Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG) Program Frequently Asked Questions (FAQs)

The Department of Justice is committed to advancing work that promotes civil rights, increases access to justice, supports crime victims, protects the public from crime and evolving threats, and builds trust between law enforcement and the community.

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OVERVIEW

1. ***What is the Edward Byrne Memorial Justice Assistance Grant (JAG) Program?***
   Named after Edward "Eddie" R. Byrne, an officer in the New York City Police Department who was murdered while protecting a witness in a drug case, the Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the leading source of federal justice funding to state and local jurisdictions. The JAG Program provides states, tribes, and local governments with critical funding necessary to support a range of program areas including law enforcement, prosecution, indigent defense, courts, crime prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, crime victim and witness initiatives, mental health programs, and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams, and implementation of state

crisis intervention court proceedings and related programs or initiatives including, but not limited to, mental health courts, drug courts, veterans courts, and extreme risk protection order programs. The JAG Program Fact Sheet provides background information and other details about the JAG Program.

2. ***What is the authorizing legislation for the 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).

3. ***What is the Assistance Listing number for the JAG program?***
The Assistance Listing number for the JAG Program (state and local) is 16.738.

AWARD ELIGIBILITY/FORMULA INFORMATION

4. ***What entities are eligible, and where is the eligibility list located?***
There are two types of formula awards available under the 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 their 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 at: bja.ojp.gov/program/jag/overview. 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 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.

     Note: The application must be submitted by an applicant with a Unique Entity Identifier (UEI) associated with an entity that is eligible to apply to receive an award. See the How to Apply section for more information. For additional information and example of ineligible entities, please refer to the FAQ titled "How do eligible entities apply for JAG funds".

5. ***Why are two eligibility categories included within the Local JAG solicitation?***
Beginning in fiscal year (FY) 2020, there are two categories for eligible units of local government to apply under as stipulated below. This change was intended to streamline and expedite the application process, as well as reduce the burden of certain types of reporting for eligible applicants receiving awards of less than $25,000.

Category 1—Eligible Allocation Amounts of Less Than $25,000: Units of local government that are listed on the JAG web page as eligible for an allocation amount of less than $25,000 should apply under Category 1. This includes direct and joint (disparate) allocations. Category 1 awards of less than $25,000 are 2 years in length. Extensions of up to 2 years can be requested for these awards via JustGrants no fewer than 30 days prior to the grant end date and will be automatically granted upon request.

Category 2—Eligible Allocation Amounts of $25,000 or More: Units of local government that are listed on the JAG web page as eligible for an allocation amount of $25,000 or more should apply under Category 2. This includes direct and joint (disparate) allocations. Category 2 awards of at least $25,000 are 4 years in length. Project extensions can be requested consistent with requirements listed in the DOJ Grants Financial Guide, Section 3.2.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by statute.

6. *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:

1. Computing an initial JAG allocation for each state based on its share of violent crime and population (weighted equally).
2. Reviewing the initial JAG allocation amount to determine whether 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 receives the minimum award plus an additional amount based on its share of violent crime and population.
3. 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.
4. Determining the 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 the Office of Justice Programs (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, 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 in "Are states required to pass-through funding to local jurisdictions?")

The BJS technical reports that describe the steps used to calculate the JAG formula, in detail, can be found at: JAG Technical Reports | Bureau of Justice Statistics.

7. Why would a local jurisdiction not receive an allocation?

A jurisdiction is eligible to receive a direct JAG award only if the formula allocation is $10,000 or more and they are not part of a disparate group (see "Disparate Information"). Awards allocations to units of local government are based on the share of violent crimes reported by the law enforcement agencies in the state. The sum of these reports within each state are computed to determine the jurisdiction's share of the total local award allocation. If a local jurisdiction's calculated allocation is less than $10,000, the funds are provided to the state. The state must allocate the additional funds included in its award to jurisdictions that were not eligible for a direct BJA JAG award of $10,000 or more and/or to state police departments that provide criminal justice services to the "less than $10,000 jurisdictions" within the state.

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

Jurisdictions that do not qualify for a direct award under the JAG Program may reach out to their respective State Administering Agency (SAA) to determine whether subaward funding is available. SAA contact information can be found at: State Administering Agencies | Overview | Office of Justice Programs.

9. Are states required to pass-through funding to local jurisdictions?

Yes. There are two types of pass-through requirements for states. 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: Edward Byrne Memorial Justice Assistance Grant (JAG) Program | JAG Variable Pass-Through (VPT) Information | Bureau of Justice Assistance. (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 those 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 the unit of local government's calculated allocation is less than $10,000 (these 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.

For information on the pass-through waiver process, please refer to the FAQ titled "If a State Administering Agency (SAA) intends to request a pass-through waiver, which requires BJA certification, what is the process?"

10. Is it possible for a recipient to make subawards to private and nonprofit neighborhood or community-based organizations?

Yes, per 34 U.S.C. § 10152(b) a JAG recipient can make a subaward to private and nonprofit neighborhood or community-based organizations if the primary purpose of the subaward meets the requirements of one or more JAG Program areas under 34 U.S.C. § 10152 (a)(1). Such projects could take the form of (1) a project that would benefit the entire state, (2) a project that will benefit a local jurisdiction, or (3) a partnership between a private nonprofit organization and a local law enforcement agency to provide allowable services to designated "units of local government." Please note that JAG funds cannot be used to support any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

Note: A State Administering Agency (SAA) may not use required pass-through funds to make subawards to private and nonprofit neighborhood or community-based organizations without express prior approval from BJA through a Grant Award Modification (GAM). See "Award Administration."

11. How does the National Incident-Based Reporting System (NIBRS) reporting impact eligibility for funding under the JAG program?

By statute, BJA JAG awards are calculated using summary part 1 violent crime data from the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Program. Specifically, the formula allocations for JAG rely heavily on the ratio of "the average number of part 1 violent crimes of the UCR of the FBI reported by such State for the three most recent years reported by such State to the average annual number of such crimes reported by all States for such years" (34 U.S.C. 10156(a)(1)(B)). Historically, JAG calculations have been based on data collected by the FBI through the UCR's Summary Reporting System (SRS).

As of January 1, 2021, the UCR Program phased out SRS and transitioned to NIBRS-only data collection and agencies are no longer able to submit SRS data. BJS uses a combination of NIBRS and SRS data in determining eligibility, with NIBRS data being used from 2021 forward. In practice, if a jurisdiction has previously reported at least 3 years of SRS data during the prior 10-year period (2012–2021) and did not begin reporting NIBRS data in 2021, the jurisdiction will still be potentially eligible for a JAG award, as the jurisdiction still meets the minimum statutory requirement. Agencies that began reporting NIBRS data in 2021 but have not previously reported SRS data or who reported fewer than 2 years of SRS data during the 2012–2021 data years will not be eligible for an award. For more information on NIBRS, please see: National Incident-Based Reporting System (NIBRS) | Bureau of Justice Statistics.

12. Is a National Incident-Based Reporting System (NIBRS) 3 percent set-aside required for JAG recipients not certified as NIBRS compliant?

BJA required, through the application of an award condition, direct FY 2018[1]–FY 2021 JAG award recipients not certified as NIBRS compliant to set aside 3 percent of their

[1] U.S. territories and tribal jurisdictions were not subject to the 3 percent NIBRS set-aside in FY 2018.

JAG award toward achieving full compliance with the FBI's NIBRS data submission requirements under the Uniform Crime Reporting (UCR) Program. For FY 2022 awards and moving forward, BJA will no longer require recipients to dedicate 3 percent of their award toward NIBRS compliance. Note: this is not a retroactive change and FY 2018–2021 JAG award recipients that have not yet reached NIBRS compliance must continue to meet the NIBRS set-aside requirement.

13. Does the National Incident-Based Reporting System (NIBRS) set-aside requirement for FY 2018–2021 awards apply to subawards?

The requirement for a NIBRS set-aside is not applicable 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.

The requirement for a NIBRS set-aside is applicable to all jurisdictions in a disparate group but is not otherwise be applied to subawards. Recipients serving as fiscal agent for "disparate jurisdictions" (as defined at 34 U.S.C. 10156(d)(4)) must pass this requirement through to subawards in other localities in the disparate jurisdiction so that each locality in a disparate jurisdiction group dedicates at least 3 percent of award funds to NIBRS compliance unless, with respect to each locality in the disparate jurisdiction group, evidence of NIBRS compliance has been submitted to and approved by BJA.

14. How should FY 2018–2021 JAG recipients communicate National Incident-Based Reporting System (NIBRS) compliance to BJA?

Grant recipients that achieve full compliance with NIBRS should email evidence of NIBRS compliance (written documentation from the FBI and/or their state-certified NIBRS compliance) to their grant manager listed in OJP's JustGrants System. Upon review of the documentation submitted, BJA will confirm the NIBRS compliance and then clear any withholding special condition associated with the NIBRS set-aside requirement. Grant recipients must retain documentation on file that demonstrates the FBI certification of NIBRS compliance. Such documentation must be made available for BJA review upon request.

15. What are some examples of costs and projects that relate to National Incident-Based Reporting System (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 Uniform Crime Reporting (UCR) Program according to the states and/or directly to the FBI according to the NIBRS standard.

16. If our state or unit of local government has already budgeted funding for National Incident-Based Reporting System (NIBRS) related projects, should JAG funds still be set aside for this purpose for FY 2018–2021 awards?

The NIBRS 3 percent set-aside is applicable for FY 2018–2021 awards until the FBI (or state for local units) 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 programmatic cost change Grant Award Modification (GAM) to BJA and reallocate any remaining set-aside funds.

POTENTIAL FUNDING REDUCTIONS

17. Are JAG awards subject to any potential funding reductions?

A state allocation of a JAG award is subject to three potential funding reductions for noncompliance under the Sex Offender Registration and Notification Act (SORNA), the Prison Rape Elimination Act (PREA), and the Death in Custody Reporting Act (DCRA).

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

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.

For Frequently Asked Questions on SORNA, please refer to: https://smart.ojp.gov/faqs.

19. How is the Sex Offender Registration and Notification Act (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 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 × .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.

20. Is a state eligible for additional JAG funding based on its Sex Offender Registration and Notification Act (SORNA) compliance status?

SORNA-compliant states and territories may have bonus funds applied to their next fiscal year JAG application. This bonus allocation is calculated based on total funds resulting from the JAG reductions from non-implementing states and territories during that current fiscal year. For example, if a state substantially implemented SORNA in FY 2022, then that state would have additional bonus funds added to its FY 2023 State JAG award, which will be comprised of JAG reductions from non-implementing states and territories in FY 2022. The amounts available for bonus funds will vary from year to year, depending on the amount of JAG reductions that are assessed.

21. Whom can I contact for more information on the JAG reduction or Sex Offender Registration and Notification Act (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.

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

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

The PREA statute provides that a state whose Governor does not certify full compliance with DOJ’s PREA Standards (34 U.S.C. 30307(e)) is subject to the loss of 5 percent of any DOJ grant funds that it would otherwise receive for prison purposes, unless the Governor submits to the Attorney General an assurance that such 5 percent will be used by the state solely to adopt and achieve full compliance with the PREA Standards in future years. In addition, the Justice for All Reauthorization Act (JFARA) of 2016, which was enacted on December 16, 2016, includes an amendment to the PREA statute. Per the PREA amendment under JFARA, the assurance option sunset was effective on December 16, 2022 (See 34 U.S.C. § 30307(e)(2)(D)). The PREA amendment also provides that for two years following the assurance sunset, a Governor who can certify that the state has had audits for at least 90 percent of facilities under the operational

control of the Governor may request that the Attorney General allow submission of an emergency assurance. Therefore, following the sunset of the assurance on December 16, 2022, Governors who meet the above criteria have two opportunities to submit an emergency assurance. The first opportunity is for Audit Year 1 of Cycle 4 (August 20, 2022–August 19, 2023), which impacts FY 2023 DOJ grant funds. The deadline for this certification or emergency assurance submission is October 16, 2023. The second and final opportunity is for Audit Year 2 of Cycle 4 (August 20, 2023–August 19, 2024), which impacts FY 2024 DOJ grant funds. The deadline for this certification or emergency assurance submission is October 15, 2024.

A reduction in a JAG award to a state due to the PREA provision will **not** affect the portion of the JAG award that is reserved for local jurisdictions.

For additional information concerning PREA implementation, send inquiries to the PREA Management Office at: PREACompliance@usdoj.gov and/or review the PREA FAQs.

23. Is a state eligible for additional JAG funding based on its Prison Rape Elimination Act (PREA) compliance status?

Some states are eligible for additional JAG funding based on PREA compliance status. Each year, PREA gives state and territorial governors the option to submit to DOJ either a certification that all confinement facilities under their operational control are in full compliance with the National Standards to Prevent, Detect, and Respond to Prison Rape (Standards) or to issue an assurance that they will use not less than 5 percent of certain DOJ grant funds (including JAG) to come into full compliance with the Standards in the future. See 34 U.S.C. § 30307. States and territories that do not submit a certification or an assurance are subject to a 5 percent reduction in certain DOJ grant funds (including JAG) that they would otherwise receive. The states and territories that have submitted such a certification or assurance are eligible to receive a bonus amount on their annual JAG award. The JAG bonus amounts are made up of JAG funds withheld from the states and territories that did not submit a certification or an assurance and are calculated based on a modified JAG formula.

24. What is required under the Death in Custody Reporting Act (DCRA)?

The Death in Custody Reporting Act of 2013 (Public Law 113-242) requires states to report to the Attorney General information regarding the death of any person who is detained, under arrest, in the process of being arrested, en route to incarceration, or incarcerated at a municipal or county jail, state prison, state-run boot camp prison, boot camp prison that is contracted by the state, any state or local contract facility, or other local or state correctional facility (including any juvenile facility). State Administering Agencies (SAAs) are responsible for collecting data on a quarterly basis from local entities including local jails, law enforcement agencies, medical examiners, and other state agencies. For additional information on DCRA requirements, see the Death in Custody Reporting Act (DCRA) Reporting Requirement and the Death in Custody Reporting Act (DCRA) State Plan FAQs.

A state that fails to comply may, at the discretion of the Attorney General, be subject to not more than a 10 percent reduction of the funds that would otherwise be allocated for that fiscal year to the state under the JAG program.

APPLICATION REQUIREMENTS

25. How do eligible entities apply for JAG funds?

DOJ funding opportunities follow a two-part application process. Detailed information on how to apply can be found in the annual solicitation document, and in the OJP Grant Application Resource Guide.

Applicants **MUST** have a valid Unique Entity Identifier (UEI) number and an active System of Award Management (SAM) registration to begin the application process in Grants.gov. For additional information, see: https://sam.gov/content/entity-registration and Resources for Using the System for Award Management.

The JAG Program statute requires that local applicants be a **unit of local government**, which, as described in the eligibility section, includes a town, township, village, parish, city, county, borough, or other general-purpose political subdivision of a state, or it may 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.

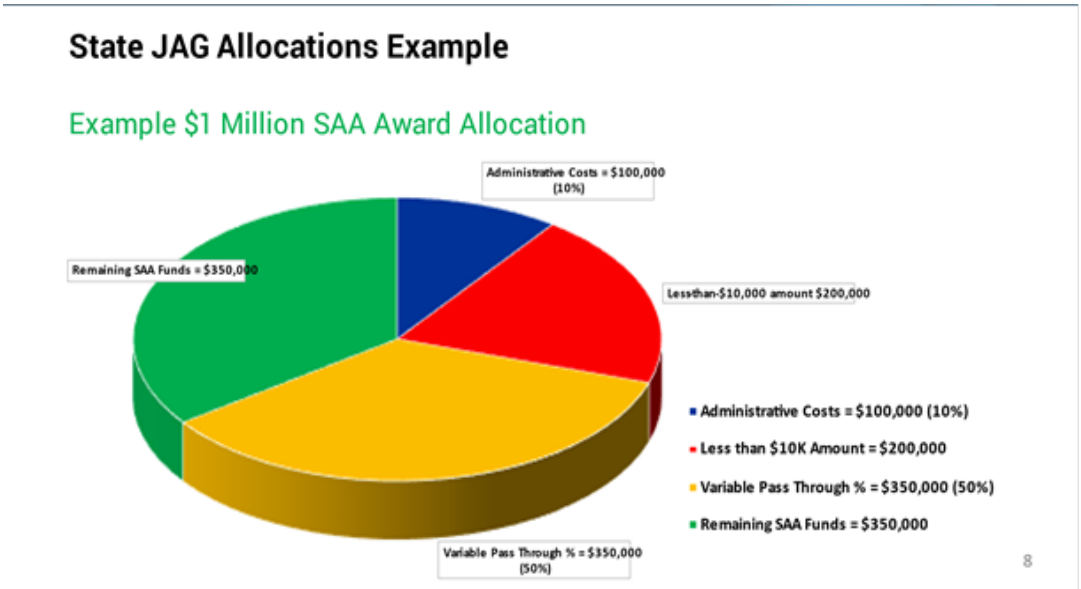
The legal name of the applicant **must** be associated with a UEI in SAM that is eligible to apply to receive an award.

Applicants may be requested to submit additional supporting documentation if BJA cannot determine eligibility based on legal name registered under its UEI in SAM.

26. What should a State JAG applicant include in the budget application attachment?

State JAG budget attachments should total the award amount listed on the current JAG allocations list (see Funding Information section of this page). Additionally, the budget should include the following clearly labeled in the appropriate budget categories (e.g. subawards, etc.):
1) Less than $10,000 pass-through amount (intended for ineligible jurisdictions and/or the state police).
2) Variable Pass-Through (VPT) amount; and
3) Administrative Costs Amount (maximum 10% of the award).

The example chart on the next page is included for illustration purposes only.



27. Who should be listed as the authorized representative on a JAG application?
The person who accepts or declines awards on behalf of an entity must have legal authority to enter into contracts, grants, and cooperative agreements with the federal government on behalf of the entity. Accepting an award binds your entity to the award conditions, and it is the responsibility of your entity to ensure the Authorized Representative has the authority to do so.

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

28. 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.

To satisfy this requirement, BJA requires the submission of a properly completed "Certifications and Assurances by the Chief Executive (CE) of the Applicant Government" to attest to these facts. If the governing body review requirement has not been completed at the time of application, a locality can still apply for JAG funding; however, it will not be able to submit a properly completed 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. The "Certifications and Assurances by the Chief Executive of the Applicant Government" form associated with the most recent JAG solicitations can be accessed the JAG web page at: Edward Byrne Memorial Justice Assistance Grant (JAG) Program | Certifications & Assurances | Bureau of Justice

Assistance. Forms from prior JAG solicitations can be accessed at: Edward Byrne Memorial Justice Assistance Grant (JAG) Program | Archives | Bureau of Justice Assistance.

29. 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.

To satisfy this requirement, BJA requires 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 the 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 the requirements attested to in this form are met. The "Certifications and Assurances by the Chief Executive of the Applicant Government" form associated with the most recent JAG solicitations can be accessed on the JAG web page at: Edward Byrne Memorial Justice Assistance Grant (JAG) Program | Certifications & Assurances | Bureau of Justice Assistance. Forms from prior JAG solicitations can be accessed at: Edward Byrne Memorial Justice Assistance Grant (JAG) Program | Archives | Bureau of Justice Assistance.

30. 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" form 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).

This chief executive may not delegate signature authority to another person under any circumstances.

31. What does the Statewide Strategic Plan requirement under State JAG entail, and is technical assistance available?

States **must** submit a comprehensive statewide strategic plan with their applications. Additionally, in any year in which the statewide strategic plan is not fully updated, states must submit a brief annual report with their applications.

The statewide strategic plan, which must be updated at least every five years, should:

- Be designed in consultation with local governments and representatives of all segments of the criminal justice system—including judges, prosecutors, law enforcement personnel, and corrections personnel—and providers of indigent defense services, victim services, juvenile justice delinquency prevention programs, community corrections, and reentry services.
- Include details on how grants will be used to improve the administration of the criminal justice system.
- Include a description of how the state will allocate funding within and among each of the JAG Program areas.
- Describe the process used by the state for gathering data and developing and using evidence-based and evidence-gathering approaches in support of funding decisions.
- Describe the barriers at the state and local levels for accessing data and implementing evidence-based approaches to preventing and reducing crime and recidivism.

The annual report (required in the years between full statewide strategic plan updates), intended to provide a summary update of program implementation efforts as detailed in the statewide strategic plan, should:

- Discuss changing circumstances in the state, if any, since the strategic plan was adopted.
- Describe how the state plans to adjust funding within and among each of the JAG program areas.
- Provide an ongoing assessment of need.
- Discuss the accomplishment of the goals identified in the strategic plan.
- Reflect how the plan influenced funding decisions in the previous year.

States that submit incomplete or minimal statewide strategic plans with their applications will be recommended by BJA to receive training and technical assistance (TTA). If no plan is attached, an annual report is missing, or a submitted strategic plan or annual report clearly fails to discuss the required elements described above, then TTA will be required, and funds may be withheld until a minimally sufficient strategic plan or annual report is submitted.

TTA is available at no cost through a BJA cooperative agreement to assist states with the development of their strategic planning processes and plans. To help ensure that states consider the impact of JAG funding decisions across the entire criminal justice system, BJA strongly encourages each state to involve all criminal justice system stakeholders in the strategic planning process. The strategic planning process should reflect input from all segments of the criminal justice system—including local governments, judges, prosecutors, law enforcement, and corrections personnel—and providers of indigent defense services, victim services, juvenile justice and delinquency prevention programs, parole and probation services, and reentry services. For more information, please see: https://www.ncja.org/strategic-planning.

32. What does the Death in Custody Reporting Act (DCRA) State Implementation Plan under State JAG entail, and is technical assistance available?

States **must** submit a DCRA state implementation plan with their applications, which includes its plan for collecting and reporting DCRA Program data. The required elements in the DCRA state implementation plan can be found at: DCRA State Plan Implementation Guidance. Additionally, in any year in which the DCRA state implementation plan is not updated, states must submit a brief annual DCRA implementation update with their applications.

States that submit incomplete or minimal DCRA state implementation plans with their applications will be recommended by BJA for TTA. If no DCRA state implementation plan is attached, an annual DCRA implementation update report is missing, or a submitted DCRA state implementation plan or annual DCRA implementation update clearly fails to discuss the required elements in the DCRA State Plan Implementation Guidance, then TTA will be required, and funds may be withheld until a minimally sufficient DCRA state implementation plan or annual DCRA implementation update is submitted. For more information, please see https://bja.ojp.gov/program/dcra/training-and-technical-assistance.

DISPARATE INFORMATION

33. What does it mean when two or more units of local government 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.
- 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.

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

The localities in a disparate group must agree on which locality will serve as the fiscal agent. A Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant or fiscal agent for the disparate group 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: JAG SAMPLE MOU. If the MOU is not complete by time of application, funds will be withheld until the signed MOU is submitted to BJA.

35. How are allocation amounts determined for jurisdictions identified as disparate?

The jurisdictions identified as disparate must negotiate and agree on allocation amounts. Please note that the amounts listed within the annual JAG allocations chart are calculated amounts based on the formula and how much each jurisdiction would be eligible for if no disparity was identified; however, jurisdictions within the disparate situation are to determine and agree upon the award amount for each listed jurisdiction. There is no requirement to use the amounts listed for each disparate jurisdiction on the allocations chart. The joint application submitted by the fiscal agent on behalf of the disparate group must specify the award distribution to each unit of local government and the purposes for which the funds will be used.

36. What Is the process if one or more disparate jurisdictions do not agree to sign an MOU and intend to decline funding?

A disparate unit of local government may decline JAG funding and should be party to the MOU with its allocation listed as $0. However, BJA will accept an official letter of declination in lieu of the disparate unit of local government's signature on the MOU. This official letter of declination must clearly state that the unit of local government understands it is eligible to receive JAG funds under the subject award but is declining to do so; the letter must be signed by the highest ranking official for the unit of local government.

37. What are the responsibilities of a fiscal agent for a disparate group?

The fiscal agent is considered the pass-through entity and their relationship with the other disparate members would be considered a subaward/subrecipient for grants administrative purposes. The fiscal agent is the legal applicant responsible for submitting the application, reporting, making and monitoring subawards (see the DOJ Grants Financial Guide, Section 3.14), retaining all subaward paperwork and applicable certifications, and making that available upon request in the case of monitoring or an audit.

38. 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.

39. Does the disclosure of duplication in cost items (formerly the disclosure of pending applications) application requirement apply to each disparate jurisdiction or just the unit of local government that is the fiscal agent?

Only the fiscal agent (JAG applicant) is required to submit the Applicant Disclosure of Duplication in Cost Items, which is completed in the JustGrants application (see the OJP Grant Application Resource Guide | Office of Justice Programs). However, the disclosure should cover all projects and activities proposed to be funded under the award.

USE OF FUNDS

40. 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, or civil proceedings, including for any one or more of the following nine JAG Program areas, per the JAG statute:

(A) Law enforcement programs.
(B) Prosecution and court programs.
(C) Prevention and education programs.
(D) Corrections and community corrections programs.
(E) Drug treatment and enforcement programs.
(F) Planning, evaluation, and technology improvement programs.
(G) Crime victim and witness programs (other than compensation)
(H) Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.
(I) Implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to:
    (i) Mental health courts
    (ii) Drug courts
    (iii) Veterans courts
    (iv) Extreme risk protection order programs

In connection with 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."

41. Does BJA have any recommendations for how recipients should use JAG funds?

BJA recognizes that many state and local justice systems currently face challenging

fiscal environments and an important, cost-effective way to relieve those pressures is to share or leverage resources through cooperation among federal, state, and local law enforcement. Each year, BJA includes key areas of priority in the JAG solicitation and encourages recipients of JAG funds to consider coordination with federal law enforcement agencies and other stakeholders, including communities most impacted by crime and violence, in addressing these challenges identified in the key priority areas. In FY 2023, the areas of emphasis advancing justice system reform efforts, advancing racial equity and support for underserved communities, preventing and combating hate crimes, crime and violence reduction strategies, and community-based violence intervention (CVI) approaches. Detailed information on the areas of emphasis can be found in the current year JAG solicitations posted on the JAG web page.

42. What is the difference between the JAG areas of emphasis and JAG program areas?

The nine JAG Program areas are statutory and do not vary year to year absent changes to the JAG legislation. Any JAG-funded projects must have a nexus to one or more of the statutory JAG Program areas. The JAG areas of emphasis are updated annually by BJA and represent current BJA, Administration, Departmental, and/or other priorities. BJA encourages grantees to fund JAG projects that fall within one of more of these areas of emphasis; however, unlike the nine JAG Program areas, recipients are not required to utilize funds for projects that fall within the areas of emphasis.

43. What are some other examples of other potential uses of JAG funding?

JAG funds may also be used to:

- Support reentry projects with the goal of improving outcomes for incarcerated individuals returning to the community from prison or jail.
- Support projects related to preventing, detecting, seizing, and/or stopping the presence and use of contraband cellphones within correctional facilities. This includes the purchasing of managed access systems and other mitigation technologies (as permitted by applicable law).
- Purchase fentanyl and methamphetamine detection equipment, including handheld instruments and training for law enforcement safety, as well as opioid reversal agents.
- Purchase drug-detection canines to combat the rise of drug trafficking, including that of methamphetamines.
- Support efforts to seal and expunge criminal history information in accordance with state laws and policies.
- Support efforts to attract and retain an all-inclusive, diverse, expert, and accountable law enforcement workforce, with a focus on gender and racial diversity.
- Support virtual reality de-escalation training.
- Purchase humane remote restraint devices that enable law enforcement to restrain an uncooperative subject without inflicting pain.
- Purchase gunfire detection technology.
- Promote data sharing and sex offender monitoring.

Additionally, JAG funds may be used for any purpose indicated here: Purposes for Which Funds Awarded under the Edward Byrne Memorial Justice Assistance Grants (JAG) Program May Be Used.

44. Can JAG funds be used by state and local governments to increase patrols and deployments that bolster the security of at-risk nonprofit organizations?

Yes, JAG funds can be used by state and local governments for crime prevention efforts to increase patrols and deployments that bolster the security of at-risk nonprofit organizations including synagogues, churches, mosques, and other places of worship.

45. Can JAG funding be used to support election security projects?

Yes, the broad criminal justice purposes supported by the JAG program permit JAG funds to be used to deter, detect, and protect against threats of violence against election workers, administrators, officials, and others associated with the electoral process.

Please note that JAG funds cannot be used to support any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

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

The purchase of GPS trackers is allowable if the purchase is reasonably related to an allowable JAG programmatic purpose. Refer here for more information: TrackingDeviceFunding.pdf (ojp.gov).

47. Would the costs for indigent defense under the prosecution and court program area be considered allowable under the JAG program?

Grantees may use JAG funds for a wide range of state, local, and/or tribal prosecution and court programs, including indigent defense.

48. 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, the resulting DNA profiles must be eligible for upload to the Combined DNA Index System (CODIS, the national DNA database operated by the FBI) by a government DNA lab with access to CODIS (with the exception of forensic genetic genealogy). No profiles generated with JAG funding may be entered into any other nongovernmental DNA database without prior express written approval from BJA (with the exception of forensic genetic genealogy).

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

49. Can JAG funds be used to purchase Rapid DNA instruments?

It depends on how the Rapid DNA instrument will be used. **JAG funds may not be used for Rapid DNA testing of evidentiary material (e.g., crime scene samples, sexual assault kits) because the FBI has <u>not</u> authorized results of this testing for upload to CODIS. However,** JAG funds may be used to support Rapid DNA projects that meet the

requirements for participation in Rapid DNA, including those involving the purchase of Rapid DNA instruments that have been approved for use by the FBI for use in the booking environment (see the *National Rapid DNA Booking Operational Procedures Manual*).

Below is an abbreviated list of prerequisites for federal, state, and local booking agencies to participate in Rapid DNA:

- The state must have implemented an arrestee DNA collection law that authorizes DNA sample collection from a person arrested for a specified offense at the time of arrest and for which there are no additional requirements (i.e., determination of probable cause) for the analysis of that arrestee DNA sample. Federal booking agencies already meet this prerequisite.
- Electronic Fingerprint (Live Scan) integration during the booking process for obtaining State Identification Numbers (SID), or Universal Control Number for federal booking agencies, from the State Identification Bureau (FBI for federal) in near real time.
- The booking agency must have network connectivity with the State Identification Bureau/CJIS Systems Agency.
- The booking agency and/or state must technically integrate Rapid DNA within their automated fingerprint process in a way that must ensure only qualifying arrestees are processed.

It will be critical for booking agencies to work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see *National Rapid DNA Booking Operational Procedures Manual)*. BJA encourages those states with arrestee DNA collection laws that meet the prerequisites above to consider using JAG funds to implement Rapid DNA technology (or the defined prerequisites above, such as live scan integration) in booking stations within their states.

50. Can JAG funds be used for Forensic Genealogy Testing?

Yes, JAG award recipients using funds for forensic genealogy testing must adhere to the United States Department of Justice Interim Policy: Forensic Genetic Genealogical DNA Analysis and Searching.

Finally, in accordance with Section IX, grantees utilizing funds for this purpose must collect and report the following metrics to BJA:

a. The type of crime investigated.
b. Whether forensic genetic genealogical DNA analysis (FGG)/forensic genetic genealogical DNA analysis and searching (FGGS) was conducted on a forensic sample or a reference sample.
c. The type of forensic sample subjected to FGG and a description of the total amount, condition, and concentration of that sample (e.g., single source, mixed profile, degradation status, etc.).
d. Whether FGG analysis resulted in a searchable profile.
e. The identity of the vendor laboratory used to conduct FGG and the genetic genealogy service(s) used to search the FGG profile.

f. Whether the investigation resulted in an arrest that was based, in part, on the use of FGGS.
g. The total amount of federal funding used to conduct FGG/FGGS in each case.

51. 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 considering the services rendered.

52. What considerations must be taken into account for projects involving technological devices, artificial intelligence, and other data-driven solutions?
Technological devices, artificial intelligence, predictive analytics, and other data-driven solutions ("Technological Enhancements") are increasingly used to augment crime-reduction strategies and efforts. Care must be taken to assess and address any potential harm that could be activated by these solutions to ensure privacy, civil rights, and civil liberties are protected. Recipients utilizing grant funds to support technological enhancements directly should ensure those projects address the tenants of digital trust to include:

- How the technology will be carefully implemented through training of personnel and the setting and enforcement of policies governing its use to ensure that it contributes to positive outcomes for public safety, the community, and/or the criminal justice system or in civil proceedings.
- How the recipient will safeguard privacy, civil rights, and civil liberties throughout the duration of the project period.

53. What is required to use JAG funding for Facial Recognition Technology (FRT) projects?
In for JAG funds to be used for Facial Recognition Technology (FRT), the recipient must have policies and procedures in place to ensure that the FRT will be used in an appropriate and responsible manner that promotes public safety; and protects privacy, civil rights, and civil liberties; and complies with all applicable provisions of the U.S. Constitution, including the fourth amendment's protection against unreasonable searches and seizures, the first amendment's freedom of association and speech, and other laws and regulations. Recipients utilizing funds for FRT must make such policies and procedures available to DOJ upon request.

54. Is the purchase of opioid overdose reversal agents, or the use of JAG funds to support medication-assisted treatment for substance use, permissible under JAG?
Medication-assisted treatments, such as the purchase of opioid overdose reversal agents (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. For more information about law enforcement use of these types of drugs, please refer to the Naloxone Toolkit available at: Naloxone Background | Working with BJA NTTAC.

55. Can JAG funds be used to purchase canines, including those used for drug detection?

JAG funds may be used to purchase canines and related equipment/supplies to support any project or purpose with a criminal justice nexus, including drug detection, and/or for civil proceedings.

56. Can JAG funds be used to purchase firearms and ammunition, such as duty weapons and associated ammunition?

JAG funds may be used to purchase firearms and ammunition, including duty weapons and associated ammunition. However, firearms and ammunition of .50 or greater caliber and firearm silencers are strictly prohibited. In addition, specialized firearms and ammunition under .50 caliber, are controlled and require express written approval, post-award, before funds can be obligated, expended, or drawn down for the purchase or transfer of such equipment. See the JAG Prohibited and Controlled Equipment Guidance for additional information and instructions.

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

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.

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

Through its nine program areas, JAG funding may be used to support a broad range of criminal justice activities, projects, and 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, see "Are there any limitations on the use of JAG funds, including expenditures that are specifically prohibited or controlled?" JAG funds expended under these programs may also be used for civil proceedings.

59. What are the requirements for body armor vests purchased with JAG funds?

Body armor vests purchased with JAG funds must have been tested through the National Institute of Justice (NIJ) Compliance Testing Program (CTP), and found to comply with the most current NIJ body armor standards, appear on the NIJ Compliant Products List as of the date the body armor was ordered, be uniquely fitted, and be made in the United States. In addition, recipients using JAG funds for body armor vests must have a written mandatory wear policy. 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 vests, and the jurisdiction must provide a signed Body Armor Mandatory Wear Policy Certification to BJA. This certification can be signed by the grantee's authorized representative or a person officially delegated/authorized to sign on their behalf.

There are no requirements regarding the nature of the mandatory policy other than it specify when mandatory wear is required for uniformed officers on duty. Additional guidance regarding the mandatory wear requirement can be found in the BVP FAQs and the BVP Mandatory Wear FAQs.

Law enforcement agency administrators and jurisdiction CEOs can obtain a copy of the Body Armor Model Policy and Issues Paper (developed by the International Association of Chiefs of Police) by contacting the BVP Help Desk at 1–877–758–3787 or by email at vests@usdoj.gov.

If the recipient proposes to change project activities to use JAG funds to purchase body armor after the award is accepted, the recipient must submit the signed certification to BJA at that time.

Note: A Body Armor Mandatory Wear Policy Certification is also required for the purchase of vest carriers and body armor plates.

60. Can JAG funds be used to satisfy the 50 percent match requirement under the Patrick Leahy Bulletproof Vest Partnership (BVP) Program?

No. JAG funds may not be used as any part of the 50 percent match required by the BVP 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 does not require a match.

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

61. Can the receipt of JAG funds impact a jurisdiction's eligibility under the Patrick Leahy Bulletproof Vest Partnership (BVP) Program?

Pursuant to the BVP Program statute, receipt of JAG funding by a unit of local government may impact its eligibility for funding under the Patrick Leahy Bulletproof Vest Partnership (BVP) Program in the same fiscal year, unless it is a qualifying unit of local government with fewer than 100,000 residents. For more information on the BVP Program, including eligibility and application, refer to the BVP web page and the BVP FAQs.

62. 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 (PSOB) Program.

63. May a recipient use JAG funds to purchase body armor vests for firefighters or emergency medical service (EMS) personnel?

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

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

Body-worn cameras, data storage, and other related costs are allowable under JAG if the items fall within one of the nine program areas under JAG. Note that apart from the JAG Program, BJA provides funds under the competitive Body-Worn Camera Policy and Implementation Program (BWCPIP). Interested units of local government may wish to refer to the Body-Worn Cameras (BWCs) | Overview | Bureau of Justice Assistance for more information. A jurisdiction that proposes to use JAG award funds to purchase or lease BWC equipment, or to implement or enhance BWC programs, must provide to OJP a certification(s) that each jurisdiction's law enforcement agency receiving the equipment or implementing the program has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, and training. The certification form related to BWC policies and procedures under JAG can be found at: Edward Byrne Memorial Justice Assistance Grant (JAG) Program – Body-Worn Camera (BWC) Policy Certification.

This certification can be signed by the grantee's authorized representative, or a person officially delegated/authorized to sign on their behalf. JAG funds may not be used as any part of the 50 percent match required by the BWCPIP Program.

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

65. What are the requirements for using JAG funds to purchase body-worn cameras (BWCs)?

A jurisdiction that proposes to use the current year's funding award to purchase or lease BWC equipment, or to implement or enhance BWC programs, must provide to OJP certification(s) that the recipient (or, if applicable, that any subrecipient that will receive funds from the recipient for BWC purposes) has activated a comprehensive and deliberate BWC policy. 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 and the** BWC **Training and Technical Assistance website provide model BWC policies and best practices to assist departments in implementing BWC programs.**

66. Can JAG funds be used for membership dues?

Membership dues are allowable under JAG if the organizational membership is reasonably related to an allowable JAG programmatic purpose. Note: Membership fees to organizations whose primary activity is lobbying is unallowable. See 2 C.F.R. 200.454(e) and the DOJ Grants Financial Guide.

67. Can JAG funds 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, inclusive of direct administrative costs and/or indirect costs. When charged to a particular award, actual administrative costs incurred must be tracked separately and reported in the Federal Financial Reports (SF-425) for that award.

68. Are there any requirements for using JAG funds for Extreme Risk Protection Order (ERPO) programs?

Prior to the expenditure of JAG funds for an ERPO program, Certification of Compliance with Pub. L. No. 90-351, Title I, Sec. 501(a)(1)(I)(iv) must be signed by a principal legal officer, as defined below, and submitted to BJA via Program Office Approvals Grant Award Modification in JustGrants prior to the expenditure of any JAG award funds for an ERPO program.

A principal legal officer is an individual at a high level in the government, with the responsibility and authority to provide legal advice to the government. BJA expects that the principal legal officer with the requisite responsibility and authority would have a job title such as Attorney General, Deputy Attorney General, or state agency General Counsel. This guidance should not be viewed as legal advice from BJA as to the identification of the appropriate official; rather, the award recipient government should identify the appropriate official after review of this guidance, the certification of compliance, and the applicant's own governance rules and authorities.

Additionally, extreme risk protection orders programs must include, at a minimum:

a. Pre-deprivation and post-deprivation due process rights that prevent any violation or infringement of the U.S. Constitution, including but not limited to the Bill of Rights and the substantive or procedural due process rights guaranteed under the 5th and 14th amendments to the U.S. Constitution, as applied to the states and as interpreted by state courts and U.S. courts (including the Supreme Court of the United States). Such programs must include, at the appropriate phase to prevent any violation of constitutional rights, and, at minimum notice, the right to an in-person hearing, an unbiased adjudicator, the right to know opposing evidence, the right to present evidence, and the right to confront adverse witnesses.
b. The right to be represented by counsel at no expense to the government.
c. Pre-deprivation and post-deprivation heightened evidentiary standards and proof, which means not less than the protections afforded to a similarly situated litigant in federal court or promulgated by the state's evidentiary body and sufficient to ensure the full protections of the U.S. Constitution, including but not limited to the Bill of Rights and the substantive and procedural due process rights guaranteed under the 5th and 14th amendments to the U.S. Constitution, as applied to the states and as interpreted by state courts and U.S. courts (including the Supreme Court of the United States). The heightened evidentiary standards and proof under such programs must, at all appropriate phases, prevent any violation of any constitutional right, and, at minimum, prevent reliance upon evidence that is unsworn or unaffirmed, irrelevant, based on inadmissible hearsay, unreliable, vague, speculative, and lacking a foundation.
d. Penalties for abuse of the program.

69. What are the training requirements for task forces supported in whole or in part by JAG funds?

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 following online eLearning modules: Executive Leadership, Task Force Commander Leadership and Management, Safeguarding P/CRCL in Task Force Operations, and Criminal Intelligence Systems Operating Policies. 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 4 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 (Center for Task Force Training Online Training Portal). 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, the grant recipient should compile and maintain a task force personnel roster, along with course completion certificates. 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 website and the Center for Task Force Integrity and Leadership (Center for Task Force Training Online Training Portal).

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

Up to 10 percent of a JAG award, including up to 10 percent of any earned interest, may be used for costs associated with administering the award. The 10 percent statutory cap on administrative costs includes direct and/or indirect costs. For additional information on indirect costs, please see the DOJ Grants Financial Guide.

71. Can JAG funds be used for construction and/or major renovation projects?

Construction and/or major renovation projects for penal or correctional institutions is allowable with JAG funding. For guidance on construction and/or major renovation projects not related to penal or correctional institutions, see "Are there any limitations on the use of JAG funds, including expenditures that are specifically prohibited or controlled?"

Note: Any project that involves construction or major renovation will be subject to environmental analysis requirements pursuant to the National Environmental Policy Act (NEPA). Additional information on NEPA, including activities that typically require NEPA documentation, can be found at National Environmental Policy Act (NEPA) Guidance | Bureau of Justice Assistance.

72. Are there any limitations on the use of JAG funds, including expenditures that are specifically prohibited or controlled?

The JAG statute, at 34 U.S.C. § 10152(d), specifically identifies a list of prohibited items. In addition, consistent with Executive Order 14074 of May 25, 2022, "Advancing

Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety," the use of OJP grant funds for the purchase or transfer certain equipment has been designated as prohibited or controlled starting with FY 2023 OJP grant funds. Details and associated procedures for requesting prior approval (waiver), where applicable, can be found in the JAG Prohibited and Controlled Expenditures Guidance.

Lists of prohibited items, details, and associated procedures for requesting prior approval (waiver), where applicable, for JAG awards made prior to FY 2023 can be found at: https://bja.ojp.gov/doc/jag-controlled-purchase-list-pre-2023.pdf.

73. Do the limitations on the JAG funds in the JAG Prohibited and Controlled Expenditures Guidance also apply to vehicle leases and rentals?

Yes, the limitations on the use of JAG funds found in the JAG Prohibited and Controlled Expenditures Guidance apply to vehicle leases and rentals, in addition to purchases.

74. What is supplanting and do supplanting prohibitions apply to JAG funding?

Supplanting is to deliberately reduce state or local funds because of the existence of federal funds. For example, when state funds are appropriated for a stated purpose and federal funds are awarded for that same purpose, the state replaces its state funds with federal funds, thereby reducing the total amount available for the stated purpose. 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 criminal justice activities or civil proceedings. For additional information, see the DOJ Grants Financial Guide.

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

75. Can recipients use JAG funds for DCRA compliance and reporting?

Costs for compiling and submitting DCRA data to BJA via the PMT would be an allowable use of JAG funds but would be subject to the 10% administrative threshold. Costs to build or make enhancements to a justice information sharing network necessary to facilitate submission of data needed for DCRA reporting, if such a system would have an overall benefit to the larger criminal justice system under one of the JAG program areas, would potentially be allowable under JAG using non-administrative funds. Questions about other uses of JAG funds toward DCRA should be referred to BJA.

REPORTING REQUIREMENTS

76. What are the standard programmatic and financial reporting requirements once a JAG grant is awarded?

State and local recipients under the JAG Program are required to submit the following reports and data:

- Quarterly Federal Financial Reports through OJP's JustGrants System.
- Quarterly performance measurement reports through the BJA Performance Measurement Tool.

- Semi-annual performance reports through OJP's JustGrants System for all State and Local Category 2 recipients (local award amounts $25,000+). Annual performance reports through OJP's JustGrants System for all JAG Category 1 recipients (awards under $25,000).
- **All JAG recipients should submit the financial and performance reports marked "final" for the reporting period in which all activity and expenditures were completed and then the closeout. Grantees do not need to wait until the grant project period has ended if the project was completed earlier**.

***Please note that the ASAP account will be suspended if a report is delinquent and drawdowns will be prohibited until the report is submitted. (In appropriate cases, OJP may require additional reports.)**

77. When are the first reports due for JAG?

The first performance measurement (submitted through the BJA Performance Measurement Tool) and financial reports (submitted through OJP's JustGrants System) are due once the award has been accepted in JustGrants. The reporting period for both coincides with the project start date, which is backdated to the beginning of the fiscal year. For example, for an FY24 award, the initial reporting period will start on October 1, 2023. The first semi-annual or annual performance report will be a "super report" that covers the entire period from project start date to the normal reporting period after award acceptance. In this example, the first report is due January 30, 2025.

Please note that all performance reports (completed quarterly in the Performance Measurement Tool (PMT) and uploaded semi-annually in JustGrants) and quarterly financial reports must be submitted back to the start date of the award, which is always October 1 of the fiscal year. This is due to obligations being allowable retroactively back to the award start date under JAG. If no activity occurred prior to award acceptance, submitted quarterly financial reports for the periods prior should simply show no activity.

78. What reports beyond standard programmatic and financial reports may be required once a JAG grant is awarded?

- Awards that exceed $500,000 will include an additional condition that, under specific circumstances, will require the recipient to report to Federal Awardee Performance and Integrity Information System (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: Award Condition: Recipient Integrity and Performance Matters (including Recipient Reporting to FAPIIS) | Office of Justice Programs.
- Consistent with the Federal Funding Accountability and Transparency Act (FFATA) of 2006, all direct award recipients will be required to report award information on any first-tier subawards totaling $30,000 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 FFATA, are posted on the OJP website at: Award Condition: Reporting Subawards and Executive Compensation (Updated as of September 2016).

79. What is the Death in Custody Reporting Act (DCRA) reporting requirement?

The Death in Custody Reporting Act of 2013 (DCRA; Pub. L. No. 113-242) provides in part that "the State shall report to the Attorney General . . . information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility)."

State Administering Agencies (SAAs) are responsible for collecting data on a quarterly basis from local entities including local jails, law enforcement agencies, medical examiners, and other state agencies. SAAs are responsible for compiling and aggregating the data for submission to BJA.

Each quarter, states should either (1) report all deaths in custody that occurred in their jurisdictions during the corresponding quarter and provide basic information about the circumstances of those deaths or (2) affirm that no deaths in custody occurred in their jurisdictions during the reporting period. States must answer questions related to deaths in custody in BJA's Performance Measurement Tool (PMT) and submit the information by the reporting deadline. The reporting deadline is the last day of the month following the close of the quarter (January, April, July, October).

For each death in custody, states must enter the following information into the PMT:

- The decedent's name, year of birth, gender, race, and ethnicity.
- The date, time, and location of the death.
- The law enforcement or correctional agency involved.
- Manner of death.
- Description of the circumstances leading to the death.

States must sufficiently answer all questions related to deaths in custody before they can submit the information in the PMT. If a state does not have sufficient information to complete certain data elements, they may enter "unknown" data values (when allowed in the PMT). For cases that remain under investigation, the "manner of death" should be reported as "unavailable, investigation pending," and the state should specify when it anticipates obtaining the information. Once the information is available, states **will** need to have the PMT Helpdesk unlock their reports to update them. If the information is not updated, BJA will follow up with states in subsequent reporting periods to update previous entries**.**

For additional information on DCRA reporting requirements, please reference the DCRA Webpage, BJA DCRA Factsheet, BJA DCRA TTA Webpage, and the supplementary

FAQ document on BJA's Performance Measurement web page.

Units of local government are strongly encouraged to cooperate with DCRA data collection efforts within their state.

AWARD ADMINISTRATION

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

The JustGrants system will send an email notification to the Application Submitter, the Authorized Representative, and the Entity Administrator with instructions to login to the system, make necessary assignments, and review and accept the award. For more information on award acceptance, please refer to the Grantee Acceptance Job Aid Reference Guide.

81. 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 nonfederal 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 Award Modification (GAM).

If and when the recipient makes a valid acceptance of the award and OJP modifies each applicable withholding condition, 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 are allowable costs under the award.

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

The Entity Administrator (EA) for the grantee's entity profile in JustGrants is responsible for ensuring that required roles are kept up to date in the system. See the JustGrants Entity Management Training Resources.

83. What is the process for a recipient to decline a JAG award?

A JAG recipient should contact the BJA grant manager if it is contemplating declining a JAG award. To do so, it will need to submit a letter on letterhead to BJA declining the award and the reason for doing so; the letter must be signed by the highest elected official. If the award is for a disparate group, all members of the group must be declining

funding for it to be properly declined. Upon submission of the letter to BJA, the award can be declined in JustGrants. Review the Grantee Acceptance Job Aid Reference Guide for more information.

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

JAG award payments are processed through the Department of the Treasury's Automated Standard Application for Payments (ASAP). If a JAG recipient has previously enrolled in ASAP, it will not need to do so again upon receipt of a new JAG award, unless it is applying under a different UEI/SAM registration. For new recipients or recipients receiving funding under a UEI/SAM registration through which it has not previously received DOJ funding, the ASAP registration will need to be completed upon award acceptance in JustGrants.

For more information on how to request funds using ASAP, please reference this user guide. For **questions related to the use of the ASAP system**, please contact the OCFO Customer Service Center by email at Ask.OCFO@usdoj.gov or by phone at 800–458–0786.

The Department of the Treasury organizes ASAP webinar trainings on a regular basis. Please refer to the ASAP website for more information on ASAP-related training and resources.

85. Are JAG funds that are drawn down fully in advance required to be deposited into a trust fund account?

Yes. 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.

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

All JAG funds, including interest earned, must be obligated on/after the project start date up to the award end date. Funds that were properly obligated during the project period must be liquidated no later than **120 days** after the project end date. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

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

As noted in the previous FAQ titled *"Are states required to pass-through funding to local jurisdictions?"*, the two types of pass-through that SAAs must administer include Variable Pass-Through (VPT) and less than $10,000.

In certain circumstances, a recipient state may request that a state-administered project and/or a project administered by a non-profit (instead of a unit of local government) may contribute to meeting the VPT or the less than $10,000 pass-through requirement. In general, a state may do so to the extent that (1) the state-administered or non-profit 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 or non-profit subaward funds would directly benefit the unit of local government in question and agrees that funding the project is in the best interests of the unit of local government.

To request a waiver of the VPT or less than $10,000 pass-through requirement an SAA must:

1. Using OJP's JustGrants system, submit a "Programmatic Costs" Grant Award Modification (GAM), marked "Other" and with "JAG—Pass-through Waiver" typed in the available text box.
2. Attach to the GAM a letter, on the letterhead of the recipient jurisdiction and signed by the recipient's "authorized representative" for the JAG award in question, that:
   (a) Provides a summary of the project(s) and stipulates the project(s) will directly benefit one or more units of local government.
   (b) Lists one or more units of local government that agrees funding of the project is in the best interest of the unit of local government.
   (c) Includes the voluntary written certification(s) from the unit(s) of local government acknowledging the specified amount of state-administered funds would directly benefit the unit of local government and agrees that that the project at the state level is in the best interests of the unit of local government.

88. What are the rules pertaining to tracking and expending funds, including administrative funds across 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. However, grantees must be able to track funds separately by award; see DOJ Grants Financial Guide, Section 2.3 for more information.

89. If an agency proposes to use JAG funding to enter a sole source contract greater than $250,000, what is the process?

State agencies (including territories) are required to follow their own procurement standards as it relates to competition. For all other JAG recipients, if a proposed procurement contract would exceed the simplified acquisition threshold—currently $250,000—a recipient of an OJP award may not proceed without competition unless and until the recipient receives specific advance authorization ("sole source" approval) from OJP to use a noncompetitive approach for the procurement. For more information, please see the DOJ Grants Financial Guide, Section 3.8.

90. What is the process for modifying budgets under JAG?

If your agency would like to modify its JAG budget, email your grant manager with the details of all requested changes. Your grant manager will help you determine whether a Grant Award Modification (GAM) must be submitted in JustGrants. If a GAM is deemed necessary, a Programmatic GAM must be submitted with supporting justification that indicates the reason the modification is requested, as well as a revised budget worksheet and budget narrative. All reporting requirements must be met in order for the GAM to be approved. The assigned BJA grant manager, listed in JustGrants, and the full JAG grant manager listing can be found here:

- Contact list for state and local JAG grants with award amounts of $18,000 or more.
- Contact list for local JAG grants with award amounts of less than $18,000.

91. Can a recipient request to close out a JAG award prior to its end date? If so, are there any advantages for doing so?

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 final performance report must be submitted in JustGrants 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 JustGrants. The early closure of JAG awards helps demonstrate the effectiveness/impact of JAG funding and saves time for grantees because no additional reports are required after closeout.

92. What are the requirements to close out a JAG award, and when must closeouts be submitted?

In order to close a JAG award in compliance, final progress and financial reports must be submitted and approved and all withholding special conditions must be resolved. A closeout must be submitted 120 days after the project end date. For assistance with submitting a closeout in JustGrants, please refer to the Entity Users Closeout: Job Aid Reference Guide on the JustGrants training page.

93. How can a JAG grantee submit a success story to BJA?

The Success Spotlight webpage contains stories highlighting how BJA grant funds are being used across the country and the impact the funding has had on the recipient agencies and organizations, as well as the communities they serve. This webpage 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. If you have a story you would like to share for possible inclusion on the BJA site, you can do so using the Submit a Success Story form.