Attachment 11A

Explanatory Note for Department of Justice (DOJ) Report
November 5, 2010

All of the Recovery Act Funds are in the form of grants and were awarded to four bureaus within the Department of Justice: Office of Violence Against Women (OVW); Office of Justice Programs (OJP); Alcohol, Tobacco, Firearms and Explosives (ATF); and Community Oriented Policing Services (COPS). The attached spreadsheet includes data from all four bureaus. Please note, once these grants are awarded and obligated, we will have more to report on the applicability of the National Environmental Policy Act (NEPA). Specifically, column E, "Number of ARRA Funded Projects/Activities" will be filled in more as projects are funded. Below is more detailed information describing the types of projects for each bureau.

ATF (Spreadsheet 1, row 11): ATF received $10 million through an 1151 Treasury transfer. To date, ATF has obligated the entire $10,000,000 received. Total FY 2010 spending is $ 6,394,000 and FY 2009 spending was $1,235,000. The FY09 figure is a correction from previously reported amounts. The Act provided the $10 million to ATF for its Project Gunrunner for the Southwest Border Initiative. The Southwest Border Initiative is designed to reduce cross border drug and weapons trafficking, and the associated high level of violence occurring on the border between the U.S. and Mexico.

ARRA funds are being used to establish staff (via new hire and relocation), and equip and operate Project Gunrunner criminal enforcement offices along the Southwest Border. Offices are being established in El Centro, CA, Las Cruces & Roswell, NM, and McAllen, TX. There are currently no leases in place. ATF is in temporary space in El Centro and shares DEA space in McAllen. Market surveys are being completed for all locations.

ATF does not have direct leasing authority, but relies on GSA to secure office space. GSA has identified these projects as Automatic CATEX (Categorical Exclusions). They cite their PSB NEPA Desk Guide, dated October 1999, Chapter 5.3 (b):

> *Acquisition of space within an existing structure, either by purchase or lease, where no change in the general type of use and only minimal change from previous occupancy level is proposed (previous occupant need not have been a Federal tenant).*

OJP: We are enclosing the completed updated report for the period ending September 30, 2010. We note that most of the OJP programs and contracts do not involve any type of construction activity.

For the grant programs that do involve construction projects, the Environmental Assessments (EA) have not been completed yet. As these EA's are completed, we will

update the spread sheet. There are two changes from the last report to note. First, after further review by the Bureau of Justice Assistance, the number of Justice Assistance Grant awards that require NEPA analysis has been reduced from 90 to 36 (Spreadsheet page 2, Rows 3 and 4). Second, for the Tribal Lands Jail Construction, 6 EA's are still pending and 8 EA's resulted in FONSI's (Spreadsheet page 2, rows 15 and 17).

Violence Against Women Prevention and Prosecution (Spreadsheet page 1, row 9): The reason for the 237 NEPA Not Applicables is that the activities that can be funded under those grants are related to judicial, administrative, civil, or criminal enforcement actions that do not require a NEPA analysis (40 C.F.R. 1508.18[a]).

One of the Not Applicable has changed to an EA (the total has changed from 238 submitted in the 6th report to 237) and we now have 10 EA pendings. We have finally engaged a contractor to conduct the EA on the 10 sites that are conducting serious enough renovations that they need them. The reason for the switch from Not Applicable to EA is that one site which had originally not planned any renovations changed their mind and executed a budget modification to add renovations which were then included in the pending EA.

COPS (Spreadsheet page 1, row 10): The Community Oriented Policing Service's (COPS Office) use of Federal funding to implement a Federal assistance grant program has provided 1,040 grants to state, local and tribal law enforcement. Since the funds will be used for activities relating to judicial, administrative, civil, or criminal enforcement actions (40 C.F.R. 1508.18[a]), the projects are listed as "NEPA Not Applicable". Total grants funded as of September 30, 2010 include 1,031 grants awarded in 2009 and 9 grants awarded in September 2010. The total obligation changed from $993,633,111 to $999,979,984. The total number of grants withdrawn as of September 30, 2010 is 13, with 1 grant withdrawn during this reporting period at the request of the grantee agency. Grant agencies typically request to withdraw from their grants due to financial budget restrictions.

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