



Order

Subject: Policy on Funding Unmanned Aircraft Systems

Purpose: This Office of Justice Programs (OJP) Order establishes controls to help ensure that OJP funds are used for unmanned aircraft systems only in a responsible manner that promotes public safety, protects privacy and civil liberties, and reflects an appropriate risk-based approach to information security.

Scope: This Order applies to all OJP components.

Originator: The Office of the General Counsel

Authority: 34 U.S.C. §§ 10101, 10102(a), 10110 note, 10221(a); 5 U.S.C. § 530C; 28 C.F.R. § 0.90; Att'y Gen. Order No. 1687-93 (Feb. 23, 1993); and Att'y Gen. Order No. 1473-91 (Feb. 19, 1991).

Cancellation: None.

I. Definitions

The following definitions (some of which contain general references, for purposes of incorporation by reference) apply to this Order:

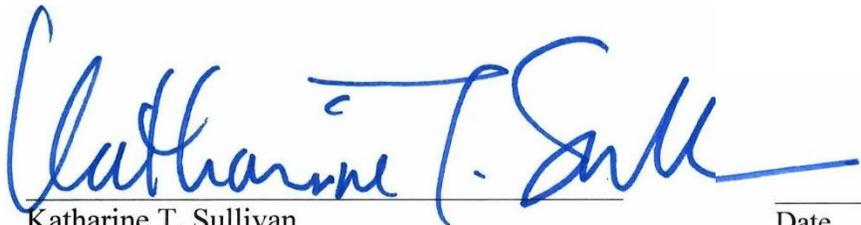
- a. "Aircraft" means what it means under 49 U.S.C. § 40102(a)(6) (which, as of the date of this Order is "any contrivance invented, used, or designed to navigate, or fly in, the air").
- b. "Covered foreign entity" means any entity that is determined or designated, within the Department of Justice, to be subject to or vulnerable to extrajudicial direction from a foreign government.
- c. "Unmanned aircraft system" includes -
 - i. anything within the definition of "unmanned aircraft system" under 49 U.S.C. § 44801(12) (which, as of the date of this Order is "an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the operator to operate safely and efficiently in the national airspace system"); and

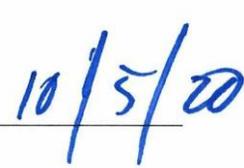
- ii. any unmanned aerial vehicles (drones), and similar technologies, including component parts, that are controlled remotely and subject to regulation by the Federal Aviation Administration.
- d. "Unmanned aircraft" means what it means under 49 U.S.C. § 44801(11) (which, as of the date of this Order is "an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft").

II. Policy

- a. Except as provided in , ¶ c., no funds awarded or made available by OJP, through a contract, grant, cooperative agreement, or otherwise, to a state, local, tribal, or territorial government (including via subcontract or subaward, at any tier) may be used to purchase, use, or operate any unmanned aircraft system that is manufactured or assembled by a covered foreign entity.
- b. Except as provided in , ¶ c., no funds awarded or made available by OJP, through a contract, grant, cooperative agreement, or otherwise, to a state, local, tribal, or territorial government (including via subcontract or subaward, at any tier) may be used to purchase, use, or operate any unmanned aircraft system unless the chief executive officer of the government applying (at any tier) for such funds certifies and assures to OJP, in writing, on behalf of the applicant, that-
 - i. the applicant has in place policies and procedures designed to safeguard privacy and civil liberties and to mitigate cybersecurity risks concerning the operation and use of the unmanned aircraft system;
 - ii. the applicant has effective policies and procedures in place (available to OJP upon request) that, in connection with the unmanned aircraft system and any use or operation thereof-
 - i. requires compliance with all applicable provisions of the United States Constitution, including the Fourth Amendment's protection against unreasonable searches and seizures, and other applicable laws and regulations, including regulations issued by the FAA; and
 - ii. contains effective and appropriate privacy protections and prohibit such use or operation, and information obtained by such use or operation, to discriminate against individuals unlawfully under federal law or to the United States Constitution;
 - iii. contains mechanisms and procedures to receive, investigate, and address, as appropriate, privacy and civil liberties complaints against the applicant concerning such use or operation;
 - iii. the applicant has the legal authority to operate the unmanned aircraft system;

- iv. the applicant has an effective and comprehensive mitigation plan that covers, at minimum , technology and cybersecurity risks concerning use or operation of the unmanned aircraft system;
 - v. the applicant will take measures, as appropriate, to effectively mitigate all known risks to the protection of privacy and civil liberties and public safety, including, without limitation , the following:
 - 1. malware or the collection of data from the system;
 - 2. susceptibility to data theft or network breach of data transmitted, stored, or received by the unmanned aircraft system;
 - 3. vulnerability of the unmanned aircraft system to electronic hijacking by an unauthorized party;
 - 4. whether communications sent to and from the unmanned aircraft system are sufficiently secure; and
 - 5. security of stored information and data obtained from the unmanned aircraft system; and
 - vi. the applicant will require that data collected by the unmanned aircraft system that are retained are maintained and safeguarded in accordance with all applicable law s, directives , policies, regulations , standards, and guidance, and that all personnel with access to such data follow (at a minimum) practices that are consistent with the protection of data and of privacy and civil liberties.
- c. **Exceptions.** As (and to the extent) may be determined, from time to time , by the Assistant Attorney General, the provisions of ¶¶ a. and c., shall not apply where the procurement, use, or operation of the unmanned aircraft system would be for the purposes of-
- i. research, evaluation, training, testing, or analysis;
 - ii. counterterrorism or counterintelligence;
 - iii. criminal investigation, including forensic examination; or
 - iv. supporting critical needs of criminal justice or of national security.


Katharine T. Sullivan
Principal Deputy Assistant Attorney General


Date