

## Department of Justice

## §91.51

### §91.21 Purpose.

This part sets forth requirements and procedures to award grants to Indian Tribes for purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

### §91.22 Definitions.

(a) *The Act* means the Violent Crime Control and Law Enforcement Act of 1994, Subtitle A of Title II, Public Law 103-322, 108 Stat. 1796 (September 13, 1994) as amended by the Fiscal Year 1996 Omnibus Consolidated Rescissions and Appropriations Act, Public Law 104-134 (April 26, 1996), codified at 42 U.S.C. 13701 *et. seq.*

(b) *Assistant Attorney General* means the Assistant Attorney General for the Office of Justice Programs.

(c) *Tribal lands* means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of way running through the same.

(d) *Indian Tribe* means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law 103-454, 108 Stat. 4791, and which performs law enforcement functions as determined by the Secretary of the Interior.

(e) *Construct jails* means constructing, developing, expanding, modifying, or renovating jails and other correctional facilities.

### §91.23 Grant authority.

(a) The Assistant Attorney General may make grants to Indian tribes for programs that involve constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

(b) Applications for grants under this program shall be made at such times and in such form as may be specified by the Assistant Attorney General. Applications will be evaluated according to the statutory requirements of the Act and programmatic goals.

(c) Grantees must comply with all statutory and program requirements applicable to grants under this program.

### §91.24 Grant distribution.

(a) From the amounts appropriated under section 20108 of the Act to carry out sections 20103 and 20104 of the Act, the Assistant Attorney General shall reserve, to carry out this program—

(1) 0.3 percent in each fiscal years 1996 and 1997; and

(2) 0.2 percent in each of fiscal years 1998, 1999 and 2000.

(b) From the amounts reserved under paragraph (a) of this section, the Assistant Attorney General may exercise discretion to award or supplement grants to such Indian Tribes and in such amounts as would best accomplish the purposes of the Act.

## Subpart D—Environmental Impact Review Procedures for VOI/TIS Grant Program

AUTHORITY: 42 U.S.C. 13701 *et seq.*, as amended by Pub. L. 104-134; 42 U.S.C. 4321 *et seq.*; 40 CFR Parts 1500-1508.

SOURCE: 65 FR 48595, Aug. 8, 2000, unless otherwise noted.

### IN GENERAL

### §91.50 Purpose.

The purpose of this subpart is to inform grant recipients under the Violent Offender Incarceration and Truth-in-Sentencing Incentive (VOI/TIS) Formula Grant Program of OJP's procedures for complying with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et. seq.*, and related environmental impact review requirements.

### §91.51 Policy.

(a) *NEPA Policy.* NEPA policy requires that Federal agencies, to the fullest extent possible:

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(1) Implement procedures to make the NEPA process more useful to decision-makers and the public; reduce paperwork and the accumulation of extraneous background data; and emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(2) Integrate the requirements of NEPA with other planning and environmental review procedures required by law and by agency practice so that all such procedures run concurrently rather than consecutively.

(3) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(4) Use the NEPA process to identify and assess reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(5) Use all practicable means to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of the actions upon the quality of the human environment.

(b) *OJP's policy to minimize harm to the environment.* It is OJP's policy to minimize harm to the environment. Consequently, OJP can reject proposals or prohibit a State from using formula grant funds for a project that would have a substantial adverse impact on the human environment. Additionally, federal law prohibits the implementation of a project that jeopardizes the continued existence of an endangered species or that violates certain regulations related to water quality. Generally, though, where an EA or EIS reveals that a project will have adverse environmental impacts, OJP will work with the State grantee to identify ways to modify the project to mitigate any adverse impacts, or will encourage the State to consider an alternative site.

(c) *Mitigation.* OJP may require the following mitigation measures to reduce or eliminate a project's adverse environmental impacts:

(1) Avoiding the impact altogether by not taking certain action or part of an action.

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(5) Compensating for the impact by replacing or providing substitute resources or environments.

(d) *Use of grant funds.* In accordance with OJP's general policy of providing the States with the maximum amount of control and flexibility over the use of formula grant funds, the States can use VOI/TIS grant funds to pay for the costs of preparing environmental documents, to implement mitigation measures to reduce adverse environmental impacts, and to cover the costs of construction delays or other project changes resulting from compliance with the NEPA process. However, any funds used for these purposes must be included as a portion of the State's grant which requires a State match.

### §91.52 Definitions.

The definitions supplied by the Council on Environmental Quality in its *Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act*, 40 CFR Parts 1500 through 1508, (CEQ Regulations), shall apply to the terms in this subpart.

### §91.53 Other guidance.

The Department of Justice has also published NEPA procedures that incorporate the CEQ regulations at 28 CFR part 61. Additionally, the Office of Justice Programs' Corrections Program Office has prepared a handbook for VOI/TIS grantees, *Program Guidance on Environmental Protection Requirements*. This publication and other relevant documents can be found at <http://www.ojp.usdoj.gov/cpo>.

### APPLICATION TO VOI/TIS GRANT PROGRAM

### §91.54 Applicability.

(a) *Major Federal action.* NEPA's requirements apply to any proposal for