

ARIZONA CRIMINAL JUSTICE INFORMATION SYSTEM USER AGREEMENT

THIS AGREEMENT is made and entered into by the ARIZONA DEPARTMENT OF PUBLIC SAFETY, hereinafter referred to as "DPS," and the COCHISE COUNTY SHERIFF'S OFFICE, hereinafter referred to as "USER." DPS, under the authority of the Federal Bureau of Investigation (FBI), is the National Crime Information Center (NCIC) Criminal Justice Information Services (CJIS) Systems Agency (CSA) in Arizona. DPS, under the authority of ARS §41-1750, and ARS §41-1751, also operates the Central State Repository for the criminal justice information system, and functions as the Arizona Criminal Justice Information System (ACJIS) CJIS Systems Agency. Per authority of ARS §41-2204, the Director of the Department of Public Safety also serves as the System Manager of ACJIS.

USER is:

A criminal justice agency as defined in 28 CFR, Part 20, and ARS §41-1750.

OR

A nongovernmental agency or subunit thereof which allocates a substantial part of its annual budget to the administration of criminal justice, whose regularly employed peace officers have full police powers pursuant to state law, and which may have direct terminal access to NCIC and ACIC files, except criminal history record information, pursuant to CFR, Part 20.

OR

A satellite criminal justice information computer operation or regional message switching center which is a criminal justice agency or under the management control of a criminal justice agency, and which accesses the ACJIS network and associated networks via computer-to-computer interface with DPS.

OR

A regional dispatch center which is a criminal justice agency or under the management control of a criminal justice agency and which is established by a state statute, resolution, ordinance or executive order, which provides communication service to criminal justice agencies may be authorized direct access to the ACIC/ NCIC files, excepting criminal history files.

OR

Other

DPS and USER hereby agree to exchange such criminal history record information and/or criminal justice information as is available in the State of Arizona State Central Repository (ACJIS Division), and/or the ACJIS network, subject to the following terms and conditions:

TERMS AND CONDITIONS

- A. Information. In accordance with federal and state regulations, DPS agrees to furnish USER with the following type(s) of information: Authorized Criminal Justice Information.
- B. Rules. The exchange of all information covered by the terms of this Agreement shall be in strict compliance with all federal and state laws and regulations relating to the collection, storage, or dissemination of criminal justice information and criminal history record information; with all rules, procedures, and policies adopted by the NCIC Advisory Policy Board in regard to information furnished through the FBI/NCIC program; and with all rules, procedures, and policies contained in the ACJIS and NCIC Operating Manual, CJIS Security Policy; Title 28, Code of Federal Regulations, Part 20; and with all rules, policies and procedures of the International Justice and Public Safety Information Sharing Network (NLETS), for ACIC/NCIC and ALETS/ NLETS policies unless otherwise provided. USER has the burden of giving notice of the requirements of all the above-named rules and regulations to its employees and the other agencies or individuals to whom USER might disseminate information derived pursuant to this Agreement.
- C. Privacy and Security.
1. Purpose. USER agrees that the use of information received under the terms of this Agreement shall be limited to the following specific purpose(s): Administration of Criminal Justice.
 2. System Security Officer. USER shall designate an official ACJIS System Security Officer (SSO). The SSO shall be allowed sufficient time to perform all necessary duties related to ACJIS responsibilities. The SSO shall be responsible for ensuring compliance with Section B above, and shall grant authorization to those employees who will have access to criminal history record information and/or criminal justice information. The SSO shall submit and keep current a list of all authorized employees' names, dates of birth, and agency telephone numbers.
 3. Secondary Dissemination. USER agrees to assume full liability for the release of criminal history record information and/or criminal justice information. (Unlawful use of criminal history information and/or criminal justice information as defined in ARS §41-1756 is a class 6 felony.)
- D. Audits/Inspections/Training. USER hereby agrees to make its reports available to DPS for the purpose of conducting periodic audits of USER's compliance with all laws and regulations regarding the processing of information furnished to USER under the terms of this Agreement. In order to facilitate such audits, USER agrees to keep such records as DPS may from time to time direct. In addition, USER will cooperate with directives issued by the state CJIS Systems Officer (CSO) to assure reliability of data on any current and future audit. Each user shall be responsible for training requirements, including compliance with operator training mandates.

All terminal agencies having direct access to ACJIS agree, as a condition of participation, to permit an inspection team from the NCIC Advisory Policy Board and/or a team from the Arizona DPS to conduct necessary site security compliance inspections to insure that required physical, personnel, computer, and communications safeguards are functioning properly.

All books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the state for five years after completion of this Agreement.

E. Standards for Response Time.

Agencies interfaced with the DPS host computer agrees to comply with set standards for response time, records entry, and system availability as specified in the NCIC Operating Manual, ACJIS Operating Manual and CJIS Security Policy.

X This applies to Interface Agencies only.

USER agrees that a current copy of the interface schematic and design remains on file with the Department of Public Safety. USER agrees that sanctions for noncompliance with the terms of this agreement will be imposed by the DPS. USER agrees to correct all noted violations and discrepancies within 30 days.

F. Sanctions.

1. Cancellation. Either DPS or USER may cancel this Agreement upon thirty days notice to the other party in writing. "All parties are hereby put on notice that this contract is subject to cancellation by the Governor for conflicts of interest, pursuant to ARS 38-511, the contents of which are hereby incorporated by reference."

2. Suspension of Service. In addition to the penalties provided by law, DPS reserves the right to immediately suspend furnishing information covered by the terms of this Agreement to USER when any terms of this Agreement are violated or reasonably appear to be violated. DPS shall resume furnishing such information upon receipt of satisfactory assurance that such violations did not occur or that such violations have been fully corrected or eliminated. In the event that USER challenges the ruling of DPS regarding violation(s) or audit results, the Arizona CDS Policy Board shall adjudicate the matter.

3. Indemnification. To the extent permitted by law, USER hereby agrees to indemnify and save harmless DPS, its Director and employees, and the FBI, its Director and employees from and against any and all claims, demands, suits, and proceedings by others and against all liability to others for the use or misuse by the USER of any information provided to USER pursuant to this Agreement.

4. Arbitration. This AGREEMENT is subject to arbitration, but only to the extent required by ARS §12-1518.

G. Non Discrimination. USER agrees that USER will comply with the non-discrimination requirements of Executive Order 2009-09 (attached).

H. Executory Clause. It is understood by and between the parties hereto that DPS is obligated to provide the services described in Section A above to USER only to the extent that public funds are made available to DPS for that purpose. DPS shall incur no liability on account thereof beyond the money made available for such purpose.

I. Construction. This Agreement shall be liberally construed to apply to both manual and automated information systems for criminal justice purposes wherever and whenever possible.

J. Dissemination. As to all dissemination of Federal Criminal History Information, the terms of this contract shall be superseded by applicable Federal Regulations governing the release of such information.

USER agrees that DPS may use or disseminate information concerning USER transactions on the ACJIS network to provide assistance with active criminal investigations or criminal intelligence investigations when such assistance is specifically requested by the investigating agency.

USER agrees that DPS may generate, use, or disseminate statistical reports based upon data contributed or transactions conducted by USER on the ACJIS network or through the submission of uniform crime reporting information.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the proper officers and officials.

ARIZONA DEPARTMENT OF PUBLIC SAFETY

BY:

Lt. Colonel Jeffrey E. Raynor
Arizona CJIS Systems Officer
Arizona Department of Public Safety
by order of

TITLE:

Frank L. Milstead, Colonel
Director
Arizona Department of Public Safety

DATE: _____

USER:

COCHISE COUNTY SHERIFF'S OFFICE

BY:



Mark Dannels

TITLE:

Sheriff

DATE:

04/13/15

(Rev. 02/15)



Cochise County Attorney Civil Deputy

Date

04/24/2015

Chairman of the Board of Supervisors

Date

Executive Order 2009-09

**PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS
NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT CONTRACTORS AND
SUBCONTRACTORS**

Superseding Executive Order 99-4 and Amending Executive Order 75-5

WHEREAS, Executive Order 99-4 was effectuated to assure that persons or entities contracting with the State of Arizona or its political subdivisions comply with the provisions of Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, et. seq.) and with Arizona's Civil Rights Act (Title 41, Chapter 9, Article 4);

WHEREAS, Executive Order 99-4 correctly states that various religious organizations are exempted from Arizona's Civil Rights Act;

WHEREAS, Executive Order 99-4 does not expressly state the federal and state exemptions for Indian tribes under both the federal and State Civil Rights Acts;

WHEREAS, 42 U.S.C. § 200e(b)(1) exempts tribes from the definition of employer;

WHEREAS, A.R.S. § 41-1461 4 (b)(i) also exempts Indian tribes from the definition of employers to whom the Arizona Civil Rights Act applies;

WHEREAS, Indian tribes across the State have recently begun to experience difficulty contracting with the State, often for money or services to which they are lawfully entitled, as a result of their exclusion from specified exemptions within Executive Order 99-4;

WHEREAS, the Attorney General's Office has in some cases interpreted the existing provisions as requiring tribes to waive rights guaranteed by both federal and State law;

WHEREAS, a modification is necessary to expressly provide that the exemptions found in federal and State law continue in full force and effect;

NOW, THEREFORE, I, Janice K. Brewer, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of this State, hereby order and direct as follows:

1. Executive Order 75-5 is hereby amended as follows:

PART I - Non-discrimination in employment by government contractors and subcontractors.

Unless otherwise exempted by federal or state civil rights laws, all government contracting agencies shall include in every government contract hereinafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, or national origin. The contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, age, color, religion, sex or national origin. Such action shall include, but is not limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or

termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

A continued Executive Order No. 75-5 is hereby amended to permit government contractors and subcontractors that are exempted from compliance under Title 41, chapter 9, article 4, Arizona Revised Statutes or 42 U.S.C. § 200e(b)(1), to provide employment preferences consistently with federal and state statutes;

Therefore, Executive Order 75-5 does not apply to Indian tribes. It likewise does not apply to religious organizations with respect to the employment of individuals of a particular religion to perform work connected with the activities of the employer. It also provides that religious organizations may provide employment preferences based upon religion when dealing with a bona fide occupational qualification reasonably necessary to the operation of the religious organization. This is consistent with the provisions of the Civil Rights Act of 1964 (42 U.S.C. 2000e, et seq.). In addition, in the Personal Responsibility and Work Opportunity Reconciliation Act, P.L. 104-193, Congress provided that religious organizations are eligible for the receipt of federal funds on the same basis as other private organizations.

Executive Order No. 75-5 prohibits all other government contractors and subcontractors from discriminating against any employee or applicant for employment because of race, age, color, religion, sex or national origin. Executive Order No. 75-5 further requires all government contractors and subcontractors to take action to insure that applicants are employed and employees are treated during employment without regard to their race, age, color, religion, sex or national origin.

- B. The contractor will in all solicitations or advertisement for employees placed by or on behalf of the contractor state that all qualified applicants will receive consideration for employment without regard of race, age, color, religion, sex or national origin.
- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under the Executive Order and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor will furnish all information and reports required by the contracting agency and will permit access to his books, records, and accounts by the contracting agency and the Civil Rights Division for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- E. In the event of the contractor's noncompliance with the nondiscrimination clauses of the contract or with any such rules, regulations or orders of the Arizona Civil Rights Division said noncompliance will be considered a material breach of the contract and this contract may be cancelled, terminated or suspended, in whole or in part, and the contractor may be declared ineligible for future government contracts until said contractor has been found to be in compliance with the provisions of this order and the rules and regulations of the Arizona Civil Rights Division, and such sanctions may be

imposed and remedies invoked as provided in Part II of this order, and the rules and regulations of the Arizona Civil Rights Division.

- F. The contractor will include the provisions of paragraphs A through E in every subcontractor purchase order so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to the subcontract or purchase orders the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Arizona to enter into such litigation to protect the interest of the State of Arizona.
- G. Each contractor having a contract containing the provisions prescribed in this section shall file and shall cause each of his subcontractors to file compliance reports with the contracting agency or the Civil Rights Division, as may be directed. Compliance reports shall be filed within such times and shall contain such information as the practices, policies, programs and employment policies, programs and employment statistics of the contractor and each subcontract and shall be in form as the Arizona Civil Rights Division may prescribe.
- H. Bidders or prospective contractors of subcontractors shall be required to state whether they have participated in any previous contract subject to the provisions of this order or any preceding similar Executive Order and in such event to submit on behalf of themselves and the proposed subcontractors compliance reports prior to, or as an initial part of negotiation of a contract.
- I. Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers of providing or supervising apprenticeship or training for such workers, the compliance report shall include such information from such labor unions or agency practices and policies affecting compliance as the contracting agency or Civil Rights Division may prescribe: provided that, to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify the contracting agency as part of its compliance report and shall set forth what efforts he has made to obtain such information.
- J. The contracting agency or the Civil Rights Division shall require that the bidder or prospective contractor or subcontractor shall submit as part of his compliance report a statement in writing signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training with which the bidder or prospective contractor deals with supporting information to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions

of employment under the proposed contract shall be in accordance with the purpose and provisions of this order. In the event that the union or the agency shall refuse to execute such a statement, the compliance shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Civil Rights Division may require.

PART II - Enforcement

- A. Each contracting agency shall be primarily responsible for obtaining compliance with this Executive Order with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Civil Rights Division in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this order and the rules and regulations and orders of the Civil Rights Division issued pursuant to this order. They are directed to cooperate with the Civil Rights Division and to furnish the Division such information and assistance as it may require in the performance of the Division's functions under this order. They are further directed to appoint or designate from among the agency personnel compliance officers. It shall be the duty of such officers to first seek compliance with the objective of this order by conference, conciliation, mediation or persuasion.**
- B. The Civil Rights Division may investigate the employment practices of any government contractor if subcontractor of initiate such investigation by the appropriate contracting agency or determine whether or not the contractual provisions specified in this order have been violated. Such investigations shall be conducted in accordance with the procedures established by the Civil Rights Division and the investigating agencies shall report to the Civil Rights Division any action taken or recommended. The Civil Rights Division may receive and investigate or cause to be investigated complaints by employees or prospective employees of a government contractor or subcontractor which alleges discrimination contrary to the contractual provisions specified in Part I of this order. If the investigation is conducted for the Civil Rights Division by a contracting agency, that agency shall report to the Civil Rights Division what action has been taken or it's recommendation with regard to such complaint.**
- C. The Civil Rights Division shall use its best efforts directly and through contracting agencies, other interested state and local agencies, contractors and all other available instrumentalities to cause any labor union engaged in work under government contracts or any agency referring workers or providing or supervising apprenticeship or training for it in the course of such work or cooperate in the implementation of the purposes of this order.**
- D. The Civil Rights Division or any agency, officer or employee in the executive branch of the government designated by rule, regulation or order of the Civil Rights Division may hold such hearings, public or private, as the Division may deem advisable for compliance, enforcement of educational purposes. The Civil Rights Division may hold or cause to be held hearings in accordance with rules and regulations issued by the Civil Rights Division prior to imposing, ordering or recommending the imposition of penalties and sanctions under this order.**
- E. No order for debarment of any contractor from further government contracts under this order shall be made without affording the contractor an opportunity for a hearing.**

F. **Sanctions and Penalties.** In accordance with such rules, regulations or orders as the Civil Rights Division may issue or adopt, the Civil Rights Division or the appropriate contracting agency may publish or cause to be published the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this order and with the rules, regulations and orders of the Civil Rights Division.

1. Contracts may be cancelled, in whole or in part, terminated, or suspended absolutely, or continuation of contracts may be conditioned upon a program for future compliance approved by the contracting agency or the Civil Rights Division: provided that any contracting agency shall refrain from entering into further contracts, extensions or other modifications of existing contracts with any noncomplying contractor until such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this order.
2. Under rules and regulations prescribed by the Civil Rights Division, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this order by methods of conference, conciliation, mediation and persuasion before proceedings shall be instituted under this order or before a contract shall be cancelled or terminated in whole or in part under this order for failure of a contractor or subcontractor to comply with the contract provisions of this order.

G. This Executive Order shall become effective immediately of its issuance.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Janice K. Brewer
GOVERNOR

DONE at the Capital in Phoenix, Arizona this 20th day of October
In the Year Two Thousand and Nine and of the Independence of
the United States of America the Two Hundred and Thirty-Third.

ATTEST:

Ken Bennett

SECRETARY OF STATE