

2023 GOVERNORS' PREA SUBMISSIONS
PREPARATION TIPS FOR PREA COORDINATORS
PROVIDED BY THE PREA MANAGEMENT OFFICE AT THE U.S. DEPARTMENT OF JUSTICE

It is that time of year again. Your governors will soon receive a letter from the U.S. Department of Justice (DOJ) requesting they submit either a certification of full compliance with the PREA standards or, for the first time this year, an emergency assurance on October 15, 2023. As a reminder, the Justice for All Reauthorization Act of 2016 (Pub. L. No. 114-324) (JFARA) made several significant changes to the PREA statute. Among them, the JFARA required that the assurance option would sunset as of December 16, 2022. The JFARA also provided that, for two years following the sunset of the assurance option, a governor who can certify that the state or territory has audited at least 90% of the facilities under their operational control may request that the Attorney General allow the submission of an emergency assurance form (See 34 U.S.C. § 30307(e)(2)(D)(iii)). Governors may, therefore, submit an emergency assurance form to DOJ for Audit Year 1 of Cycle 4 (August 20, 2022 – August 19, 2023).

Consistent with the requirements of JFARA, this year's emergency assurance form, which will be attached to the governor's letter, has been revised to include a statement that, in addition to assuring DOJ that the state or territory will use portions of certain DOJ grant funding to come into compliance with the PREA standards in the future, the governor is also certifying that 90% of the facilities under their operational control have been audited at least once. Per the JFARA, the final opportunity to submit an emergency assurance form will be next year for Audit Year 2 of Cycle 4 (August 20, 2023 – August 19, 2024).¹

Items for PREA Coordinators to prepare *prior* to receiving the letter from DOJ to governors and the worksheet:

PREA Coordinators are encouraged to:

- Compile all final PREA audit reports for audits completed during Year 1 of Audit Cycle 4 (August 20, 2022 – August 19, 2023). Ensure that all audit reports are saved in PDF format and labeled appropriately with the facility and agency names in the title.
 - In a state or territory where the governor submits a certification of full compliance with the PREA Standards, for the audit to be considered as having been completed during Year 1 of Audit Cycle 4, all phases of the audit (pre-onsite, on-site, and post-onsite) must be finished, and the final audit report must be signed by the auditor on or before August 19, 2023.
- Ensure all final audit reports are posted on the agency's website. See Standard 115.403(f) if your agency does not have a website and seek assistance from the PMO via PREACompliance@ojp.usdoj.gov. Note: Standard 115.403(f) only requires that final audit reports *be published on the agency's website if it has one or is otherwise made readily available to the public*. However, this a good time to assess the agency's website to determine how readily accessible the reports are, as well as information for family, friends, or the public on how to report sexual allegations of sexual abuse on behalf of those incarcerated.

¹ For more information about JFARA, please see: www.bja.gov/publications/JFARA-Fact-Sheet_Updated-2017.03.01.pdf. For more information about determining whether a confinement facilities is under the Governor's operational control, please see: <https://www.prearesourcecenter.org/frequently-asked-questions/determining-whether-certify-my-state-full-compliance-national-prea>.

- Work with your agency director/commissioner/secretary and/or governor's office to alert them that the letter and worksheet are expected to arrive in early September.

Below are tips to successfully complete the worksheet that will be attached letter to governors from DOJ. Please use the attached example worksheet as a guide when reviewing the following guidance.

Important, Friendly Reminder

Because DOJ's PREA Management Office uses the information in your state's/territory's worksheet in a variety of ways and may need to retrieve/extract some of the information provided, please enter the information that is requested in the ways described in the document titled, Instructions: PREA Certification and Emergency Assurance Submission. This document will be attached to the upcoming letter to governors from DOJ. PREA Coordinators who do not receive these instructions or have questions about them are encouraged to contact the PREA Management Office at PREACompliance@ojp.usdoj.gov.

- Worksheet Tab 1 – Audit Activity Table
- Columns A through F in Tab 1 of your State's/Territory's Worksheet *will be locked*. Edits/Revisions to items in these columns, such as facility name changes, or adjustments to contracted entities should be reflected in Column I – Table Updates.
- Column H of Tab 1 of your State's/Territory's Worksheet requires links to the location of final PREA audit reports. A common mistake is to enter the link to the agency's PREA webpage. Please ensure all audit report links take the user directly to the actual audit report. Locating/Confirming each of these links and then entering them into your State's/Territory's Worksheet is a very good way to ensure that all links are active and accurate.
- Column I in Tab 1 is where the PREA Coordinator or their designee will enter any relevant changes that have occurred during Year 1 of Cycle 4 (August 20, 2022 – August 19, 2023). This might include facility name changes, facility closures, changes to contracted entities, or noteworthy adjustments in the mission/purpose of the facility (e.g., changes in the types of people who are confined in it, etc.). Facilities that have been opened in Year 1 of Cycle 4 should also be included, along with the date the facility was activated/came online. Please ensure that all entries are clear and concise, and free of acronyms. As a reminder, changes that are necessary can be compiled before governors receive the forthcoming letter.
- Tab 2 – Additional Facilities
- The columns on the Additional Facilities Table are the same as tab 1, Audit Activity Table. If the agency brought a new facility online during Year 1 of Cycle 4, include the same information you see on tab 2, including State, Parent Agency, Facility Name, Facility Type, and so forth.
- Tab 3 – Certification Information

If the Governor is submitting a certification of full compliance for Year 1 of Cycle 4 (August 20, 2022 – August 19, 2023), the governor is also certifying that facilities that have not yet been audited during Cycle 4 are fully compliant with the standards. Tab 3 contains space for a brief statement about how the governor determines facilities that have not yet been audited during Cycle 4 are compliant with the PREA standards. States/territories generally have a system of continuous facility compliance monitoring, including those facilities not audited during the current audit year. Governors who submit certifications of full compliance for Year 1 of Cycle 4

are encouraged to rely on these monitoring systems and other sources of information to help ensure compliance with the PREA standards. A detailed, but brief, description of the state or territory monitoring system should be included in Tab 3 of your worksheet.

Please note that if the governor is not submitting a certification of full compliance, Tab 3 does *not* need to be completed.

- Tab 4 – Emergency Assurance Information

Tab 4 requires a response to two questions if the governor is submitting an emergency assurance for Audit Year 1 of Cycle 4 (August 20, 2022 – August 19, 2023). In such cases, the governor is asked to describe: (1) Any barriers to achieving full compliance; and (2) The current state of PREA standards implementation in the state/territory or agency. As with Tab 3, these explanations should be descriptive, but straightforward and brief. There are technical assistance resources available through the Bureau of Justice Assistance funded PREA Resource Center (PRC), which is overseen by DOJ’s PREA Management Office. The PRC can support efforts in states and territories to achieve and maintain compliance with the PREA Standards.²

Please note that if the Governor is not submitting an assurance, Tab 4 does *not* need to be completed.

Some “Dos” and “Do Nots” related to the upcoming, annual PREA submissions by governors

Please *do not*:

- Convert and submit a PDF version of your state’s/territory’s worksheet. Feel free to create a PDF version for your own purposes, but please return the completed Worksheet to DOJ’s PREA Management Office in Excel format.
- Do not develop and submit a new version of your State’s/Territory’s Worksheet to DOJ’s PREA Management Office. Please make needed changes in your Worksheet, but do not create and send a new version of it.
- Do not panic or become anxious about this process. There are people and resources at DOJ’s PREA Management Office available to help. We are more than happy to assist you. Please contact us at PREACompliance@usdoj.gov. We will get back to you promptly and provide help you need!

Please *do*:

- Take advantage of the tips above and collect and compile the PREA information described above early – starting now, if possible. As emphasized above, there are several things that you can do now/soon to prepare for your Governor’s upcoming PREA submission to DOJ.
- Be prepared for questions from your agency’s director/commissioner/secretary and/or one or more representatives from your Governor’s office.
- Contact the PREA Management Office at PREACompliance@ojp.usdoj.gov if you need assistance or have questions. The only silly questions are the ones unasked.
- Take a deep breath, dive-in, and feel positive about your state’s/territory’s accomplishments related to PREA implementation, and ongoing efforts to promote sexual safety in confinement.

² For more information, please see: <https://www.prearesourcecenter.org/training-and-technical-assistance>.