



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

118765

BJA

Bureau of Justice Assistance
State and Local Assistance
for Narcotics Control

Questions and Answers

118765

ABOUT THE BUREAU OF JUSTICE ASSISTANCE

The Bureau of Justice Assistance provides Federal assistance to state and local units of government for programs which improve the functioning of the criminal justice system. The Bureau administers two major grant programs and a number of direct assistance programs.

The Justice Assistance Program provides grant assistance to state and local criminal justice agencies to fund programs which improve the functioning of the criminal justice system with an emphasis on violent crime and serious offenders. The states, District of Columbia and the territories receive a block grant award which is used to implement the program at the state level. Discretionary programs which are designed to demonstrate the effectiveness of new programs, to provide training and technical assistance to criminal justice personnel and to address issues which are national or multi-state in nature are administered by the Bureau.

The State and Local Assistance for Narcotics Control Program provides grant assistance to enhance state and local drug control efforts. Programs eligible for funding include those which improve the apprehension, prosecution, adjudication, detention and rehabilitation of drug offenders. Eradication programs, treatment programs and programs which concentrate on major drug offenders are also eligible for funding. The states, District of Columbia and territories receive a block grant award which is administered at the state level. The discretionary grant program administered by the Bureau is used to enhance, coordinate and fill gaps in state and local efforts through national and multi-state programs.

Direct Assistance Programs administered by the Bureau include the Public Safety Officers' Benefits, Emergency Federal Law Enforcement Assistance, Regional Information Sharing Systems, Mariel-Cuban Reimbursement, Surplus Federal Property and the Prison Industry Certification Programs.

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U.S. Department of Justice
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TABLE OF CONTENTS

FORMULA GRANT PROGRAM

	Page
Introduction	1
Program Purpose	1
BJA Assistance to the States Relative to Program Implementation	4
Allocation of Funds to the States	6
Administration of the Program	7
State Application for Funds	9
Eligible Applicants	14
Distribution of Formula Funds within the State	15
Matching Requirement	17
Allowable/Unallowable Expenses	19
Reporting Requirements	21
Administrative Issues	23

DISCRETIONARY GRANT PROGRAM

Program Purpose	26
Establishment of Program Priorities	27
Eligible Applicants	28
Matching Requirement	28
Allowable/Unallowable Expenses	28
Administrative Issues	29

ANSWERS TO FREQUENTLY ASKED QUESTIONS

INTRODUCTION

The Bureau of Justice Assistance has received and responded to numerous questions regarding the implementation and administration of the Anti-Drug Abuse Act of 1986, State and Local Assistance for Narcotics Control Program. This Question and Answer document contains a compilation of these questions and a formal response. The document has been developed to assist the states with the successful implementation of the program.

FORMULA GRANT PROGRAM

PROGRAM PURPOSE

QUESTION: What types of programs can be funded with formula grant funds?

ANSWER: Grants may be made for the purpose of enforcing state and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.) and for the seven purpose areas defined by the Act. The focus of the program is on drug offenders which includes those "persons who violate state and local laws relating to the production, possession and transfer of controlled substances".

The seven purpose areas are:

1. Apprehension of drug offenders
2. Prosecution of drug offenders
3. Adjudication of drug offenders
4. Detention and rehabilitation of drug offenders
5. Eradication programs
6. Programs to identify and meet the needs of drug dependent offenders
7. Demonstration programs related to major drug offenders

QUESTION: Will BJA mandate specific programs within these purpose areas?

ANSWER: No. BJA will provide program briefs for programs which have been shown, through evaluation and research, to be effective. The program briefs will include a description of the program and the elements found to be critical to the success of the program.

QUESTION: Can public education and prevention programs be funded under the Narcotics Control Program?

ANSWER: No. Education and prevention programs can be funded under the Drug-Free Schools and Communities Act of 1986, administered by the Department of Education or the Emergency Substance Abuse Treatment and Rehabilitation Act of 1986, administered by the Department of Health and Human Services.

QUESTION: Does that mean training programs for criminal justice personnel are prohibited?

ANSWER: No. Education refers to public information related to drug abuse. Training of criminal justice or related personnel is permitted within each of the seven authorized purpose areas.

QUESTION: Can alcohol-related programs be funded under the Narcotics Control Program?

ANSWER: No. The Act states that funds may be used, "...for the purpose of enforcing state and local laws that establish offenses similar to offenses established in the Controlled Substances Act". The Controlled Substances Act expressly states that distilled spirits are not considered a "controlled substance" under that statute. 18 U.S.C. 802(6).

QUESTION: Can formula grant funds be used for juvenile justice programs?

ANSWER: Yes. Projects within each of the seven authorized purpose areas may be directed toward adult and/or juvenile populations.

QUESTION: Can programs which address the diversion of controlled prescription drugs be funded under the Narcotics Control Program?

ANSWER: Yes. Programs related to the diversion of controlled prescription drugs which fall within the authorized purpose areas are eligible for funding.

QUESTION: Can probation and parole supervision and community corrections programs be funded under the Narcotics Control Program?

ANSWER: Yes. Programs such as specialized caseloads and intensive supervision programs and restitution centers, residential treatment centers, diversion centers and community corrections are eligible for funding under the purpose areas related to detention and rehabilitation and/or treatment.

QUESTION: The purpose area for detention and rehabilitation authorizes treatment for drug dependent persons convicted of violating state and local laws. Are programs which provide treatment for the preadjudicated population eligible for funding?

ANSWER: Yes. Programs which treat drug dependent persons accused of violating state and local laws, are eligible for funding under the purpose area for treatment. Once a person enters the criminal justice system by being arrested he or she becomes eligible for treatment under this program.

QUESTION: Must the drug dependent person be accused or convicted of violating a drug law to be eligible for treatment under this program?

ANSWER: No. A drug dependent person is eligible for services under this program regardless of the type of offense for which they are accused or convicted.

QUESTION: Can programs designed to eradicate clandestine labs be funded under the purpose area related to eradication programs?

ANSWER: Programs designed to eradicate clandestine labs may be funded but more appropriately fit within the apprehension purpose area. The eradication program purpose area is specifically aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

QUESTION: Since money laundering offenses are not specifically included in the Controlled Substances Act, are programs which include the investigation and prosecution of money laundering offenses eligible for funding?

ANSWER: Yes, if the money laundering is associated with drug offenses.

QUESTION: Can program funds be used for the purpose of program evaluation?

ANSWER: Yes. The cost of program evaluations may be included in awards for approved programs and projects or program funds could be retained by the state office to conduct the evaluations. However, if the state office retains the funds for program evaluation at the state level, they must be taken out of the state allocation or units of local government must sign waivers of their right to receive and expend the funds at the local level.

BJA ASSISTANCE TO THE STATES RELATIVE TO PROGRAM IMPLEMENTATION

QUESTION: What types of guidance will BJA provide the states relative to the implementation of the formula grant program?

ANSWER: BJA has developed a program policy and administrative guidance document which outlines the purpose of the Narcotics Control Program and provides guidance on the development of a statewide drug strategy, preparation of the application for funds and the administration of the program.

This question and answer document has also been developed by BJA to assist the states in addressing issues related to the program.

QUESTION: Will BJA bring the states together to discuss program requirements, as was done with the Justice Assistance Program?

ANSWER: Yes. BJA hosted regional implementation workshops in March, 1987 for program and financial staff from the state offices, Law Enforcement Coordinating Committees and other interested parties. The development of the statewide strategy, application process, administrative requirements and program development were discussed. The workshops also served as a forum for the states to raise issues or concerns and to make recommendations to BJA regarding the effective implementation of the program. Future workshops will be conducted as the Bureau determines a need by the states for additional assistance.

QUESTION: Will BJA develop program briefs, similar to those developed under the Justice Assistance Program?

ANSWER: Yes. BJA is currently developing program briefs which describe programs that have been shown to be effective. The program description will include elements that are critical to the successful replication of the program.

QUESTION: Is BJA developing guidelines related to projects awarded in the seven eligible purpose areas?

ANSWER: Yes. BJA will develop guidelines to assist the state in avoiding the potential legal problems which could result from the improper implementation of certain projects. For example, guidance is being developed to address privacy and security issues in criminal history record systems, confidential funds, asset seizure and forfeiture, eradication and construction.

QUESTION: What types of training and technical assistance will be available from BJA?

ANSWER: BJA will make training and technical assistance available to state and local projects to assist with program implementation. Discretionary funds will be awarded to national organizations with the expertise required to provide needed technical assistance and training.

ALLOCATION OF FUNDS TO THE STATES

QUESTION: Is the total appropriation for the Narcotics Control Program distributed to the states for the formula grant program?

ANSWER: No. The appropriation for FY1987 is \$225 million. Of that, \$2 million is specifically earmarked for a prison capacity program. Of the remaining amount, 80% is distributed to the states for the formula grant program and 20% is reserved for use at the discretion of the Director of the Bureau of Justice Assistance (BJA) in carrying out the purposes of the Act.

QUESTION: Are all states eligible to receive a formula grant award?

ANSWER: Yes. In addition, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Northern Mariana Islands may receive a formula grant award. Subsequent references to "states" includes all of these eligible jurisdictions.

QUESTION: What is the basis for allocating the formula grant funds to the states?

ANSWER: Each participating state receives a base allocation of \$500,000. The balance of the available funds will be allocated on the basis of population.

QUESTION: What happens to the state's allocation, if the state chooses not to participate in the program?

ANSWER: If a state will not use its entire allocation, will be unable to qualify for the funds or chooses not to participate in the program, the funds shall be awarded by the Director of BJA to urban, rural and suburban units of local government or combinations thereof within the state, giving priority to those jurisdictions with the greatest need. Any funds not distributed within the state shall be available for obligation under the discretionary grant program.

ADMINISTRATION OF THE PROGRAM

QUESTION: Is the state's allocation sent directly to the Governor?

ANSWER: No. The Governor of each participating state designates a state office for the purposes of:

- 1) preparing an application to obtain the formula grant funds, and
- 2) administering the funds received including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing and fund disbursements.

QUESTION: Is the state required to create a new agency to administer this program?

ANSWER: No. An office or agency performing other functions within the executive branch of a state may be designated to carry out these functions.

QUESTION: Can the state use part of its formula grant allocation for administration of the program?

ANSWER: Yes. Up to 10% of the state's allocation may be used for costs incurred to administer the program.

QUESTION: What types of expenses can be paid with the administrative funds?

ANSWER: The administrative funds may be used for personnel, equipment and operating expenses associated with the administration of the program. This would include expenses related to the operation of a policy board and the development of the statewide strategy.

QUESTION: Can all of the administrative funds be used by the state office or must part of the funds be passed through to local units of government for administration of the program at the local level?

ANSWER: The states may pass through a portion of the administrative funds, but it is not required.

QUESTION: If a state does not use all of its administrative funds, can those funds be used for anti-drug programs?

ANSWER: Yes. The Act does not establish separate types of funds for programs and administration. Therefore, the state may use any or all of the funds allowed for administration for program purposes.

QUESTION: Can administrative funds be used to pay for indirect costs?

ANSWER: Yes, since indirect costs are normally considered an administrative expense. However, the indirect cost rate must be approved by the cognizant Federal agency.

QUESTION: If the state retains all of the administrative funds, can the cost of administering project activities be built into the project budget?

ANSWER: Yes. Costs associated with the actual operation of a project are allowable costs.

STATE APPLICATION FOR FUNDS

QUESTION: How does the state apply for the formula grant funds?

ANSWER: The state office must complete an application, using the standard form 424. The application must include the following:

1. A statewide strategy for the enforcement of state and local laws relating to the production, possession and transfer of controlled substances.
2. A description of activities to be undertaken with grant funds.
3. Assurances related to the administration of the program.

QUESTION: Will BJA provide the states with an application kit for the formula grant funds?

ANSWER: Yes. An application kit containing an application form, instructions, assurances and an Attachment A, Program List Worksheet has been sent to the state offices.

QUESTION: Is the request for administrative funds a part of the formula grant application?

ANSWER: Yes, generally. However, BJA has developed a simplified application kit that the states may use to apply for FY1987 administrative funds. The application can be completed and submitted very quickly, thus making the administrative funds immediately available to states which need the resources to develop the statewide strategy.

QUESTION: Must the state submit a detailed budget for the administrative funds?

ANSWER: No. The administrative funds should be shown as a separate line item on the Attachment A, Program List Workplan.

QUESTION: What is meant by a statewide drug strategy?

ANSWER: The statewide drug strategy should include:

1. Definition and analysis of the drug problem in the state.
2. An assessment of current drug control efforts in the state, including a review of the adequacy of state law related to drug control.
3. Identification of gaps in services.
4. The state's strategy for addressing the drug problem, including program priorities.

QUESTION: Development of the strategy as outlined above could be very time consuming and could delay implementation of the program. Is it really important enough to justify the effort?

ANSWER: Yes, the strategy is very important. It serves, both as the basis for making decisions on the most effective use of the funds and for assessing the impact of the program on the problem in the state. It can also serve as a mechanism for targeting state and local funds and for avoiding duplication of effort. Many states have already developed a drug strategy and will be able to prepare their application for funds very quickly.

QUESTION: Are there any requirements which the states must follow to ensure that the state strategy reflects the drug problems and program priorities in the state?

ANSWER: The Act established the following mechanisms to ensure that all interested parties in the state have an opportunity to provide input on the statewide strategy and application:

1. The state office must consult with state and local officials whose duty it is to enforce drug laws prior to preparing the strategy.
2. The state application must be submitted to the state legislature or its designated body for review. The application will be deemed

reviewed if the state legislature does not review such application within 60 days.

3. The state must assure that the state application and any amendment thereto was made public before submission to BJA and, to the extent provided under state law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

QUESTION: Must the statewide drug strategy developed by the states be approved by BJA?

ANSWER: Yes. The strategy will be approved as part of the application for the formula grant funds.

QUESTION: Is the state required to establish an advisory board to oversee the implementation of the program?

ANSWER: No. An advisory board is not required by the Act. However, the states are encouraged to establish a Statewide Drug Policy Board to serve as a forum for communication and a structure for coordination. The Board should be responsible for the development of the strategy and would facilitate coordination among enforcement, prevention and treatment agencies and efforts. The Board members should represent state and local officials, all components of the criminal justice system (law enforcement, prosecution, courts and corrections), education and treatment. The United States Attorney or the Chair of the Law Enforcement Coordinating Committee should also be included on the Board to facilitate coordination with Federal drug control efforts. If the Board makes funding decisions, any Federal employees who serve as members of the Board should be non-voting members or should not vote on funding decisions.

QUESTION: What is the relationship of the Narcotics Control Program to the drug education program in the Department of Education and the treatment program administered by the Department of Health and Human Services?

ANSWER: The three programs are designed to complement each other and to provide a comprehensive approach to

addressing the drug problem. There is some overlap in the programs and duplication of effort should be avoided through coordination within the state. The policy board can serve as one vehicle for coordination. Coordination among the three programs is encouraged by the Act and is specifically required under the education program.

QUESTION:

The Act and BJA are strongly encouraging coordination within the states. What is being done at the Federal level to facilitate coordination?

ANSWER:

A number of activities have been initiated at the Federal level to facilitate coordination of drug activities as they relate to the states.

BJA is working with the National Drug Policy Board and will make the national drug enforcement strategy available to the states and will make state strategies available to the Board. Members of the Policy Board, chaired by the Attorney General, are the Directors of Central Intelligence and the Office of Management and Budget; the Secretaries of the Departments of Defense, Health and Human Services, State, Transportation, Treasury, Education, Labor, Housing and Urban Development, Interior and Agriculture; the Deputy Assistant to the President for Drug Abuse Policy; and the Vice President's Chief of Staff.

The Department of Justice has initiated meetings with all of the Federal agencies which are providing state and local assistance under the Anti-Drug Abuse Act of 1986. The purpose of these contacts is to explore ways of coordinating efforts and of reducing duplication of effort on the part of the states in meeting the requirements of the Act.

The Law Enforcement Coordinating Committees (LECC), associated with each United States Attorney's Office, have been encouraged to make recommendations regarding discretionary grant programs and to provide assistance, as requested, to the states in the development of the statewide drug strategy. The LECC's are designed to facilitate coordination among Federal, state and local law enforcement efforts.

Federal agencies, such as the Drug Enforcement Administration and the National Institute of Justice, have been asked to assist BJA in developing program briefs for successful programs and guidelines in specific areas, such as eradication.

Federal agencies with drug enforcement responsibilities have been requested to make recommendations for discretionary grant programs.

QUESTION: When are applications due?

ANSWER: BJA is making the administrative funds available to the states immediately to assist with the development of the strategy and rapid implementation of the program. The state may submit a simplified application as soon as the Governor has designated a state agency.

Full applications will be accepted as soon as the states can develop a statewide strategy but should be submitted by August 1, 1987. If a state is preparing an application but cannot submit it by the due date, the state should notify BJA by August 1, that it intends to submit an application and the expected date of submission. Although BJA is permitted 60 days to review applications, every effort will be made to make awards by the end of the fiscal year for applications submitted up to September 15, 1987. If a state decides not to submit an application, BJA will make the funds allocated to the state available to local units of government.

QUESTION: When can a state expect to receive its award once an application is submitted?

ANSWER: BJA will make every effort to award formula funds within 30 days of the receipt of the application from a state and all awards will be made within 60 days. The Act provides that applications will be deemed approved by BJA not later than 60 days after first received unless BJA informs the state of the specific reasons for disapproval.

ELIGIBLE APPLICANTS

QUESTION: Who can receive awards under the formula grant program?

ANSWER: Awards may be made to state agencies and local units of government.

QUESTION: How is "local unit of government" defined?

ANSWER: Unit of local government means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a state, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia.

QUESTION: Is a police department or a sheriff's office eligible to apply?

ANSWER: No. The city or county would be the legal applicant and recipient of the funds on behalf of the department.

QUESTION: Is a court, as a separate branch of government, eligible to apply for funds?

ANSWER: Yes. State courts are eligible to apply for funds. However, local courts, similar to police departments, would ordinarily have to apply through their local unit of government.

QUESTION: Are agencies such as district attorneys offices, probation departments and community corrections programs, which are part of a judicial district receiving funding from both state and local sources eligible applicants?

ANSWER: These agencies do not fall within the definition of general purpose unit of government and to be considered local projects for variable pass-through purposes would be required to apply through a city or county. However, they could be

funded directly out of the state's portion of the funds.

QUESTION: Can formula grant funds be awarded to a non-profit organization?

ANSWER: Non-profit agencies could be funded directly out of the state's portion of the award. A project operated by a non-profit organization could be considered a local project for variable pass-through purposes only if a unit of local government serves as the grantee and enters into a contract or other form of agreement with a non-profit organization to carry out all or part of an approved program.

DISTRIBUTION OF FORMULA FUNDS WITHIN THE STATE

QUESTION: Can all of the formula grant funds be used at the state level?

ANSWER: No. Each state is required to provide a certain portion of the total state allocation, known as the variable pass-through, for local programs. The variable pass-through is equal to the local share of total criminal justice expenditures in the state.

QUESTION: Can the state award local units of government more than the amount specified by the variable pass-through requirement?

ANSWER: Yes. The entire state allocation could be awarded to units of local government.

QUESTION: Can a state obtain a waiver of the variable pass-through requirement?

ANSWER: Yes. If a state provides services to local units of government, the cost of the services or direct outlays by the state on behalf of local units of government may be charged as funds made available to local units only with the specific prior approval of the local unit(s) to which the services will be made available.

QUESTION: Would a grant to a state agency which provides services to local units of government be considered a state or a local project for purposes of meeting the variable pass-through requirement?

ANSWER: The cost of services provided by the state, or direct outlays by the state on behalf of local units of government, may be charged as funds made available to local units only with the specific prior approval of the state and the local unit(s) to which the services will be made available.

QUESTION: How are the administrative funds handled in relation to the variable pass-through requirement?

ANSWER: When the application for Federal funds, including the statewide strategy, is prepared by the state and the grant funds are administered by the state, there shall be a presumption that up to 10% of the funds specifically designated for administration of the award are being used for the benefit of both state and local agencies and are expended in accordance with the variable pass-through requirement.

QUESTION: Are the states required to allocate funds in each of the seven legislatively authorized purpose areas?

ANSWER: No. A state could allocate all of its funds in one or a few of the purpose areas, if justified under the statewide strategy.

QUESTION: Could a state allocate all of its award to just one or a couple of projects?

ANSWER: Yes, if justified under the statewide strategy and permitted under state law.

QUESTION: Could the state allocate its entire award to one major city?

ANSWER: Yes, if justified under the statewide strategy.

MATCHING REQUIREMENT

QUESTION: What is the matching requirement for the formula grants made under the Narcotics Control Program?

ANSWER: 75% Federal and 25% non-Federal.

QUESTION: Are there any exceptions to this requirement?

ANSWER: Yes. Grants to Indian tribes may equal 100% of the total cost of the project.

QUESTION: Do the matching funds have to be in the form of cash?

ANSWER: Yes. The non-Federal portion of the expenditures must be paid in cash.

QUESTION: Are funds appropriated by state and local units of government the only funds which can be used as match?

ANSWER: No. Funds contributed from private sources and Federal funds from the following sources can also be used as match:

1. Housing and Community Development Act of 1974, 42 U.S.C. Section 5305, et seq.;
2. Appalachian Regional Development Act, 40 U.S.C. Appendix Section 214; and
3. General Revenue Sharing Act, 31 U.S.C. Section 6701, et. seq.

QUESTION: Can a state or local unit of government use existing resources as match?

ANSWER: The non-Federal portion of the cost of each program or project shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipient of the grant funds. As long as the existing funds were used for purposes other than drug law enforcement, they may be used as match for this program.

QUESTION: Can the salaries of existing personnel who are transferred to grant activities be used as match?

ANSWER: Only if the original positions are filled with new personnel or personnel not otherwise assigned to drug law enforcement. If the positions are not filled the non-supplanting requirement of the Act may also be an issue.

QUESTION: Can asset forfeiture funds be used as match?

ANSWER: Yes. A state or local unit of government can use forfeiture funds as match if state and local statutes allow for the collection and retention of such funds.

QUESTION: Must the funds used for the administration of the program (up to 10% of the state's allocation) be matched?

ANSWER: Yes, at the same 75/25 ratio.

QUESTION: Must all expenditures be charged proportionately to the Federal and non-Federal funds throughout the life of the project?

ANSWER: No. The allocation of expenditures to Federal and non-Federal funds is left to the discretion of the subgrantee, as long as the Federal share of the project does not exceed 75% of total project costs.

QUESTION: Must the matching funds be available prior to the implementation of the program?

ANSWER: A commitment for the matching funds must be available prior to implementation of the program, but the matching funds can be put into the project anytime prior to the end date of the project period. Thus a project could be started using the Federal funds even though the matching funds will not be appropriated until after the start of the program, but prior to the end of the project period.

QUESTION: Is the state required to match funds which it makes available to local units of government from the portion of funds which could be used by state agencies under the variable pass-through provisions?

ANSWER: No. The unit of government using the funds is responsible for providing the match. However, the state may make matching funds available for local projects.

QUESTION: Are states and local units of government required to provide match on a project by project basis?

ANSWER: Yes. However, the state may request through its application that BJA approve exceptions such as match on a program by program basis, state-wide basis, unit of government basis or a combination of the above.

ALLOWABLE/UNALLOWABLE EXPENSES

QUESTION: What types of expenses can be paid with grant funds?

ANSWER: Personnel, equipment, facilities, personnel training, supplies, operating expenses, and purchase of information and evidence related to the programs which address the seven authorized purpose areas are all allowable expenses. In addition, construction of penal and correctional institutions for drug offenders is allowed.

QUESTION: Can Narcotics Control funds be used to hire people and buy equipment without the implementation of an actual program?

ANSWER: No. The Act authorizes seven purpose areas which are eligible for funding under the formula grant program and requires the states to include a list of programs and projects in their application. Personnel and equipment which are a part of an approved program or project are allowable expenses under the Act.

QUESTION: Must penal and correctional institutions constructed with grant funds be devoted exclusively to drug offenders?

ANSWER: No, but costs would have to be prorated according to the relative number of drug offenders and other offenders.

QUESTION: Does the proration requirement outlined above also apply to other kinds of projects involving a combination of narcotics-related activities and other criminal justice activities?

ANSWER: Yes. For example, if program funds are used to pay the salary of a judge, his or her time would have to be devoted to hearing drug related cases or the costs would have to be prorated according to the relative number of drug cases and other cases heard.

QUESTION: Can formula grant funds be used for general purpose programs which improve the functioning of the criminal justice system, such as a court delay reduction project?

ANSWER: Yes, but the cost must be prorated according to the relative number of drug offenders and other offenders.

QUESTION: Can grant funds be used to purchase land for construction or other projects?

ANSWER: No. Land is not an allowable expense.

QUESTION: If existing personnel work on grant activities on an overtime basis, is overtime pay an allowable expense?

ANSWER: Yes, overtime is an allowable expense. However, a determination should be made that paying overtime for existing personnel is more cost effective than hiring new personnel.

QUESTION: Can program funds be used for the purpose of program evaluation? If so, can the state office retain the funds and conduct the evaluations?

ANSWER: Yes. The state office can retain a portion of the formula grant funds for the purpose of evaluation of program results and impact. However, the intent to do so must be clearly stated in the application, including the funding level.

QUESTION: Are research projects eligible for funding under the formula grant program?

ANSWER: Yes, if directly related to one of the seven authorized purpose areas.

QUESTION: Can program funds be used to pay for audits of program activities?

ANSWER: Yes. Administrative funds can be used to pay costs associated with an audit of the formula grant administered by the state office. Audit fees can also be included in project budgets to cover the costs associated with an audit of the project or a pro rata share of the costs of an agency audit under the single audit requirements. The audit costs included in the project budgets would not be considered administrative funds for determining the compliance with the 10% limit on the use of funds for the administration of the program.

REPORTING REQUIREMENTS

QUESTION: The Act requires each state to submit an annual report of activities and the impact of such activities on meeting the needs identified in the statewide strategy. What type reports will the states be required to submit?

ANSWER: BJA will establish reporting mechanisms which satisfy the annual report requirement while integrating the reporting with other administrative requirements. An assessment of the impact of programs on identified needs is important information in developing or modifying the statewide strategy. Therefore, the assessment

of the impact will be required as a part of the strategy and will be incorporated into the next years application for funds. A data summary will be used to facilitate the identification of needs and to assess progress toward meeting those needs.

The Act requires the states, in administration of the funds, to review progress and financial reports from the subgrantees. BJA will develop a performance report form to be completed by each subgrantee as a part of their final report to the state. The state will then forward these reports to BJA.

The states will be required to submit a brief individual project report as awards are made to identify the project and the subgrantee.

BJA may periodically request information to address specific issues raised by Congress, the administration or other interested parties.

QUESTION: What will BJA do with all of this information?

ANSWER: The information will be used to prepare BJA's annual report to Congress. The information will also be used for program management, to identify areas where BJA can provide technical assistance or training and in program development. BJA will identify successful projects and programs and distribute that information to the states and to Congress.

The data summary, which will be completed as a part of the statewide strategy development, will be used to establish a national database of information that can be used to assess the overall impact of drug control efforts.

The states will be able to access the information to see how other states are addressing similar problems and to identify program contacts in other states.

QUESTION: What is the purpose of the Individual Project Reports? They appear to duplicate much of the information required in the Attachment A.

ANSWER: The Attachment A is a part of the application and shows projected project activity. The Individual

Project Report (IPR) is completed when a grant is actually awarded. It contains subgrantee information which is not provided in the Attachment A. This information is very important in responding to requests about the program from Congress and the public. The subgrantee information will also be used by the technical assistance and training contractors to determine the number and types of projects and to notify the subgrantees of available services.

The IPR's will be very important during the initial phases of the program because they will be used to compile information for the first annual report to Congress, in the absence of progress and impact data.

QUESTION: When will these reports be due?

ANSWER: The data summary will be submitted as part of the state's application for formula grant funds and will be due by the application deadline.

The individual project reports are due within 30 days of the subaward of funds.

The annual performance reports which are completed by the subgrantees are due to the state within 90 days after the termination of the project. The state should forward them to BJA within 30 days of receipt. Thus, reports will be submitted throughout the year.

QUESTION: Can administrative funds be used to pay for costs related to compliance with these reporting requirements?

ANSWER: Yes.

ADMINISTRATIVE ISSUES

QUESTION: Can BJA reject an application? If so, on what grounds?

ANSWER: Yes, an application can be rejected if it fails to meet the application requirements outlined in Section 1303 of the Act and BJA guidelines. BJA

must provide the applicant reasonable notice and an opportunity for reconsideration prior to making a final rejection of the application.

QUESTION: What are the appeal procedures if a state application is rejected by BJA?

ANSWER: Appeal procedures, as outlined in 42 USC 3783 and 28CFR Part 18, will be followed.

QUESTION: What kinds of mechanisms must the state establish for the review and award of subgrants?

ANSWER: The states may establish whatever mechanisms and procedures it feels are necessary to review and award subgrants, as long as the process results in the implementation of the statewide strategy.

QUESTION: If an application for funds submitted by a state agency or local unit of government is rejected by the state, can the applicant appeal to BJA?

ANSWER: No. Decisions are appealed using the state appeal procedures.

QUESTION: What is the grant award period for the formula grants to the states?

ANSWER: The formula grant funds will be awarded to the states for the fiscal year of award plus the following two fiscal years.

QUESTION: Do subgrants made by the states have the same grant award period?

ANSWER: Generally not. Most awards made by the state have a one year grant period, after which the subgrantee may reapply for continuation funding. However, the state may make awards for any period through the termination date of the formula grant award.

QUESTION: Since the formula grant funds are awarded for a three year period, could a state make two or more awards for the same project from one Federal fiscal year's award?

ANSWER: Yes. A state could set aside funds for one or more high priority projects to ensure the availability of continuation funds in the event that future appropriations are decreased or eliminated.

QUESTION: Are there any limitations as to the total number of years a program or project can be funded with formula grant funds?

ANSWER: No. However, the state may establish funding limitations.

QUESTION: What are the requirements and procedures involved in the transfer of funds within an approved application, or the addition/deletion of a program in an approved application?

ANSWER: BJA is required by Section 1304(a)(2) of the Act to approve programs and projects in the state application. Therefore, adjustments to the approved application must be approved by BJA.

QUESTION: Are the states responsible for monitoring the activities of their subgrants?

ANSWER: Yes. Among other administrative requirements, the Act specifically requires the states to monitor the program within the state.

QUESTION: What are the state audit requirements?

ANSWER: Recipient state and local governments that receive \$100,000 or more in Federal financial assistance, (all sources) in any fiscal year must have a single audit for that year in accordance with Circular A-128. Governments receiving at least \$25,000, but less than \$100,000, have the option of performing a single audit or separate program audits required by the applicable Federal statutes and regulations. Governments receiving less than \$25,000 in any fiscal year are exempt from a single audit.

QUESTION: Does the National Environmental Policy Act apply to the Narcotics Control Assistance Program?

ANSWER: Yes, particularly as it applies to construction and eradication programs.

QUESTION: Do the Security and Privacy Regulations apply to the formula grant?

ANSWER: Yes. The Assistant Attorney General, Office of Justice Programs will issue revised regulations in the near future.

QUESTION: Who holds title to personal property purchased with formula grant funds?

ANSWER: Title to all expendable and nonexpendable personal property purchased with formula grant funds shall vest in the criminal justice agency that purchased the property if it certifies to the state office that it will use the property for criminal justice purposes. If such certification is not made, title to the property shall vest in the state office, which shall seek to have the property used for criminal justice purposes elsewhere in the state prior to using it or disposing of it in any other manner. If a state office does not exist, certification will be made directly to BJA.

DISCRETIONARY GRANT PROGRAM

PROGRAM PURPOSE

QUESTION: What types of programs can be funded with discretionary grant funds?

ANSWER: Discretionary grants may be made for the same seven purpose areas specified under the formula grant program.

QUESTION: How does the discretionary grant program relate to the formula grant program?

ANSWER: The discretionary grant program will complement the formula grant program through national and

multi-state programs which assist and enhance state and local drug control efforts.

QUESTION: Can training and technical assistance be funded under the discretionary program?

ANSWER: Yes, as it relates to the seven authorized purpose areas.

ESTABLISHMENT OF PROGRAM PRIORITIES

QUESTION: How are priorities established for the discretionary grant program?

ANSWER: BJA requests input and recommendations from state and local criminal justice agencies, national criminal justice and governmental associations and other Federal agencies. Program staff reviews this information and presents program recommendations to the BJA Policy Board which establishes the program priorities. These program priorities are presented to the Director of BJA for final review and approval.

QUESTION: What is the BJA Policy Board?

ANSWER: The BJA Policy Board, chaired by the Director of BJA, includes representatives from other Office of Justice Programs agencies, such as the National Institute of Justice, Bureau of Justice Statistics and the Office of Juvenile Justice and Delinquency Prevention and other Federal agencies with drug prevention and control responsibilities, such as the Drug Enforcement Administration, the Department of Health and Human Services and the Department of Education. The Board was established to advise the director on the establishment of program priorities for the discretionary grant program and to enhance coordination among the member agencies.

QUESTION: How are potential applicants notified of the program priorities and the availability of funds?

ANSWER: The program priorities and the request for proposals are announced in the Federal Register.

BJA also distributes the announcement to the state offices, many criminal justice agencies, national associations and members of the public who have asked to be placed on the mailing list.

ELIGIBLE APPLICANTS

QUESTION: Who can receive awards under the discretionary grant program?

ANSWER: Discretionary grants may be awarded to public agencies and private nonprofit organizations.

QUESTION: Can discretionary funds be awarded to other Federal agencies?

ANSWER: Yes, through Interagency Agreements, for any of the seven purposes contained in the Act. However, awards to Federal agencies would be for programs which provide assistance to or enhance the drug control efforts of state and local units of government.

MATCHING REQUIREMENT

QUESTION: Does the 75/25 formula grant matching ratio also apply to discretionary grants?

ANSWER: No. Discretionary grants may be made for amounts up to 100% of the costs of the programs or projects.

ALLOWABLE/UNALLOWABLE EXPENSES

QUESTION: What types of expenses can be paid with discretionary grant funds?

ANSWER: The allowable and unallowable expenses which apply to formula grant funds also apply to discretionary grant funds with the exception of construction costs. Construction of penal and correctional

institutions, which is allowed under the formula grant program, is not permitted with discretionary grant funds.

ADMINISTRATIVE ISSUES

QUESTION: Will the states have any input on the types of discretionary grants awarded in their state?

ANSWER: Yes. Applications for discretionary funds must be submitted to the state to determine its compatibility with the statewide strategy. Submission to the state and BJA can be made simultaneously. The state's comments will be considered in the review process.

The Assistant Attorney General, Office of Justice Programs, coordinates the criminal and juvenile justice activities of the following program Offices and Bureaus: National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.