Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Frequently Asked Questions (FAQs)* – Updated March 2019

Index

Reference Information

Authorizing Legislation for the JAG Program Awards
Catalog of Federal Domestic Assistance (CFDA) Number
8 U.S.C. Section 1373 Questions & Answers

Award Eligibility/Formula Information

Eligibility
Formula Calculation
Eligible Jurisdictions
Other Funding Resources (Ineligibility)
State Pass-Through
FBI's Uniform Crime Report (UCR)
FBI/UCR Modernization (NIBRS compliance)

Penalties; Potential funding reductions

SORNA Penalty
SORNA Compliance Bonus Funds
PREA Reduction

Application Requirements

Legal Name
Data Universal Number System (DUNS) Number
System for Award Management (SAM)
Project and Budget Periods
30-day Governing Body Review Requirement
Public Comment Requirements
OJP Certified Standard Assurances

Use of Funds

Allowable and Unallowable uses of JAG Funds
Controlled Expenditure Request Guidance
Administrative Funds
Sole Source
Supplanting and Commingling
Confidential Funds
Body Armor Purchases

Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Frequently Asked Questions (FAQs)* – Updated March 2019

Body-Worn Camera Purchases
Purchase of Naloxone and similar drugs
Membership Dues
GPS Trackers
Funds for Indigent Defense
DNA Testing
Caps on Overtime Pay

Disparate Information

Understanding Disparity
Determining the Fiscal Agent for a Disparate Application
Disparate Memorandum of Understanding (MOU) Requirements
Fiscal Agent Governing Body Review and Public Comment Requirements

Reporting and Special Condition Requirements

Reporting Requirements/Contact Information Updates
Task Force Training
Federal Funding Accountability and Transparency Act (FFATA)

Award Administration

Award Notification and Post-Award Instructions
Post-Award Instructions (including award acceptance and declination)
JAG Award Payments
JAG Trust Fund Requirement for full up front draw-downs
Period of Expenditure
State Administering Agency (SAA) Strategic Plan
State Administering Agency (SAA) Pass-Through Waiver
Budget Modification Process
Closeout Policies and Procedures
JAG Showcase/Success Stories

These FAQs are provided as reference only to assist States and units of local government. The FAQs do not supersede any guidance or requirements in the applicable JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Frequently Asked Questions (FAQs)* – Updated March 2019

Reference Information

What is the authorizing legislation for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program?

The JAG Program statute is Subpart I of Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, (codified at 34 U.S.C. 10151 - 10158); Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726); see also 28 U.S.C. 530C(a).

What is the Catalog of Federal Domestic Assistance (CFDA) number for the Edward Byrne Memorial JAG Program?

The CFDA number for the Edward Byrne Memorial JAG Program (State and Local) is 16.738.

Where can I find Questions & Answers related to award conditions and requirements related to criminal alien law enforcement?

A list of Questions & Answers related to award conditions and requirements related to criminal alien law enforcement, including 8 U.S.C. § 1373, which is being updated regularly, can be found here: https://www.bja.gov/publications/8U.S.C.1373QuestionsandAnswers.pdf

Award Eligibility/Formula Information

Who is eligible and where is the eligibility list located?

There are two kinds of formula awards available under the Edward Byrne Memorial JAG Program.

- **JAG State awards:** Only States may apply under this solicitation, and states must designate a single state administering agency (SAA) that has authority to apply on its behalf. By law, for purposes of the JAG program, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa.
- **JAG Local awards:** Only units of local government appearing on the JAG Allocations List may apply under this solicitation. The full list of eligible units of local governments for the current Fiscal Year, once available, will be posted on the JAG web page here: https://www.bja.gov/ProgramDetails.aspx?Program_ID=59. By law, for purposes of the JAG Program, the term "units of local government" includes a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government may be any law enforcement district or judicial enforcement district established under applicable State law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Frequently Asked Questions (FAQs)* – Updated March 2019

How is the formula calculated?

JAG awards are based on a statutory formula as described below:

Once each fiscal year's overall JAG Program funding level is determined, BJA works with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process, which, in general, consists of:

Computing an initial JAG allocation for each State, based on its share of violent crime and population (weighted equally).

Reviewing the initial JAG allocation amount to determine if the State allocation is less than the minimum award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the State is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining States receive the minimum award plus an additional amount based on its share of violent crime and population.

Dividing each State's final award amount (except for the territories and District of Columbia) between the State and its units of local governments at a rate of 60 and 40 percent, respectively.

Determining unit of local government award allocations, which are based on their proportion of the State's 3-year violent crime average. If the "eligible award amount" for a particular unit of local government as determined on this basis is $10,000 or more, then the unit of local government is eligible to apply directly to OJP (under the JAG Local solicitation) for a JAG award. If the "eligible award amount" to a particular unit of local government as determined on this basis would be less than $10,000, however, the funds are not made available for a direct award to that particular unit of local government, but instead are added to the amount that otherwise would have been awarded to the State. (The State's obligations with respect to this additional amount for the "less-than-$10,000 jurisdictions" are summarized below.)

Why would a jurisdiction (State or local) not receive an allocation?

Eligible allocations under JAG are posted annually on the JAG web page under "Funding."

Certain units of local government within the State are ineligible for a direct award of JAG funds because of their small size. (These small-size units of local government sometimes are referred to as "less-than-$10,000 jurisdictions.") The State must provide these additional funds included in its award to State police departments that provide criminal justice services to the "less- than-$10,000 jurisdictions" within the State and/or subaward the funds to such jurisdictions.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

Is there funding available for jurisdictions that do not qualify for a direct award?

Jurisdictions that do not qualify for a direct award under JAG may reach out to their respective State Administering Agency (SAA) to determine whether sub-award funding is available. SAA contact information can be found here: https://ojp.gov/saa/index.htm.

Are States required to pass-through funding to ineligible local jurisdictions?

A State that applies for and receives a JAG award must—

- Pass-through a predetermined percentage of funds to "units of local government." (For purposes of the JAG program, a "unit of local government" includes a city, county, township, town, and certain federally-recognized Indian tribes.) This predetermined percentage (often referred to as the "variable pass-through" or VPT) is calculated by OJP's BJS, based on the total criminal justice expenditures by the State and its units of local government. The variable pass-through percentages that will apply to an award to a recipient State can be found at: https://www.bja.gov/jag/pdfs/VPT-for-SAAs-updated-June-2017.pdf. (If a State believes the VPT percentage has been calculated incorrectly, the State may provide pertinent, verifiable data to BJA and ask OJP to reconsider.)
- Appropriately use or distribute the amount of funds that are *added* to the State's award because certain units of local government within the State are ineligible for a direct award of JAG funds because of their small size. (These small-size units of local government sometimes are referred to as "less-than-$10,000 jurisdictions.") The State must provide these additional funds included in its JAG award to State police departments that provide criminal justice services to the "less- than-$10,000 jurisdictions" within the State and/or subaward the funds to such jurisdictions.

What is National Incident-Based Reporting System (NIBRS)?

The National Incident-Based Reporting System, or NIBRS, implemented to improve the overall quality of crime data collected by law enforcement, captures details on each single crime incident—as well as on separate offenses within the same incident—including information on victims, known offenders, relationships between victims and offenders, arrestees, and property involved in the crimes.

Unlike data reported through UCR's traditional Summary System—an aggregate monthly tally of crimes—the NIBRS data goes much deeper because of its ability to provide circumstances and context for crimes. It includes all offenses within a single incident and additional aspects about each event, like location, time of day, and whether the incident was cleared. Ultimately, NIBRS will improve the detail and overall quality of crime data, which will help law enforcement and communities around the country use resources more strategically and effectively.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

Why is BJA requiring a three percent set-aside related to NIBRS compliance?

In FY 2016, the Federal Bureau of Investigation (FBI) formally announced its intention to sunset the Uniform Crime Reporting (UCR) Program's traditional Summary Reporting System (SRS) and replace it with the UCR Program's National Incident-Based Reporting System (NIBRS). By January 1, 2021, the FBI intends for NIBRS to be the law enforcement crime data reporting standard for the nation.

By statute, JAG Program awards are calculated using summary Part 1 violent crime data from the FBI's UCR Program. (See 34 U.S.C. § 10156.) Once SRS has been replaced by NIBRS, JAG award amounts will be calculated using NIBRS data. In preparation for the FBI's 2021 NIBRS compliance deadline, beginning in FY 2018, BJA is requiring, through the application of a special condition, direct JAG award recipients not certified by the FBI as NIBRS compliant to dedicate three (3) percent of their JAG award toward achieving full compliance with the FBI's NIBRS data submission requirements under the UCR Program. The 3 percent requirement will assist state and local jurisdictions in working toward compliance, to ensure they continue to have critical criminal justice funding available through JAG when SRS is replaced by NIBRS in FY 2021.
Note: U.S. territories and tribal jurisdictions will not be subject to the 3 percent set-aside for NIBRS compliance until FY 2019. Tribal jurisdictions and the five U.S. territories will be strongly encouraged to dedicate a portion of JAG funding to NIBRS conversion; however, this is not a requirement for FY 2018 JAG funding. Utilizing this phased-in approach will allow the territories and tribal jurisdictions to plan for the change in funding direction and provide BJA with time to coordinate or provide technical assistance.

How should a state or unit of local government communicate NIBRS compliance to BJA?

The pre-award and post-award process by which BJA will assess NIBRS compliance is a bit different.

Pre-award: BJA is coordinating with the FBI to obtain lists of states that have been certified as NIBRS compliant by the FBI and lists of units of local government that have been certified as NIBRS compliant by the FBI or the state. If a state or unit of local government is NIBRS compliant at the time of application, BJA will only add the standard NIBRS special conditions and not the withholding of funds version. NIBRS set-aside special condition to that grant award; therefore there will be no set-aside required for those grant recipients.

Post-award: Grant recipients that achieve full compliance with NIBRS after receiving an award should email evidence of NIBRS compliance (written documentation from the FBI or State which certifies NIBRS compliance) to their State Policy Advisor listed in OJP's Grants Management System (GMS). Upon review of the documentation submitted, BJA will confirm the NIBRS compliance with the FBI and then issue a GAN to clear the NIBRS set-aside withholding special condition.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

Does the NIBRS set-aside requirement apply to sub-awards?

The requirement for a NIBRS set-aside will not be applied to subawards from states. Rather, state JAG recipients must ensure that at least 3 percent of the total award amount is used toward NIBRS compliance, unless the FBI has certified that the state is already NIBRS compliant. States must clearly indicate in their application narratives and budgets what projects will be supported with this 3 percent set-aside.

The requirement for a NIBRS set-aside will be applicable to all jurisdictions in a disparate group, but will not otherwise be applied to sub-awards. That is, the unit of local government serving as fiscal agent for a disparate group will be required by special condition to require each of the other jurisdictions in the disparate group to set aside 3 percent of FY 2018 JAG funds received by that jurisdiction to be used for NIBRS compliance activities, unless that jurisdiction can provide written documentation demonstrating that the FBI or state has certified them as NIBRS compliant.

What are some examples of costs and projects that relate to NIBRS implementation?

Examples of costs and projects that relate to NIBRS implementation at the state or local level that could be funded under the JAG Program include: software, hardware, and labor that directly support or enhance a state or agency's technical capacity for collecting, processing, and analyzing data reported by local law enforcement (LE) agencies and then submitting NIBRS data to the FBI; training personnel responsible for the state's Incident Based Reporting (IBR) program on receiving, processing, analyzing, and validating incident-based data from local LE agencies in their state; training local agencies in how to collect and submit NIBRS data; and technical assistance for LE agency personnel responsible for (1) managing the agency's crime incident data, (2) processing and validating the data, and (3) extracting and submitting IBR data to the state UCR Program according to the states and/or directly to the FBI according to the NIBRS standard.

If our State or unit of local government has already budgeted funding for NIBRS related projects, should JAG funds still be set-aside for this purpose?

Yes, the three percent set-aside is applicable until the FBI (or State for locals) has certified NIBRS compliance. States and units of local government should be cognizant of supplanting and not budget JAG funds for the exact same NIBRS related project. For example, if local funds are budgeted for software then JAG funds could be set-aside to support training. Once a state or unit of local government is certified as NIBRS compliant, the grantee may submit a change of scope GAN to BJA and reallocate any remaining set-aside funds.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Frequently Asked Questions (FAQs)* – Updated March 2019

Specific questions on eligibility

Is it possible for a State Administering Agency (SAA) to make subawards to a public or private school or private non-profit organizations?

Yes, a SAA can make a sub-award for the following purposes: 1) Criminal justice projects that would benefit the entire state; 2) A criminal justice project that will benefit a local jurisdiction; and 3) A private non-profit (PNP) that is in partnership with a local Law Enforcement (LE) agency to provide criminal justice services to designated "units of local government." The primary purpose of the subawards, however, must meet the requirements of JAG program areas under 34 USC § 10152 (a) (1).

See reference: 34 USC § 10152(b),

[a] State or unit of local government may, in using a grant under [the JAG Award], use all or a portion of that grant to contract with or make one or more subawards to one or more-

(1) Neighborhood or community-based organizations that are private and nonprofit; or

(2) Units of local government

Penalties; Potential funding reductions

Are Byrne JAG awards subject to any automatic statutory reductions?

A state allocation of a Byrne JAG award is subject to two potential funding reductions for noncompliance under the Sex Offender Registration and Notification Act (SORNA) and the Prison Rape Elimination Act (PREA).

What is the potential funding reduction under the Sex Offender Registration and Notification Act (SORNA)?

The *Sex Offender Registration and Notification Act (SORNA)*, which is Title I of the Adam Walsh Child Protection and Safety Act of 2006, mandates a 10-percent reduction in JAG award to a "State" that has failed to substantially implement SORNA. For such States, the 10-percent reduction has been applied to JAG awards since FY 2012 and will continue to be applied in each subsequent year until the JAG recipient has substantially implemented SORNA. Further, States that have substantially implemented SORNA have an ongoing obligation to maintain that status each year. A JAG reduction will be applied each year that a jurisdiction fails to substantially implement SORNA.

A reduction of a JAG award to a State under the provisions of SORNA will **not** affect the portion of the JAG award that is reserved for local jurisdictions.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

How is the SORNA funding reduction calculated?

The example below illustrates how the SORNA funding reduction is assessed against a State that did not implement SORNA.

If BJA initially calculated that the State is eligible to receive a Byrne JAG allocation of $3,000,000, the 10-percent JAG reduction would be calculated as follows:

1. The mandatory pass-through amount of $1,200,000 (based on the State's mandatory 40-percent pass-through) is subtracted from the $3,000,000; resulting in $1,800,000.

2. The "less than $10,000" allocation for the State, $250,000, is then added to the $1,800,000, resulting in $2,050,000.

3. The 10 percent JAG reduction is then assessed on the $2,050,000 amount ($2,050,000 x .10); resulting in a SORNA penalty of $205,000 for the State.

NOTE: For the District of Columbia and the territories, the JAG reduction will be assessed on the full allocation because the entire allocation goes to the District or territorial government.

Is a State eligible for additional JAG funding based on its SORNA compliance status?

Yes, SORNA compliant states and territories may have bonus funds applied to their next Fiscal Year (FY) JAG application. This bonus allocation is calculated based on total funds from the JAG reductions from non-implementing states and territories during that current FY.

For example, if a *State* substantially implemented SORNA in FY 2014, then that *State* would have an additional bonus funds added to their FY 2015 State JAG award, which will be comprised of JAG reductions from non-implementing states and territories in FY 2014. The amounts available for compliant bonus funds will vary from year to year, depending on the amount of JAG reductions that are assessed.

Who can I contact for more information on the JAG reduction (or SORNA penalty), SORNA compliance, or the implementation of SORNA?

For additional information regarding SORNA implementation, including requirements and a list of States that will be affected by the 10-percent reduction to JAG awards, contact the OJP Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) at ASKSMART@usdoj.gov or 202-514-9320.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

What is required under the Prison Rape Elimination Act (PREA) certification requirement and what is the funding reduction for failure to comply?

Prison Rape Elimination Act of 2003 (PREA). In 2012, DOJ published National PREA Standards, which were promulgated to prevent, detect, and respond to sexual victimization and abuse in confinement settings. The PREA Standards are set out at 28 C.F.R. Part 115, and apply to confinement facilities including adult prisons and jails, juvenile facilities, police lockups, and community corrections facilities.

Under PREA, if a State's chief executive (e.g., governor) does not certify full compliance with the National PREA Standards, the State is subject to the loss of 5 percent of certain DOJ grant funds, including JAG award funds, unless: (1) the chief executive submits an assurance to DOJ that no less than 5 percent of such funds will be used solely for the purpose of enabling the State to achieve and certify full compliance with the Standards in future years; or (2) the chief executive requests that the affected funds be held in abeyance by DOJ. See 42 U.S.C. § 15607(e)(2).

NOTE: Separate, detailed PREA FAQs can be found at https://www.bja.gov/Programs/JAG-PREA-FAQ.pdf.

Application Requirements

What name should be listed as the Legal Name on a JAG application?

An applicant should use its official legal name.

Current OJP award recipients, when completing the field for "Legal Name," should use the same legal name that appears on the prior year award document, which is also the legal name stored in OJP's financial system. On the SF-424, enter the Legal Name in box 5 and Employer Identification Number (EIN) in box 6 exactly as it appears on the prior year award document. An applicant with a current, active award(s) must ensure that its GMS profile is current. If the profile is not current, the applicant should submit a Grant Adjustment Notice updating the information on its GMS profile prior to applying under this solicitation.

A new applicant entity should enter its official legal name, its address, its EIN, and its Data Universal Numbering System (DUNS). A new applicant entity should attach official legal documents to its application (e.g., organizational letterhead) to confirm the legal name, address, and EIN entered into the SF-424. OJP will use the System for Award Management (SAM) to confirm the legal name and DUNS number entered in the SF-424; therefore, an applicant should ensure that the information entered in the SF-424 matches its current registration in SAM.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

Who should be listed as the Authorized Representative on a JAG Application?

The authorized representative must have the authority to enter the state, county, municipality, or other eligible unit of local government into a legal contract with the federal government. For Local JAG awards, this person is typically a county commissioner, mayor, city manager, or other similarly designated official. **A Police Chief or a Sheriff may be listed as the authorized representative if, and only if, the Organizational Unit line in the application indicates the Sheriff's Office or Police Department.**

The Authorized Representative may not necessarily be the same person authorized to sign the Chief Executive Certification.

What is a Data Universal Number System (DUNS) number and how is it obtained?

A DUNS number is a unique nine-digit identification number provided by the commercial company Dun and Bradstreet. Obtaining a DUNS number is a free, one-time activity. Call Dun and Bradstreet at 866–705–5711 to obtain a DUNS number or apply online at www.dnb.com/. A DUNS number is usually received within 2 business days.

Why is a DUNS number needed?

In general, the Office of Management and Budget requires every applicant for a federal award (other than an individual) to include a "unique entity identifier" in each application, including an application for a supplemental award. Currently, a DUNS number is the required unique entity identifier. This unique entity identifier is used for tracking purposes, and to validate address and point of contact information for applicants, recipients, and subrecipients. It will be used throughout the life cycle of an OJP award.

What is the System for Award Management (SAM) database and how does a jurisdiction register for it?

SAM is the repository for certain standard information about federal financial assistance applicants, recipients, and subrecipients. All applicants for OJP awards (other than individuals) must maintain current registrations in the SAM database.

Each applicant must update or renew its SAM registration at least annually to maintain an active status. SAM requires a notarized letter in order to register or renew an existing registration. The account will be active prior to receipt of the letter; however, this process can take as long as 10 business days to complete. Information about SAM registration procedures can be accessed at https://www.sam.gov/SAM/.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

What are the project and budget periods for the awards?

The project and budget period for the awards vary depending on the type of award.

- For Local JAG awards:

Awards of at least $25,000 are four (4) years in length. Extensions beyond this period may be made on a case-by- case basis at the discretion of BJA and must be requested via GMS no less than 30 days prior to the grant end date.

Awards of less than $25,000 are two (2) years in length. For example, an award period for an FY2018 award will be from October 1, 2017 through September 30, 2019. Extensions of up to 2 years can be requested for these awards via GMS no less than 30 days prior to the grant end date, and will be automatically granted upon request.

- For State JAG awards:

BJA makes awards for a four-year period of performance. For example for FY 2018 awards the award period will begin on October 1, 2017. An extension should not exceed 12 months. An extension beyond this period may be made on a case-by-case basis at the discretion of BJA and must be requested via GMS no less than 30 days prior to the end of the period for performance.

What are the governing body requirements related to a JAG application?

Pursuant to the JAG statute (at 34 U.S.C. § 10153(a)(2)) a JAG application must be made available for review by the governing body of the applicant jurisdiction, or to an organization designated by that governing body at least 30 days prior to that application being submitted to the awarding agency for funding.

In the past, this has been documented via an applicant's submission of specific review dates to BJA. Now BJA will only accept the submission of a properly completed "Certifications and Assurances by the Chief Executive of the Applicant Government" to attest to these facts. If the governing body review requirement has not been completed at time of application, a locality can still apply for JAG funding; however, it will not be able to submit a properly completed "Certifications and Assurances by the Chief Executive of the Applicant Government" form with its application. In this event, the award will be made with a withholding special condition for the "Certifications and Assurances by the Chief Executive of the Applicant Government" form, which a grantee must submit to BJA post-award when all of the requirements attested to in this form are met.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

What are the public comment requirements related to a JAG application?

Pursuant to the JAG statute (at 34 U.S.C. § 10153(a)(3)), a JAG application, prior to being submitted to the awarding agency, must be made available for public comment by citizens and neighborhood and community-based organizations, to the extent applicable law or established procedures make such opportunity available.

In the past, this has been documented via an applicant's submission of specific review dates to BJA. Now BJA will only accept the submission of a properly completed "Certifications and Assurances by the Chief Executive of the Applicant Government" to attest to these facts. If the public comment requirement has not been completed at time of application, a locality can still apply for JAG funding; however, it will not be able to submit a properly completed "Certifications and Assurances by the Chief Executive of the Applicant Government" form with its application. In this event, the award will be made with a withholding special condition for the "Certifications and Assurances by the Chief Executive of the Applicant Government" form, which a grantee must submit to BJA post-award when all of the requirements attested to in this form are met.

What is required as part of the "Certifications and Assurances by Chief Executive of Applicant Government"?

A JAG application is not complete, and a JAG applicant may not access award funds, unless the chief executive of the applicant jurisdiction (e.g., Governor, Mayor, or County Board Chair) properly executes, and the applicant submits, the "Certifications and Assurances by the Chief Executive of the Applicant Government" attached to the solicitation as Appendix I. The Authorized Representative may not necessarily be the same person authorized to sign the certification as Chief Executive.

As noted in the previous FAQs, if the statutory 30 day governing body notification requirement and/or public comment requirement have not been satisfied at the time of application submission then the application should be submitted with this certification unsigned. In these instances, BJA will not deny an application for failure to submit these "Certifications and Assurances by the Chief Executive of the Applicant Government" by the application deadline, but the JAG applicant will not be able to access the award funds (and its award will include a condition that withholds funds) until it submits these certifications and assurances, properly executed by the chief executive of the applicant jurisdiction (e.g., Governor, Mayor, or County Board Chair). Please also note that, by the terms of the "Certifications and Assurances by the Chief Executive of the Applicant Government," it should not be completed before the required Certifications by a jurisdiction's chief legal officer. See also Questions & Answers [https://ojp.gov/funding/Explore/pdf/FY18_QandA.pdf] on Specific Requirements related to Criminal Alien Law Enforcement for additional information about the required certifications by the Chief Legal Officer of the applicant jurisdiction.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

May a jurisdiction's Chief Executive Officer delegate the task of signing the "Certifications and Assurances by the Chief Executive of the Applicant Government" to another individual?

The "Certifications and Assurances by the Chief Executive of the Applicant Government" must be signed by the jurisdiction's chief executive, who may not delegate, assign, or designate the task to another.

Who may sign the "Certifications and Assurances by the Chief Executive of the Applicant Government" as the Chief Executive for State or Unit of local government applicants?

The "Certifications and Assurances by the Chief Executive of the Applicant Government" must be signed by the jurisdiction's chief executive. The Chief Executive is the person who has the ultimate executive authority for the jurisdiction. Further, as set forth in the certification itself, the Chief Executive is the person that has the authority to make representations on behalf of the unit of local government. Typically, the Chief Executive is the highest elected official of the jurisdiction (e.g. Governor, Mayor, or County Board Chair).

Use of Funds

What can JAG funds be used for?
In general, JAG funds may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams

JAG award funds also may be used for any purpose for which a grant was authorized to be used under either the Edward Byrne Memorial State and Local Law Enforcement Assistance Program or the Local Government Law Enforcement Block Grants program, as those programs were in effect immediate before January 5, 2006. **More details on these purposes may be found here:** https://www.bja.gov/publications/2018-JAG-Fact-Sheet.pdf.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

In connection with the all of the above purposes, it should be noted that the statute defines "criminal justice" as "activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency."

Under the JAG Program, States and units of local government may use award funds for broadband deployment and adoption activities as they relate to criminal justice activities.

Are there any limitations on the use of JAG funds, including expenditures that are specifically prohibited under JAG?

Yes. The JAG statute, **34 U.S.C. §§ 10151 - 10158**, specifically identifies a list of prohibited items. JAG funds may not be used (directly or indirectly) to pay for any of the following items unless the BJA Director certifies that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order:

- Vehicles, vessels, or aircraft (including Unmanned Aircraft (UA), Unmanned Arial Vehicles (UAV) and Unmanned Arial Systems (UAS))
- Luxury items
- Real estate
- Construction projects (other than penal or correctional institutions)
- Any similar items

***Police cruisers, police boats, and police helicopters are allowable expenditures under JAG and do not require BJA certification.**

For purposes of JAG, a vehicle is considered a "police cruiser" only if it is used in the ordinary course for routine police patrol within the United States. *Vehicles (including motorcycles, SUVs and ATVs) used as "police cruisers" are not prohibited under JAG, and therefore may be acquired with JAG funds in the ordinary course, to the extent otherwise allowable under the award.*

Please note that JAG awards made in fiscal years 2015, 2016, and 2017 include certain limitations on expenditures for items on the "controlled expenditure list" and the "prohibited expenditure list". However, as of August 29, 2017, there are no items on the "controlled expenditure list," and the "prohibited expenditure list" replicates the statutory

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

prohibitions set forth above. More information on the "controlled expenditure list" and the "prohibited expenditure list" may be found here: JAG Prohibited Expenditures Guidance.

How are vehicle, vessel, *and* aircraft *defined under JAG?*

"**Vehicles**" includes, without limitation—
o Wheeled armored vehicles / Tactical vehicles
o Buses / Recreational vehicles
o Command vehicles / Mobile Command and Control Centers
o Trucks, including pick-up trucks
o Vans, including passenger vans
o Motorcycles
o Sport/Utility Vehicles ("SUVs")
o Segways, golf carts, all-terrain vehicles ("ATVs"), and similar items – when and if applicable State or local law requires licensing or registration of such items.

For purposes of JAG, a vehicle is considered a "**police cruiser**" only if it is used in the ordinary course for routine police patrol within the United States. *Vehicles (including motorcycles, SUVs and ATVs) used as "police cruisers" are not prohibited under JAG, and therefore may be acquired with JAG funds in the ordinary course, to the extent otherwise allowable under the award.*

"**Vessels**" includes, without limitation—
o Any form of boat or watercraft capable of holding or transporting instruments, other cargo and/or at least one person.

For purposes of JAG, a vessel is considered a "**police boat**" only if it is used in the ordinary course to conduct law enforcement operations within the United States. *Vessels used as "police boats" are not prohibited under JAG, and therefore may be acquired with JAG funds in the ordinary course, to the extent otherwise allowable under the award.*

"**Aircraft**" includes, without limitation—
o Any craft designed to move instruments, other cargo, and/or at least one persons through the air, such as helicopters or airplanes (rotary-wing or fixedwing aircraft).
o Unmanned Aerial Systems (UAS), Unmanned Aircraft (UA) and/or Unmanned Aerial Vehicles (UAV).

For purposes of JAG, a helicopter is considered a "**police helicopter**" only it is used in the ordinary course to conduct law enforcement operations within the United States. *Aircraft used as "police helicopters" are not prohibited under JAG, and therefore may be acquired with JAG funds in the ordinary course, to the extent otherwise allowable under the award.*

How can a jurisdiction request prior approval (a waiver) from BJA to utilize JAG funds towards prohibited item(s)?

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

With respect to items that are prohibited unless the BJA Director has made the required certification of "extraordinary and exigent circumstances … that make use of [award funds] … essential to the maintenance of public safety and good order" – a recipient may request that the BJA Director make the required certification by making a submission to BJA as described below.

To request a BJA Director certification of "extraordinary and exigent circumstances … that make use of [award funds for the requested item or matter] … essential to the maintenance of public safety and good order," the recipient must—

1. Using OJP's Grants Management System ("GMS"), submit a "Program Office Approval" Grant Adjustment Notice (GAN), marked "Other" and with "JAG - DOJ certification request - extraordinary and exigent; essential" typed in the available text box.

2. Attach to the GAN—
A letter, on the letterhead of the recipient jurisdiction and signed by the recipient's "authorized representative" for the particular JAG award in question, that—
(a) indicates the use of JAG award funds as to which the recipient requests the required certification and the award number of the JAG award from which funds would be obligated and used;
(b) provides a general description of the recipient (or subrecipient, if applicable) that will use award funds for the requested purpose;
(c) indicates the amount of award funds that would be used for the requested purpose, if the BJA Director makes the required certification;
(d) sets out a detailed justification that provides sufficient information to support a finding and certification that "extraordinary and exigent circumstances" exist that make use of the JAG award funds for the requested purpose "essential to the maintenance of public safety and good order;" and
(e) if the recipient requests a certification with respect to Unmanned Aerial Systems (UAS), Unmanned Aircraft (UA) and/or Unmanned Aerial Vehicles (UAV), includes, in addition to the above, the information required, FAA approval must be obtained as outlined here:
https://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=22615

May a jurisdiction obligate or expend its own funds prior to receipt of a JAG award?

The period of performance for JAG awards typically begins with each federal fiscal year, even though recipients may not apply for or receive the JAG award until several months later.

JAG recipients may not obligate (federal) award funds before validly accepting the JAG award. However, as of the first day of the period of performance for the award (typically October 1 of the relevant federal fiscal year), the recipient may choose to incur project costs using non-federal

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

funds. Any project costs incurred before valid acceptance of the JAG award are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by BJA (via a Grant Adjustment Notice).

If and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient will be able to obligate JAG award funds to reimburse itself for project costs incurred earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

For example, in anticipation of applying for a JAG award during the next OJP grant fiscal year, a State orders police cruisers that will not be delivered until the next fiscal year. The State should not use any funds from an expected JAG award, but may use funds from another source. The State is incurring project costs at its own risk pending (1) a valid acceptance of a Byrne JAG award, and (2) removal of all applicable withholding conditions (via a grant adjustment notice or GAN).

May a jurisdiction use Byrne JAG funds to purchase firearms and drugs for an undercover operation?

Yes, JAG funds may be used as confidential funds for the purchase of services (buy money), evidence (narcotics, firearms, stolen property, etc.), and specific information (informant money) for undercover purposes in accordance with 34 U.S.C 10152(d). Prior to the expenditure of any confidential funds, the recipient and any subrecipients must agree to sign a certification indicating that they have read, understood and agree to abide by all of the conditions pertaining to confidential fund expenditures as set forth in the DOJ Grants Financial Guide.

Is prior approval from the program office required to lease or rent vehicles with JAG funding?

A jurisdiction may use JAG funds to purchase, lease, or rent police cruisers (marked or unmarked) without specific prior approval.

The purchase, lease, or renting of any other police vehicle (e.g., pick-up trucks, passenger vans, luxury vehicles, command centers, etc.) is prohibited unless a certification is granted by the BJA Director, as described above.

Can JAG funds be used by a recipient to renovate its current facility or to re-build a new one?

It depends. Construction and/or major renovation projects related to penal or correctional institutions are allowable expenditures, without specific prior approval. All other construction and/or major renovation projects are prohibited, unless a certification is granted by the BJA Director, as described above.

NOTE: Any project that involves construction or major renovation will be subject to

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

environmental analysis requirements pursuant to the National Environmental Policy Act (NEPA).

Would costs related to the Fugitive Safe Surrender (FSS) and Countering Violent Extremism (CVE) programs be allowable expenses with Byrne JAG funds?

Through its eight program areas, Byrne JAG funding may be used to support a broad range of criminal justice activities/projects/programs. Activities under programs, such as FSS and CVE, *would be allowable* as long as they are specifically tied to a JAG program area and not otherwise prohibited under JAG. To verify that activities are not prohibited under JAG, please refer to the FAQ above.

May Byrne JAG awards be used for administrative expenses?

A State or unit of local government may use up to 10 percent of a JAG award, including up to 10 percent of any earned interest, for costs associated with administering the award. Administrative costs (when utilized) must be tracked separately; a recipient must report in separate financial status reports (SF-425) those expenditures that specifically relate to each particular JAG award during any particular reporting period.

Can indirect costs be charged to an award? Are these costs related to administrative expenses capped at 10%?

Indirect costs may be charged to an award only if:

(a) The recipient has a current (that is, unexpired), federally approved indirect cost rate; or

(b) The recipient is eligible to use, and elects to use, the "de minimis" indirect cost rate described in the DOJ Grants Financial Guide.

This rule does not eliminate or alter the JAG-specific restriction in federal law that charges for administrative costs may not exceed 10 percent of the award amount, regardless of the approved indirect cost rate.

An applicant with a current (that is, unexpired) federally approved indirect cost rate is to attach a copy of the indirect cost rate agreement to the application. An applicant that does not have a current federally approved rate may request one through its cognizant federal agency, which will review all documentation and approve a rate for the applicant entity, or, if the applicant's accounting system permits, applicants may propose to allocate costs in the direct cost categories.

For assistance with identifying the appropriate cognizant federal agency for indirect costs, please contact the OCFO Customer Service Center at 1–800–458–0786 or at ask.ocfo@usdoj.gov. If DOJ is the cognizant federal agency, applicants may obtain information needed to submit an indirect cost rate proposal at: www.ojp.gov/funding/Apply/Resources/IndirectCosts.pdf.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

Certain OJP recipients have the option of electing to use the "de minimis" indirect cost rate. An applicant that is eligible to use the "de minimis" rate and wishes to do so should attach written documentation to the application that advises OJP of both: (1) the applicant's eligibility to use the "de minimis" rate, and (2) its election to do so. If an eligible applicant elects the "de minimis" rate, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. The "de minimis" rate may no longer be used once an approved federally-negotiated indirect cost rate is in place. (No entity that ever has had a federally approved negotiated indirect cost rate is eligible to use the "de minimis" rate.) For additional information, see the DOJ Grants Financial Guide.

What are the rules pertaining to tracking and expending funds, including administrative funds, across our active JAG awards?

Both the recipient and all subrecipients of JAG funds are prohibited from commingling funds on a program-by-program or project-by-project basis. For this purpose, use of the administrative JAG funds to perform work across all active awards in any one year is not considered commingling.

Can State JAG funds be utilized for criminal justice planning purposes after any administrative funds are subtracted and all pass-through (variable pass-through and less than $10k) requirements have been satisfied?

States are strongly encouraged to use JAG funding in support of an existing statewide strategic plan. An applicant State should attach a current version of the State strategic plan to its application, if one exists. If a State does not have such a plan, the program narrative should describe the State's timeline and process for developing such a strategic plan.
Training and technical assistance (TTA) is available from BJA's TTA providers to assist States with the development of their strategic planning process and plan.

To help ensure that States consider the impact of JAG funding decisions across the entire criminal justice system, BJA strongly encourages each State to bring all criminal justice system stakeholders together in the strategic planning process. The strategic planning process should include local governments, and representatives of all segments of the criminal justice system, including judges, prosecutors, law enforcement personnel, and corrections personnel, as well as providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services. For more information, see the National Center for Justice Planning website.

> **ALERT:** A recent amendment to the JAG program statute requires, starting with the FY 2019 JAG program, that States have in place and submit a strategic plan that identifies stakeholders, describes evidence- based approaches that will be used, and illustrates how the State will allocate funding. By law, strategic plans are to be updated every five years.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

If an agency proposes to use JAG funding to enter into a sole source contract greater than $150,000, what is the process?

If a proposed procurement contract would exceed the simplified acquisition threshold—currently, $150,000—a recipient of an OJP award may not proceed without competition, unless and until the recipient receives specific advance authorization from OJP to use a non-competitive approach for the procurement. For more information please see the OJP Sole Source Procurement Fact Sheet and Checklist here: https://ojp.gov/training/pdfs/Sole-Source-FactSheet-C.pdf

An applicant that intends—without competition—to enter into a procurement contract post award that would exceed $150,000 should include a detailed justification that explains to OJP why, in the particular circumstances, it is appropriate to proceed without competition. The justification must be included as part of a sole source Grant Adjustment Notice (GAN) in the Grants Management System (GMS). Various considerations that may be pertinent to the justification are outlined in the DOJ Grants Financial Guide.

What is meant by supplanting funds? Does it apply to JAG funding?

JAG funds may not be used to supplant State or local funds but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities. For additional information, see the DOJ Grants Financial Guide.

Although supplanting is prohibited, the leveraging of federal funding is encouraged.

Can multiple federal grant awards be used to supplement, not duplicate the same project?

Each applicant is required to disclose whether it has (or is proposed as a subrecipient under) any pending applications for federally funded grants or cooperative agreements that (1) include requests for funding to support the same project being proposed in the application under this solicitation, and (2) would cover identical cost items outlined in the budget submitted to OJP as part of the application under this solicitation. The applicant is required to disclose applications made directly to federal awarding agencies, and also applications for subawards of federal funds (e.g., applications to state agencies that will subaward ("subgrant") federal funds).

Leveraging multiple funding sources in a complementary manner to implement comprehensive programs or projects is encouraged and is not seen as inappropriate duplication.

Is it permissible to use Byrne JAG funds in conjunction with Bulletproof Vest Partnership (BVP) Program funds to satisfy the 50 percent match requirement?

States and units of local government should note that JAG funds may not be used as any part of the 50 percent match required by the BVP Program.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)* – Updated March 2019

Absent specific federal statutory authority to do so, JAG award funds may not be used as "match" for the purposes of other federal awards. The JAG Program does not require a match.

For additional cost sharing and match information, see the DOJ Grants Financial Guide.

What link is there between use of JAG funds for body armor, and eligibility for the BVP program?

Pursuant to the BVP program statute, at 34 U.S.C. § 10532(c), the use of JAG funding by a unit of local government may impact its eligibility for funding under the BVP program. If a unit of local government uses JAG funds to purchase armor vests, that unit of local government cannot also receive funding under the BVP program in the same fiscal year.

Is it permissible for a recipient to use JAG funds to purchase body armor?

Yes. Ballistic-resistant and stab-resistant body armor can be funded through the JAG Program, as well as through BJA's Bulletproof Vest Partnership (BVP) Program. The BVP Program is designed to provide a critical resource to local law enforcement through the purchase of ballistic-resistant and stab-resistant body armor. For more information on the BVP Program, including eligibility and application, refer to the BVP web page.

Thus, a recipient may use JAG funds to purchase body armor. The recipient should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BVP Program.

Are jurisdictions required to have a mandatory wear policy in place to purchase body armor vest carriers and/or vest armor plates?

As is the case in the BJA's Bulletproof Vest Partnership (BVP) Program, jurisdictions that propose to purchase body armor with JAG funds must certify that law enforcement agencies receiving body armor have a written "mandatory wear" policy in effect. This policy must be in place for at least all uniformed officers before any current year awards can be used by the jurisdiction for body armor. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty.

A mandatory wear concept and issues paper and a model policy are available by contacting the BVP Customer Support Center at vests@usdoj.gov or toll free at 1–877–758–3787.

Where can a copy of the certification related to body armor mandatory wear requirements be found?

The certification form for mandatory wear can be found at: www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf.

If the recipient proposes to change project activities to utilize JAG funds to purchase body armor

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

after the award is accepted, the recipient must submit the signed certification to BJA at that time. See the response to the above question.

Is there any particular body armor that a jurisdiction must purchase to meet the JAG requirements?

Body armor purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the following requirements are met: The body armor must have been tested and found to comply with the latest applicable National Institute of Justice (NIJ) ballistic or stab standards. In addition, body armor purchased must be made in the United States. Finally, body armor purchased with JAG funds must be "uniquely fitted vests," which means protective (ballistic or stab-resistant) armor vests that conform to the individual wearer to provide the best possible fit and coverage, through a combination of: 1) correctly-sized panels and carrier, determined through appropriate measurement, and 2) properly adjusted straps, harnesses, fasteners, flaps, or other adjustable features. The requirement that body armor be "uniquely fitted" does not necessarily require body armor that is individually manufactured based on the measurements of an individual wearer. In support of the Office of Justice Programs' efforts to improve officer safety, the American Society for Testing and Materials (ASTM) International has made available the *Standard Practice for Body Armor Wearer Measurement and Fitting of Armor* (Active Standard ASTM E3003) available at no cost. The Personal Armor Fit Assessment checklist is excerpted from ASTM E3003.

Does OJP support a policy on denying federal benefits to an officer or to an officer's survivors if the officer is injured and/or killed in the line of duty and was NOT wearing a vest as required by a jurisdiction's policy?

No blanket policy or automatic disqualification shall be implemented regarding OJP's requirement for policy on the use of body armor and its effects on federal death, disability or educational benefits through the Public Safety Officers' Benefits Program (PSOB).

May a recipient use JAG funds to purchase body armor for fire fighters or Emergency Medical Service (EMS) personnel?

Yes, JAG funds can be used for these purchases if a criminal justice purpose is present and documented.

Are the purchase of body-worn cameras, data storage, and other related costs allowable expenses under the JAG program?

Yes, as long as the items would comply with the eight program areas under JAG. Note that apart from the JAG Program, BJA provides funds under the Body-Worn Camera Policy and Implementation Program (BWC Program). The BWC Program allows jurisdictions to develop and implement policies and practices required for effective program adoption and address program factors including the purchase, deployment, and maintenance of camera systems and equipment; data storage and access; and privacy considerations. Interested units of local government may

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

wish to refer to the BWC web page for more information.

Jurisdictions should note that JAG funds may not be used as any part of the 50 percent match required by the BWC Program. Absent specific federal statutory authority to do so, JAG award funds may not be used as "match" for the purposes of other federal awards. The JAG Program, however, does not require a match.

For additional cost sharing and match information, see the DOJ Grants Financial Guide.

Are there any requirements for using JAG funds to purchase Body-Worn Cameras (BWC) that must be satisfied?

A jurisdiction that proposes to use the current year award of funds to purchase BWC equipment, or to implement or enhance BWC programs, must provide to OJP a certification(s) that the recipient (or, if applicable, that any subrecipient that will receive funds from the recipient for BWC purposes) has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, and training.. A recipient that proposes to use JAG funds for BWC-related expenses will have funds withheld until the required certification is submitted and approved by OJP. **The BJA BWC Toolkit provides model BWC policies and best practices to assist departments in implementing BWC programs.**

Is the purchase of overdose reversal drugs, or the use of JAG funds to support Medication-Assisted Treatment for addiction, permissible under JAG?

Medication-assisted treatments, as the purchase of overdose reversal drugs (e.g. naloxone), which are approved by the Food and Drug Administration, may be purchased with JAG funds. However, as always, any JAG Program expenditure must fall under at least one of the statutory JAG program areas and have a clear criminal justice nexus. For more information about law enforcement use of these types of drugs please refer to the Naloxone Toolkit available here: https://www.bjatraining.org/tools/naloxone/Naloxone%2BBackground.

Can JAG funds be used for membership dues?

Yes, so long as the organizational membership is reasonably related to an allowable JAG programmatic purpose. Any use of JAG funds to support lobbying, however, is unallowable. JAG funds may be used only to pay for the non-lobbying-related portion of the membership fees.

Is the purchase GPS trackers where there is a significant vulnerable population a permissible use of JAG funds?

Yes, so long as the purchase is reasonably related to an allowable JAG programmatic purpose. Refer here for more information: https://www.bja.gov/Funding/TrackingDeviceFunding.pdf.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Would the costs for Indigent Defense under the Prosecution and Court Programs be considered allowable expenses under JAG funds?

Yes, grantees may utilize JAG funds for a wide range of state, local, and/or tribal prosecution and court programs; including indigent defense.

Are there any restrictions on the use of JAG funds for DNA testing?

If JAG Program funds will be used for DNA testing of evidentiary materials, any resulting **eligible** DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the Federal Bureau of Investigation [FBI]) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA.

In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not acceptable for entry into CODIS.

For more information, refer to the DNA Backlog Reduction Program: https://www.nij.gov/topics/forensics/lab-operations/evidence-backlogs/Pages/backlog-reduction-program.aspx.

Is there a cap on the amount of overtime pay for law enforcement officers?

No; however, federal regulations do require that personnel compensation always be reasonable in light of the services rendered.

Disparate Information

What does it mean when two or more units of local governments are listed under the column "Joint Application (Disparate) Award Amount" in the JAG allocation tables?

In some cases, as defined by the legislation, a disparity may exist between the funding eligibility of a county and its associated municipalities. Three different types of disparities may exist:

- The first type is a zero-county disparity. This situation exists when one or more municipalities within a county are eligible for a direct award but the county is not; yet the county is responsible for providing criminal justice services (such as prosecution and incarceration) for the municipality. In this case, the county is entitled to part of the municipality's award because it shares the cost of criminal justice operations, although it may not report crime data to the FBI. This is the most common type of disparity.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

- A second type of disparity exists when both a county and a municipality within that county qualify for a direct award, but the award amount for the municipality exceeds 150 percent of the county's award amount.

- The third type of disparity occurs when a county and multiple municipalities within that county are all eligible for direct awards, but the sum of the awards for the individual municipalities exceeds 400 percent of the county's award amount.

How should units of local government determine how to split the award in a disparate situation?

Jurisdictions certified as disparate must identify a fiscal agent that will submit a joint application for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used.

How is it determined as to which unit of local government will be the fiscal agent responsible for applying for the disparate funds?

When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant or fiscal agent for joint funds must be completed and signed by the Authorized Representative for each participating jurisdiction. The signed MOU should be attached to the application. For a sample MOU, go to: www.bja.gov/Funding/JAGMOU.pdf.

When there is a group of disparate jurisdictions applying for a JAG award, do the "Certifications and Assurances by Chief Executive of Applicant" apply to each disparate jurisdiction, or just the fiscal agent?

The "Certifications and Assurances by the Chief Executive of the Applicant Government" must be submitted by the applicant/fiscal agent *to OJP.* The subrecipients in the disparate group are not required to submit such a Certification by their Chief Executive, although each unit of local government must abide by state/local policies and procedures regarding governing body review and public comment opportunity.

Does the disclosure of pending applications requirement apply to each disparate jurisdiction or just the unit of local government that is the fiscal agent?

For disparate jurisdictions, the disclosure of pending applications should cover all projects and activities proposed to be funded under the award, whether be the applicant/fiscal agent or by other jurisdictions. The disclosure could take the form of a single, compiled attachment, or separate attachments from the disparate jurisdictions. If there are multiple agencies in the disparate group, and none have any identical items to disclose, the standard language can be included in the MOU. This information can also be submitted separately from the MOU, but must be part of the JAG application.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

If all disclosures are not attached to your application, BJA will add a special condition to the award that will withhold grant funds until this requirement has been met, BJA has completed its review of the information submitted, and the recipient has made any adjustments necessary to eliminate inappropriate duplication.

Reporting and Special Condition Requirements

What are the specific reporting requirements once a JAG grant is awarded?
Recipients typically must submit quarterly financial status reports, quarterly performance metrics reports, semi-annual progress reports, final financial and progress reports (after final quarter), and, if applicable, an annual audit report in accordance with the Part 200 Uniform Requirements or specific award conditions.

Future awards and fund drawdowns may be withheld if reports are delinquent. (In appropriate cases, OJP may require additional reports.)

Awards that exceed $500,000 will include an additional condition that, under specific circumstances, will require the recipient to report (to FAPIIS) information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either the OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Additional information on this reporting requirement appears in the text of the award condition posted on the OJP website at https://ojp.gov/funding/FAPIIS.htm.

Data on performance measures. In addition to required reports, each award recipient also must provide data that measure the results of the work done under the award. To demonstrate program progress and success, as well as to assist DOJ with fulfilling its responsibilities under the Government Performance and Results Act of 1993 (GPRA), Public Law 103-62, and the GPRA Modernization Act of 2010, Public Law 111–352, OJP will require any award recipient, post award, to provide performance data as part of regular progress reporting. Successful applicants will be required to access OJP's performance measurement page at www.ojp.gov/performance for an overview of performance measurement activities at OJP.

Accountability metrics data must be submitted through BJA's Performance Measurement Tool (PMT), available at https://bjapmt.ojp.gov. The accountability measures are available at: https://bjapmt.ojp.gov/help/jagdocs.html. (Note that if a law enforcement agency receives JAG funds from a state, the state must submit quarterly accountability metrics data related to training that officers have received on use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.)

Do the revised JAG Accountability measures apply to each jurisdiction's JAG award?
In addition to required reports, noted above, each recipient of an award also must provide data that measure the results of the work done under the award. To demonstrate program progress and success, as well as to assist DOJ with fulfilling its responsibilities under GPRA and the GPRA

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Modernization Act of 2010, OJP will require State recipients to provide accountability metrics data. Accountability metrics data must be submitted through BJA's Performance Measurement Tool (PMT), available at https://bjapmt.ojp.gov. The accountability measures are available at: https://bjapmt.ojp.gov/help/jagdocs.html. (Note that if a law enforcement agency receives JAG funds from a State, the State must submit quarterly accountability metrics data related to training that officers have received on use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.)

OJP may restrict access to award funds if a recipient of an OJP award fails to report required performance measure data in a timely manner.

Does BJA have additional information on the Task Force Training Special Condition?

When a task force is supported in whole or in part by BJA funding, each current member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, is required to complete the online (internet- based) task force training. This training must be completed within 120 days of award acceptance. Additionally, all future task force members are required to complete this training once during the life of this award, or once every four years if multiple awards include this requirement. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). This training addresses task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. When BJA funding supports a task force, a task force personnel roster should be compiled and maintained, along with course completion certificates, by the grant recipient. This information may be requested by BJA post-award to ensure compliance. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

What is the Federal Funding Accountability and Transparency Act (FFATA) of 2006 and how does it affect JAG recipients?

Consistent with the FFATA, all direct award recipients will be required to report award information on any first-tier subawards totaling $25,000 or more, and, in certain circumstances, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at https://ojp.gov/funding/Explore/FFATA.htm. (Award condition: Reporting Subawards and Executive Compensation).

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Frequently Asked Questions (FAQs)* – Updated March 2019

Award Administration

How will prospective recipients be notified when an award is made?

OJP sends award notification by email through GMS to the individuals listed in the application as the point of contact and the authorizing official. The email notification includes detailed instructions on how to access and view the award documents, and steps to take in GMS to start the award acceptance process. GMS automatically typically issues the notifications at 9:00 p.m. eastern time on the award date.

What is the process for updating contact information related to my grant award?

An applicant with a current, active award(s) must ensure that its [Grant management System] GMS profile is current. If the profile is not current, the applicant should submit a Grant Adjustment Notice updating the information on its GMS profile prior to applying under this solicitation.

Now that I received my JAG award acceptance notification email, are there any written post-award instructions related to award acceptance and/or declination?

In order for a State or unit of local government applicant to validly to accept an award under the JAG Program for the current award year, an individual with the necessary authority to bind the applicant will be required to log in; execute a set of legal certifications and a set of legal assurances; designate a financial point of contact; thoroughly review the award, including **all** award conditions; and sign and accept the award. The award acceptance process requires physical signature of the award document by the authorized representative, the scanning of the fully executed award document, and submission via email to OJP per the instructions (as of October 2018, OJP will no longer process faxed award documents). Please note that the required certification(s) by the Chief Legal Officer of the applicant jurisdiction must be executed on the same date or before the date the award document was signed, and the certification(s) should be included with the award document or emailed to BJA if not already uploaded in GMS.

See also Questions & Answers [https://ojp.gov/funding/Explore/pdf/FY18_QandA.pdf on Specific Requirements related to Criminal Alien Law Enforcement for additional information about award acceptance requirements related to the required certifications by the Chief Legal Officer of the applicant jurisdiction.

What is the process for a recipient to receive JAG award payments?

Payment requests are made through the Grant Payment Request System (GPRS). Once you request a payment and make the required certifications, funds are electronically deposited to your bank account. You must have an up-to-date Automated Clearing House (ACH) banking

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

form on file with the Office of the Chief Financial Officer prior to attempting to access funds.

Please see Step 5 Accessing Payment in the OJP Post Award Instructions for step-by-step guidance.

Up front draw down of all funds is allowable under the JAG Program. However, the OJP Grant Payment Request System (GPRS) may not allow you to complete the draw down in one transaction. If GPRS denies your draw down request and there are no withholding special conditions or holds on your award funds, attempt to draw down in two separate transactions. If you still encounter issues, contact the Office of the Chief Financial Officer Customer Service at 1-800-458-0786.

Are JAG funds that are drawn down fully up front required to be deposited into a trust fund account?

States (or State Administering Agencies) or units of local government may draw down JAG funds either in advance or on a reimbursement basis. To draw down in advance, a trust fund must be established in which to deposit the funds. The trust fund ***must*** be in an interest-bearing account, unless one of the exceptions in 2 C.F.R. § 200.305.b.8 apply. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit funds. For additional information, see 2 C.F.R. § 200.305.

What is the period of an obligation and an expenditure under a JAG award?

All JAG funds, including interest earned, must be obligated by the award end date and liquidated no later than **90 days** thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to the Office of Justice Programs at the time of closeout.

Is the State Administering Agency (SAA) required to have a strategic plan in place, and does this plan have to be attached with the State JAG application?

States are strongly encouraged to use JAG funding in support of an existing statewide strategic plan. An applicant State should attach a current version of the State strategic plan to its application, if one exists. If a State does not have such a plan, the program narrative should describe the State's timeline and process for developing such a strategic plan.

> **ALERT:** A recent amendment to the JAG program statute requires, starting with the FY 2019 JAG program, that States have in place and submit a strategic plan that identifies stakeholders, describes evidence- based approaches that will be used, and illustrates how the State will allocate funding. By law, strategic plans are to be updated every five years.

Training and technical assistance (TTA) is available from BJA's TTA providers to assist States

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

with the development of their strategic planning process and plan.

To help ensure that States consider the impact of JAG funding decisions across the entire criminal justice system, BJA strongly encourages each State to bring all criminal justice system stakeholders together in the strategic planning process. The strategic planning process should include local governments, and representatives of all segments of the criminal justice system, including judges, prosecutors, law enforcement personnel, and corrections personnel, as well as providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services. For more information, see the National Center for Justice Planning website.

If a State Administering Agency (SAA) intends to request a pass-through waiver which requires BJA Certification, what is the process?

A predetermined percentage, often referred to as the "variable pass-through" or VPT, is calculated by OJP's Bureau of Justice Statistics (BJS), based on the total criminal justice expenditures by the State and its units of local government. The variable pass-through percentages that will apply to a current year award to a recipient State can be found at: https://www.bja.gov/jag/pdfs/VPT-for-SAAs-updated-June-2017.pdf. (If a State believes the VPT percentage has been calculated incorrectly, the State may provide pertinent, verifiable data to BJA and ask OJP to reconsider.)

In certain circumstances, some or all of a project administered by a recipient State may count as part of the variable pass-through. In general, a State may do so to the extent that— (1) the State-administered project will directly benefit a unit of local government, and (2) one unit (or more) of local government voluntarily agrees and acknowledges in an appropriate written certification that the specified amount of State-administered funds would directly benefit the unit of local government in question and agrees that funding the project at the State level is in the best interests of the unit of local government.

Wh*at is the process for modifying budgets under JAG?*

If your agency would like to modify its JAG budget, email your State Policy Advisor with the details of all requested changes. If a change in project scope is not occurring, email approval is sufficient. If there is a change in project scope, a Change Project Scope GAN must be submitted. Supporting justification that indicates the reason the modification is requested, as well as a breakdown of all new costs and a narrative supporting those costs, should be attached. You must be current on the reporting requirements in order for the GAN to be approved. For step by step instructions on submitting a GAN, please refer to the GMS Computer-Based Training web page.

Can a recipient request to have a JAG award be closed prior to its end date? If so, are there any advantages for doing so?

Yes, JAG awards may be closed as soon as all funds have been obligated and all project activities have concluded. A final Federal financial report (FFR) and programmatic report must be

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.

submitted in GMS in order to begin the closeout process. In addition, a final performance measurement tool (PMT) report must be completed and uploaded as an attachment to the final programmatic report in GMS. Step by step closeout instructions can be found here: GMS Computer-Based Training web page. The early closure of JAG awards helps demonstrate the effectiveness/impact of JAG funding, and saves time for grantees since no additional reports are required after closeout.

What is the JAG Success Stories and how can a grantee submit a JAG success story to BJA?
The BJA Success Stories web page features projects that have demonstrated success or shown promise in reducing crime and positively impacting communities. This web page will be a valuable resource for States, localities, territories, tribes, and criminal justice professionals who seek to identify and learn about JAG and other successful BJA-funded projects linked to innovation, crime reduction, and evidence-based practices. **BJA strongly encourages the recipient to submit success stories annually (or more frequently).**

If a JAG recipient has a Success Story it would like to submit, it may be submitted through My BJA account, using "add a Success Story" and the Success Story Submission form. Register for a My BJA account using this registration link.

*These FAQs are for reference only and to assist states and units of local government. These FAQs do not supersede any conflicting guidance provided in the relevant JAG State or JAG Local solicitations or grant award documents.