary States which regulate surface coal mining, Tribes, environmental groups, coal mine region residents, industry, the Congress, and other State and Federal agencies.

The Secretary of the Interior will appoint 20-25 members to the Advisory Board to represent a cross-section of those who are interested in and directly affected by regulatory and reclamation activities. OSM will carefully monitor membership to ensure that there is a balance among those interests affected by the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Certification

I hereby certify that the administrative establishment of the Office of Surface Mining Reclamation and Enforcement Advisory Board is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: July 27, 1994.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 95-1038 Filed 1-17-95; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; COPS AHEAD and COPS FAST Grant Programs

AGENCY: Department of Justice, Office of Community Oriented Policing Services.

ACTION: Notice of interim program guidelines with request for comments for the Accelerated Hiring, Education and Deployment (COPS AHEAD) and Funding Accelerated for Smaller (COPS Fast) Programs.

SUMMARY: The Office of Community Oriented Policing Services, U.S. Department of Justice is publishing, for a 45-day public comment period, interim guidelines to accompany the COPS AHEAD and COPS FAST programs. Both programs are expedited approaches for the award of grants for the hiring or rehiring of career law enforcement officers and are among the programs authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322.

DATES: Interim guidelines effective January 18, 1995; comments must be received on or before March 6, 1995.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Office of Community Oriented Policing Services, U.S. Department of Justice, P.O. Box 14440, Washington, DC 20044, or delivered to Suite 300, 633 Indiana Avenue, NW., Washington, DC between 9 a.m. and 5:30 p.m. Comments received may also be inspected at Suite 300 between 9:15 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: L. Anthony Sutin, General Counsel, Office of Community Oriented Policing Services, U.S. Department of Justice, 633 Indiana Avenue NW., Suite 300, Washington, DC 20531; telephone (202) 514-2058.

SUPPLEMENTARY INFORMATION: These interim guidelines have been developed by the Office of Community Oriented Policing Services in order to provide guidance to applicants and grantees concerning the administration and implementation of the Accelerated Hiring, Education and Deployment ("COPS AHEAD") and Funding Accelerated for Smaller Towns ("COPS FAST") programs. Availability of funds under these programs and application deadlines were announced in the Federal Register on November 3, 1994 (59 FR 55132). The guidelines address the eligibility for the programs, substantive and procedural program requirements, the application process, and other administrative matters. Section 1-4, 7 and 8 of the guidelines

apply to both COPS AHEAD and COPS FAST. Section 5 applies exclusively to applicants and grantees under COPS AHEAD, and Section 6 applies exclusively to applicants and grantees under COPS FAST.

These guidelines have not been reviewed by the Office of Management and Budget pursuant to Executive Order 12866. These guidelines will not have a substantial impact on a significant number of small entities, thus a regulatory flexibility analysis has not been prepared pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

The collection of information requirements relating to the COPS AHEAD and COPS FAST Applications has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act, 44 U.S.C. 3504(h) and have received clearance numbers 1105-0061 and 1103-0015, respectively.

Section 1 Purpose and Substantive Description

1.1 Public safety and community policing grants are authorized by the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, *et seq.*, as amended by the Public Safety Partnership and Community Policing Act of 1994 (Title I of the Violent Crime Control and Law Enforcement Act of 1994) Public Law 103-322 ("the Act").

1.2 The purposes of these grants are to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety. COPS AHEAD and COPS FAST are part of the Department of Justice's efforts to increase the number of sworn law enforcement officers by 100,000 over current levels.

1.3 The Attorney General will delegate powers and responsibilities under this program to the Director of the Office of Community Oriented Policing Services ("COPS") upon his or her appointment.

1.3.1 The Director will have final authority, subject to applicable administrative or judicial rights of appeal conferred by statute or regulation, to award, deny, modify, condition, suspend, or terminate grants under this program. The Director will carry out these duties under the general guidance and direction of the Attorney General and the Associate Attorney General.

Section 2 Eligibility To Apply for Grants

2.1 In general, grants under the Act may be made to States, units of local government, Indian tribal governments, other public and private (nongovernmental) entities, and multi-jurisdictional or regional consortia thereof.

2.1.1 "Unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government, or the United States Government performing law enforcement functions in and for the District of Columbia, and the Trust Territory of the Pacific Islands.

2.1.2 An "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Section 3 Apportionment and Allocation of Grant Funds

3.1 Unless all applications submitted by any State and grantee within the State have been funded, each qualifying State, together with grantees within the State, shall receive in each fiscal year at least 0.5 percent of the total amount appropriated in the fiscal year for public safety and community policing grants.

3.1.1 "Qualifying State" means any State which has submitted an application for a grant, or in which an eligible entity has submitted an application for a grant, which meets the application requirements established by the Department of Justice and complies with all requirements of the Act, these guidelines and other applicable provisions of federal law and regulations.

3.1.2 "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands. For purposes of 3.1, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one state with 67 percent of the amounts allotted per state to be allotted to American Samoa and 33 percent to the

Commonwealth of the Northern Mariana Islands.

3.1.3 For purposes of applying 3.1, "the total amount appropriated in the fiscal year for public safety and community policing grants" shall be determined by the total appropriation less sums allocated to training and technical assistance, evaluations or studies, other lawful purposes, and amounts not obligated at the end of the fiscal year.

3.1.4 In determining the geographic apportionment for purposes of 3.1, a grant award that is not accepted by a grantee in a particular state shall be included within the apportionment for that state as if such grant had been accepted, provided that, should an award not be accepted, the Director will reward the funds to another eligible applicant in the same state, if one exists, if necessary to meet the requirements of 3.1.

3.1.5 Compliance with the requirement of 3.1 shall be determined by reference to all grants made within a fiscal year and not on a phase-by-phase or any other less comprehensive basis.

3.2 One-half of the amount allocated for grants in any fiscal year shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and one-half shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations of 150,000 or less or by public and private entities that serve areas with populations of 150,000 or less.

3.2.1 For purposes of implementing this allocation requirement, as well as for purposes of determining eligibility for particular programs, each application for a COPS grant will require the applicant to certify the population of the area served by the applicant. "Population" means the total resident population based on the adjusted 1990 data compiled by the United States Bureau of the Census.

Section 4 Requirements Applicable to COPS AHEAD and COPS FAST

4.1 COPS AHEAD and COPS FAST grants will be made for programs, projects, and other activities to rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community oriented policing, and/or to hire new, additional career law

enforcement officers in community oriented policing ("hire/rehire grants").

4.1.1 A "career law enforcement officer" means a person hired on a permanent basis who is authorized by law or by a State or local public agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws. "Career law enforcement officers" may include (but are not limited to) sworn municipal, county, state and tribal police officers, sheriffs' deputies, and certain officers employed by other law enforcement, investigative and prosecutorial agencies.

4.1.1 To be eligible for funding under a COPS grants, a rehired officer must have been separated from the force prior to October 1, 1994.

4.1.2 Grantees may transfer law enforcement officers who are experienced or trained in community oriented policing into positions funded by a COPS grant, while newly hired or rehired officers are assigned to training, probationary or other assignments as may be customary practice within the agency, provided that there must be an equal and contemporaneous transfer of current officers to community policing functions as newly hired or rehired officers are assigned to training and probationary assignments. Such transfers will not, however, affect the date on which grant funding for a newly hired or rehired officer commences.

4.1.2 "Community oriented policing" carries no single definition, nor is there a single approach to community oriented policing. However, community policing stresses the importance of police-citizen cooperation to control crime, maintain order, and improve the quality of life in America. The community is an active partner with police in defining the problems that are addressed, the tactics used, and how success is measured. Prevention, problem solving, and partnerships are tenets of community policing that have been emphasized by police, researchers, and policymakers. Community oriented policing can be distinguished from traditional reactive law enforcement activities.

4.2 The amount of hire/rehire grants is limited to 75 percent of the salary and benefits of a hired or rehired career law enforcement officer, subject to a ceiling of \$75,000 per officer. These restrictions apply over the life of a grant, not on an annual basis.

4.2.1 Benefits for purposes of a COPS AHEAD and COPS FAST grant include health insurance, retirement benefits, social security/FICA contributions, vacation and sick leave, and workers' compensation benefits. Benefits for purposes of a COPS AHEAD

and COPS FAST grant excluded equipment, uniforms, vehicles and overtime.

4.2.2 In order to make funds available to the widest number of communities and to expedite the processing of applications, the Department of Justice has determined that no waivers of the restrictions of 4.2 will be granted in connection with the COPS FAST and COPS AHEAD programs. Accordingly, applicants should not apply for more funding than is permitted in accordance with the maximum per officer grant amount as described above. The availability of waivers in connection with other COPS programs will be set forth in future program announcements.

4.2.3 Guidance concerning the matching and non-federal share requirements applicable to all Department of Justice grants is set forth in Title 28, Part 66 of the Code of Federal Regulations.

4.2.3.1 The non-federal share of hire/rehire grants may be applied from the following sources:

(a) Funds from States and local units of government that have a binding, nonspeculative commitment (as of the time of the grant application) of matching funds for programs or projects, including funds appropriated by the State and available to local units of government for the purpose of satisfying the non-federal share requirement;

(b) Funds from the following, where consistent with applicable regulations:

(1) Housing and Community Development Act of 1974, 42 U.S.C. 5301, *et seq.*;

(2) asset forfeiture equitable sharing program, 21 U.S.C. 881(e);

(c) Funds contributed from private sources;

(d) Program income funds from seized assets and forfeitures;

(e) Funds appropriated by the Congress for the activities of any agency of either an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands; and

(f) Sources otherwise authorized by law.

4.2.4 The non-federal share of costs must consist of costs incurred during the grant period. In particular, COPS AHEAD grantees may not treat costs incurred or paid prior to the beginning of the grant period as the non-Federal share of grant costs.

4.2.5 COPS AHEAD and COPS FAST grants will be made for a period of three years. The federal share of a hire/rehire grant will decline year by year over the course of the grant, looking toward the continuation of the

increased hiring level using State or local sources of funding following the conclusion of federal support.

4.2.5.1 The rate at which the federal share will decline will be determined, prior to grant award, on a case-by-case basis in a flexible manner. Generally, efforts will be made to accommodate the circumstances and budget requirements of the grantee in the determination of the decrease in federal share.

4.3 If an officer hired or rehired using COPS grant funds leaves a grantee's force during the grant period, the grantee should seek to replace the former officer with a newly hired or rehired officer. The portion of grant funding allocable to such a position will be suspended during the period of time in which the position remains vacant.

4.4 Subject to the limitations of this subsection and requirements of applicable nondiscrimination or other laws, the selection, training and recruitment of career law enforcement officers to be hired or rehired is within the discretion and judgment of the grantee.

4.4.1 In order to further effective law enforcement, grantees will, to the extent practicable and consistent with applicable law, seek, recruit, and hire qualified persons who are members of racial and ethnic minority groups and qualified women to increase their ranks within the sworn positions in the law enforcement agency.

4.4.2 Grantees may hire former members of the Armed Forces to serve as career law enforcement officers, particularly in communities that are adversely affected by a recent military base closing.

4.4.2.1 "Former member of the Armed Forces" means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of Title 10, United States Code.

4.4.3 In order to maintain the high quality and preparedness of the nation's law enforcement officers, in hiring new officers, grantees may not reduce the scope of their customary screening and training procedures, and must include community policing principles in their training curricula (including refresher training where appropriate).

4.4.3.1 Assistance in the development or adaptation of training curricula dealing with community policing is available upon request from the COPS Office.

4.5 No grant may be made without the submission and approval of a grant application in the form and manner prescribed by the COPS Office.

4.6 Grant funds must be used in accordance with these guidelines, applicable statutes, DOJ regulations, Notices, Handbooks, OMB circulars, grant agreements and award documents, budget documents, narratives and timetables. Copies of applicable requirements may be obtained from the COPS Office.

4.7 Each grant shall contain a monitoring component. Monitoring will include periodic financial and programmatic reporting and, in appropriate circumstances, on-site reviews. Guidelines for monitoring components will be issued by the COPS Office.

4.8 Selected grant recipients will be evaluated on the local level or as part of a national evaluation. Evaluation means the administration and conduct of studies and analyses to determine the impact and value of a project or program. These evaluations may include assessments of individual program implementations. In selected jurisdictions that are able to support outcome evaluations, an evaluation of the effectiveness of funded programs, projects, and activities may be undertaken. Outcome measures may include crime and victimization indicators, quality of life measures, community perceptions, and police perceptions of their own work.

4.9 Funds made available to States or units of local government shall not be used to supplant or replace State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of a COPS grant, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

4.9.1 Each application for a COPS grant shall contain a certification or assurance that COPS grant funds will not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs. The certification also must state that funds required to pay the non-federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for law enforcement.

4.9.2 To prevent supplanting, grantees must devote additional resources to law enforcement beyond those that would have been made available irrespective of the application for or receipt of a COPS grant. In general, absent a demonstrated justification unrelated to the COPS grant, COPS grants will be expected to

increase the grantee's force level above the number of funded (filled and vacant) sworn officers existing on October 1, 1994. The following additional indicators may be used by the Department of Justice to review applicants and monitor grants for the presence of supplanting:

(a) when COPS-funded hires are excluded, the level of new officers hired or rehired, or projected to be hired or rehired, during the current local fiscal year is inconsistent with recent historical practice;

(b) when COPS-funded hires are excluded, positive and timely steps have not been taken to offset funded vacancies existing on or after October 1, 1994 due to attrition; and/or

(c) any other indicia that suggest that the amount of non-federal resources devoted to the hiring or rehiring of law enforcement officers has decreased in expectation of or as the result of receipt of a COPS grant.

4.9.2.1 By way of example only, the following practices likely will be regarded as supplanting:

(a) A department with vacant funded positions at the start of the grant period or at any time thereafter hires no new officers other than COPS grant-funded hires.

(b) No timely hiring, other than COPS-grant funded hiring, is done by a department to replace vacancies created by attrition existing at or after the beginning of a grant period.

(c) No hiring, other than COPS-grant funded hiring, is undertaken by a department that has increased its force size in recent years.

(d) Grant funds are used to replace, or to allow the reallocation of, funds already committed in a local budget for law enforcement purposes.

4.9.3 Potential supplanting will be the subject of application review, as well as possible pre-award review, post-award monitoring, and audit.

4.9.4 If the use of the indicators in 4.9.2 suggests the potential presence of supplanting, the applicant or grantee will be required to supply documentation to the COPS Office demonstrating that the reduction in nonfederal resources occurred for reasons other than the receipt or expected receipt of federal funding. If the documentation does not establish a satisfactory justification, the Director may deny grant funding, suspend or terminate an approved grant, seek repayment of grant amounts already disbursed, and/or refer a grantee for civil or criminal enforcement.

4.9.5 An applicant seeking more definitive guidance concerning whether a particular use of COPS grant funds

will be viewed as supplanting by the COPS Office may request an advisory letter. A request for an advisory letter should be directed in writing to the COPS Office of General Counsel. Such as request should set forth all of the relevant factual circumstances. An advisory letter will be sent to the requester within ten business days of receipt of a complete request. A grantee shall not be penalized by the COPS Office for good-faith reliance on an advisory letter received under this provision.

4.10 Each grant application also must be accompanied by assurances or certifications of compliance with legal requirements imposed by provisions of federal law other than the program requirements specifically imposed by the Act. The required assurances and certifications will be set forth in the application materials. These provisions include requirements that:

(a) grantees maintain a drug-free workplace (28 CFR Part 67);

(b) grant applicants not be currently debarred or suspended from participation in federal transactions (28 CFR Part 67)

(c) grant funds not be used for federal lobbying efforts (28 CFR Part 69),

(d) grantees not discriminate or deny benefits or program participation on the grounds of race, color, religion, gender, national origin, age or disability, that grantees forward the COPS Office notice of certain findings of civil rights violations, and that recipients of grants of \$500,000 or more submit an Equal Employment Opportunity Plan (see 28 CFR Part 42, subparts C, D, E and G);

(e) certain restrictions on political activities by grantee employees be observed (see 5 U.S.C. § 1501, *et seq.*);

(f) facilities used in connection with the grant-funded project not be listed on the EPA's list of Violating Facilities;

(g) grantees observe the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 U.S.C. § 201 *et seq.*), if they apply to the grantee;

(h) grantees establish safeguards against the use by employees of positions for private gain;

(i) grantees comply with Office of Management and Budget Circulars governing the audit of federally-funded programs; and

(j) grantees permit the Department of Justice and/or the Comptroller General access to records and documents relating to the grant.

4.10.1 Copies of statutes and regulations relating to any of the matters on which assurances are sought are available on request from the COPS Office of General Counsel.

4.11 Each State and local governmental applicant is responsible for compliance with the intergovernmental review process set forth in Executive Order 12372. Under this process, if the COPS grant program has been selected for review by the State in which the grantee is located, the applicant must submit a copy of the application to the State Single Point of Contact, if one exists. A listing of State Single Points of Contact will be contained in each COPS grant application kit. Submission of a copy of the application to the State Single Point of Contact may be done at the same time as the original application is submitted to the COPS Office.

4.12 Grantees must comply with the fiscal and audit requirements established by the Single Audit Act and OMB Circular A-128.

5.12.1 A grantee must establish or maintain an accounting system with sufficient fiscal controls to ensure adequate accountability for the funds that it has been awarded. Detailed guidance on these matters is contained in Chapter 4 of the Office of Justice Programs' Financial and Administrative Guide for Grants, which is available from the COPS Office on request. The grantee must permit access by representatives of the Department of Justice and/or the Comptroller General of the United States for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient, and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided.

Section 5 Provisions Applicable to COPS AHEAD

5.1 COPS AHEAD is open to States, units of local government, Indian tribal governments, multijurisdictional or regional consortia and other public entities employing career law enforcement officers and serving populations of 50,000 or more. "Population" is defined at 3.2.1.

5.1.1 Recipients of COPS Phase I grants (announced October 12, 1994 based upon applications submitted under the Police Hiring Supplement program) are eligible to receive additional funding under COPS AHEAD if the combined hiring under both programs does not exceed 3 percent of the actual October 1, 1994 force level.

5.2 COPE AHEAD permits interested agencies to begin recruiting, hiring and training new officers to participate in community oriented policing in

anticipation of and conditional on the submission of a satisfactory grant application demonstrating compliance with all program and legal requirements.

5.3 It is projected that COPS AHEAD funds will be sufficient to enable interested agencies to increase the level of sworn law enforcement officers by up to a maximum of three percent of the actual number of sworn officers performing law enforcement functions employed on October 1, 1994 (subject to the limitation of 5.1.1).

5.3.1 In reporting the number of officers performing law enforcement functions, agencies should not include officers assigned to court security and jailing duties.

5.4 Agencies interested in participating in COPS AHEAD have been asked to submit a letter of intent in a form prescribed by the COPS Office postmarked by November 10, 1994. In light of the quick turn-around time required, agencies should make early submission of materials to avoid logistical problems caused by delivery-related problems. The percentage of force increase (up to three percent) available to the interested agencies under COPS AHEAD will be determined based upon the response received.

5.4.1 If requests from interested agencies exceed the funds allocated to COPS AHEAD, the Attorney General or her designee has discretion to adjust the amount or starting date of grants. Any such adjustments shall seek to distribute the available funds in a manner that best serves the objectives of the Act.

5.5 Interested agencies will receive further notification from the COPS Office on or about December 19, 1994.

5.5.1 If eligibility is confirmed and no other matters are identified that would preclude a subsequent grant award, this "Go Ahead" notification will confirm eligibility to participate in COPS AHEAD and will set forth the number of officers that the applicant is eligible to begin hiring, recruiting and training pending submission and approval of a grant application. The application kit also will be transmitted with this notification.

5.5.2 If the level of response to COPS AHEAD requires the Attorney General or her designee to adjust the starting date of grants, the notification will advise an affected agency that it is anticipated that its COPS AHEAD application will not be funded during this fiscal year. Such a notification does not affect the agency's right to seek funding under any other COPS grant programs for this fiscal year.

5.5.3 A "Go Ahead" notification does not constitute a grant award or a

decision or commitment to make a grant award. A grant decision will be made only upon submission of a formal grant application and approval requires demonstrated compliance with all program conditions and other requirements of applicable law. No enforceable obligation is created by the Go Ahead notification, rather, this notification, and the COPS AHEAD program itself, has been designed in response to requests from interested agencies for a procedure by which hiring and training of new officers could commence prior to completion of grant application processing. The risk of nonapproval remains entirely upon the applicant.

5.5.4 If any issues related to compliance with legal requirements (e.g., ongoing violations of Title VI of the Civil Rights Act of 1964) that would or may preclude federal funding are known to the COPS Office as of the date of preparation of the notification letters, the COPS Office will seek to identify such issues in the notification letter and, if appropriate, seek to resolve such issues in conjunction with the applicant. Failure to identify such an issue in the notification letter does not waive the Department of Justice's right to require compliance with the applicable legal requirements as a condition of grant approval.

5.6 Officers proposed to be funded under COPS AHEAD must be hired no later than the agency's first entering class of new officers with available capacity in the calendar year 1995.

5.6.1 Absent other circumstances, hiring undertaken in response to a COPS AHEAD Go Ahead letter (and thus prior to a grant approval or award) will not be considered to constitute nonfederal expenditures for purposes of determining the presence of supplanting. If other information indicates that the hiring ostensibly undertaken in response to a COPS AHEAD Go Ahead letter was likely to have been undertaken regardless of the availability of a COPS AHEAD grant, then it may be concluded that supplanting in fact occurred.

5.6.2 A COPS AHEAD grant may not be used to pay for the salary or benefits of an officer hired or rehired prior to October 1, 1994, absent a clear and convincing demonstration by the applicant that the hiring or rehiring of such officer was specifically contingent upon the receipt of a COPS grant.

5.7 COPS AHEAD application kits will be mailed to all eligible agencies that receive a Go Ahead notification. In addition, application kits may be obtained upon request from the COPS Office, but may not be submitted by an

agency that did not receive a Go Ahead notification.

5.7.1 The COPS AHEAD application kit will contain detailed instructions on how to complete the application. In addition to standard assurances and certifications (see 4.10), each COPS AHEAD application will require the applicant to submit an application summary, a budget narrative, and to:

(a) include a long-term strategy and detailed implementation plan that reflects the participation of, and consultation and cooperation with community members and groups (e.g., school, civic, neighborhood and tenant associations), organizations of police employees, and appropriate private and public agencies and reflects consideration of the applicable state's statewide Byrne Grant strategy developed under section 503(a)(1) of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3753(a)(1));

(i) describe steps taken to consult with the organization which acts as the legally authorized bargaining representative of the applicant's law enforcement officer employees, if applicable, and submit any correspondence or other documentation reflecting such consultation;

(b) demonstrate a specific public safety need;

(c) explain the applicant's inability to address the need without federal assistance;

(d) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

(e) certify that there has been appropriate coordination with all affected agencies;

(f) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;

(g) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of federal support;

(h) specify plans for the assumption by the applicant of a progressively larger share of the cost in the course of time, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support;

(i) assess the impact, if any, of the increase in police resources on other components of the criminal justice system;

(j) explain how the grant will be utilized to reorient the affected law enforcement agency's mission toward community-oriented policing or

enhance its involvement in or commitment to community-oriented policy; and

(k) provide assurances that, in order to further effective law enforcement, the applicant will, to the extent practicable and consistent with applicable law, seek, recruit, and hire qualified persons who are members of racial and ethnic minority groups and qualified women to increase their ranks within the sworn positions in the law enforcement agency.

5.7.2 COPS AHEAD applicants also must submit an Application for Federal Assistance (Standard Form SF-424), which will be provided in the application kit. The SF-424 is the face sheet for the application.

5.8 COPS AHEAD applications must be submitted no later than February 15, 1995. Completed applications should be mailed to COPS AHEAD, P.O. Box 14440, Washington, DC 20044, and generally will be processed in the order in which they were received.

5.8.1 The COPS Office will notify an applicant of any curable deficiencies in the application and will make available any consultations or technical assistance needed to assist in the curing of such deficiencies.

5.9 Grant determinations will be made in writing, with sufficient documentation to indicate the basis upon which assistance was provided or denied.

5.9.1 If an application is approved, a grant award package, including any special conditions determined to be appropriate based upon the application (including grantee-specific monitoring requirements), will be prepared and forwarded to the applicant. The award package must be signed by the grantee and returned, and necessary financial arrangements for funds transfer made, before grant funding will commence.

5.10 Grant funding will commence as of the date of the beginning of the grant period or the date on which the officers to be funded are hired, whichever occurs later.

5.10.1 COPS AHEAD grant funding is prospective only from the beginning of the grant award period. Grant funds may not be used to pay for salaries or expenses incurred prior to the date of the beginning of the grant period, regardless of when the officers to be funded were hired.

5.11 A COPS AHEAD application, whether successful or unsuccessful, will have no bearing on an applicant's eligibility to apply for any other COPS grants.

5.11.1 An award under COPS AHEAD may be considered in evaluating the public safety need in

connection with subsequent applications by the same agency.

5.11.2 COPS application deadlines and processing time will be designed so that, to the extent practicable, COPS AHEAD applicants will be advised of the decision on a COPS AHEAD application prior to the deadline for the applications for another COPS program.

Section 6 Provisions Applicable to COPS FAST

6.1 COPS FAST is open to States, units of local government, Indian tribal governments, multijurisdictional or regional consortia and other public entities employing career law enforcement officers serving populations under 50,000. "Population" is defined at 3.2.1.

6.1.1 Recipients of COPS Phase I grants (announced October 12, 1994 based upon Police Hiring Supplement applications) are eligible to receive additional funding under COPS FAST.

6.2 COPS FAST uses a streamlined application kit to enable grant applications to be submitted and processed in very short time periods.

6.2.1 COPS FAST Applications will be available on or about November 1, 1994, and will be mailed to the extent practicable to all eligible agencies. In addition, application kits may be obtained from the COPS Office, the Department of Justice Response Center, offices of members of Congress, and offices of United States Attorneys.

6.2.2 In addition to standard assurances and certifications, each COPS FAST application will require the applicant to complete a one-page application (COPS Form 001) containing basic identifying information about the agency, the actual number of sworn officers performing law enforcement functions as of October 1, 1994, the number of new officers requested, population served, territorial area served, entry level salary and benefits information, the number of UCR Part I violent crimes during 1993, and an agreement to abide by the required assurances and certifications.

6.2.2.1 Under the authority of the section 1702(d)(1) of the Act, and in the interest of expediting the submission and processing of COPS FAST applications, the Attorney General has waived the formal application requirements of section 1702(c)(1), (2), (3), (4), (5), (6), (7), (8), (9) and (10).

6.3 Completed applications should be mailed to COPS FAST, P.O. Box 14440, Washington, DC 20044, and must be postmarked by December 31, 1994. Telecopied applications will be accepted provided that the front and back of the application form are

transmitted, and must be sent by December 31, 1994 to (202) 514-9272.

6.4 Based upon the level of response, the level of funding available to each applicant will be calculated.

6.4.1 If requests from interested agencies exceed the funds allocated to COPS FAST, the Attorney General or her designee has discretion to adjust the amount or starting date of grants. Any such adjustments shall seek to distribute the available funds in a manner that best serves the objectives of the Act.

6.5 Determinations on completed COPS FAST applications generally will be made beginning on or about January 2, 1995 with a targeted completion date, subject to the number of applications submitted, by February 1, 1995.

6.5.1 The COPS Office will notify an applicant of any curable deficiencies in the application and will make available any technical assistance or consultations needed to assist in the curing of such deficiencies.

6.6 Applicants will be notified on or about February 1, 1995 whether an application has been conditionally approved, has been denied, or has been deferred.

6.6.1 A notice of conditional approval will set forth the number of officers that the applicant may begin to recruit, hire and train pending final approval of the grant application. Generally, the approval will be conditioned on the submission of a brief description of the manner in which the proposed hires will be utilized to implement community oriented policing in the applicant agency and continue the efforts after conclusion of the grant period, as well as the submission of budgetary information reflecting the program's funding limits and required non-federal contribution. Other items of information may be required on a case-by-case basis.

6.6.1.1 In the preparation of a community policing strategy, COPS FAST applicants must consult with the organization which acts as the legally authorized bargaining representative of the applicant's law enforcement officer employees, if applicable.

6.6.1.2 Technical assistance and consultations will be provided to assist in the preparation of community policing strategies. Requests for technical assistance should be directed to the COPS Office, P.O. Box 14440, Washington, DC 20444 or by telephone to (202) 514-2058.

6.6.2 If the level of response to COPS FAST requires the Attorney General or her designee to adjust the starting date of grants, the notification will advise an affected agency that it is anticipated that its COPS FAST

application will not be funded during this fiscal year. Such a notification does not affect the agency's right to seek funding under other COPS grant programs for this fiscal year.

6.7 Grant determinations will be made in writing, with sufficient documentation to indicate the basis upon which assistance was provided or denied.

6.8 Following submission of any required information, if a COPS FAST Application is finally approved, a grant award package, including any special conditions determined to be appropriate based upon the application (including grantee-specific monitoring requirements), will be prepared and forwarded to the applicant. The award package must be signed by the grantee and returned, and necessary financial arrangements for funds transfer made, before grant funding will commence.

6.8.1 Grant funding will commence as of the date of the beginning of the grant period or the date on which the officers to be funded are hired, whichever occurs later.

6.8.2 COPS FAST grant funding is prospective only. Grant funds may not be used to pay for salaries or expenses incurred prior to the date of the beginning of the grant period, regardless of when the officers to be funded were hired.

6.9 COPS application deadlines and processing time will be designed so that, to the extent practicable, COPS FAST applicants will be advised of the decision on a COPS FAST application prior to the deadline for the applications for another COPS program.

Section 7 General Administrative Provisions

7.1 COPS employees involved in the review of applications and in the making of funding decisions are limited in their ability to provide advance information to any person concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Accordingly, wherever possible, applicants should consult publicly available guidance documents for the resolution of a program question.

7.1.1 Unless superseded by a regulation, guideline, handbook or other directive promulgated by the COPS Office, practice and procedures followed by the Office of Justice Programs in the administration of discretionary grant programs shall be followed by COPS grantees.

7.1.1.1 In particular, the current version of the Office of Justice Programs Financial and Administrative Guide for Grants (M7100.1) should be consulted

for guidance on financial, administrative or procedural issues.

7.1.1.2 Prior opinions of the Office of General Counsel of the Office of Justice Programs or its predecessor(s) shall be regarded as persuasive, although not binding, authority for the solution of legal issues arising in connection with COPS grants.

7.2 Freedom of Information Act requests should be addressed to the COPS Office of General Counsel.

7.3 The COPS Office shall maintain a public reading area, as required by the Freedom of Information Act, at 633 Indiana Avenue, N.W., Third Floor, Washington, DC 20531.

Section 8 Sanctions

8.1 The Department of Justice may impose sanctions if it is determined, as a result of periodic monitoring or reviews or otherwise, that the grantee:

(a) Is not substantially complying with the requirements of Act, these guidelines or with other provisions of federal law;

(b) Fails to make satisfactory progress toward the goals or strategies set forth in its application, as reflected by performance and status reports;

(c) Does not adhere to grant agreement requirements or special conditions;

(d) Proposes substantial plan changes to the extent that, if originally submitted, would have resulted in the application not being selected for funding;

(e) Does not submit reports;

(f) Files a false certification in connection with an application, periodic report or other document submitted to the COPS Office;

(g) Other good cause shown.

8.2 The Department of Justice may impose the following sanctions:

(a) Temporarily withhold cash payments pending correction of the deficiency by the grantee;

(b) Disallow all or part of the cost of the activity or action not in compliance;

(c) Wholly or partly suspend or terminate the current award for the grantee's program;

(d) Require that some or all of the grant amounts be remitted to the Department of Justice;

(e) Condition a future grant and elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance;

(f) Withhold further awards for the program; or

(g) Recommend civil or criminal enforcement by other agencies; and

(h) Take other remedies that may be legally available.

8.3 Except as provided in 8.3.1, the hearing and appeal procedures set forth

in 28 CFR Part 18 shall apply to grant recipients who seek to contest determinations of noncompliance by the Department of Justice. References in 28 CFR Part 18 to the Office of Justice Programs and its officials shall be deemed to be references to the COPS Office and its Director, as may be appropriate.

8.3.1 Legal responsibility for the enforcement of the nondiscrimination provisions of Omnibus Crime Control and Safe Streets Act, as amended (42 U.S.C. 3789d) lies with the Office of Justice Programs. Compliance procedures are set forth at 28 CFR Parts 18 and 42.

Dated: January 9, 1995.

Janet Reno,

Attorney General.

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BILLING CODE 4410-01-M

Lodging of Consent Decree in *United States v. Ford Motor Company*, Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed consent decree in *United States v. Ford Motor Company*, Civil Action No. 94CV-40501, was lodged with the United States District Court for the Eastern District of Michigan, Flint Office on December 29, 1994. This action was brought pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601, *et seq.* to recover costs expended by the United States in connection with the "Spiegelberg Superfund Site," (See the National Priorities List in 40 CFR Part 300, Appendix B) which is located on Spicer Road, in Green Oak Township, Livingston County, Michigan. Under the proposed decree, Ford has agreed to pay \$935,000 in partial reimbursement of past response costs incurred by the United States in connection with the Spiegelberg Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530. All comments should refer to *United States v. Ford Motor Company*. DJ Ref. #90-11-2-285A.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of Michigan, Flint Office, 600 Church Street, room 206 Federal Building, Flint,