

**TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT**  
**CHAPTER 10 DRUG CONTROL PROGRAMS**  
**PART 2 APPLICATION PROCEDURES GOVERNING THE RECOVERY AND**  
**REINVESTMENT: EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT**  
**PROGRAM**

**10.10.2.1 ISSUING AGENCY:** Department of Public Safety  
[10.10.2.1 NMAC - Rp 10 NMAC 10.2.1, 3-15-00]

**10.10.2.2 SCOPE:** All eligible Edward Byrne Justice Assistance Grant Program (JAG) applicants  
[10.10.2.2 NMAC - Rp 10 NMAC 10.2.2, 3-15-00; A, 07-29-05]

**10.10.2.3 STATUTORY AUTHORITY:** NMSA 1978 Section 9-19-6.  
[10.10.2.3 NMAC - Rp 10 NMAC 10.2.3, 3-15-00; A, 07-29-05; A, 4-15-09; A, 8-31-09]

**10.10.2.4 DURATION:** Subject to award by federal agency  
[10.10.2.4 NMAC - Rp 10 NMAC 10.2.4, 3-15-00]

**10.10.2.5 EFFECTIVE DATE:** March 15, 2000 unless a later date is cited at the end of a section.  
[10.10.2.5 NMAC - Rp 10 NMAC 10.2.5, 3-15-00]

**10.10.2.6 OBJECTIVE:**

**A.** The U.S. department of justice, bureau of justice assistance (BJA), under the American Recovery Act of 2009 (Public Law 111-5 (the "Recovery Act") and by 42 U.S.C 37519a) provides states and units of local government with funds to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice.

**B.** This initiative is intended to add to, augment or supplement, not replace, resources already committed to the drug and violent crime control effort.  
[10.10.2.6 NMAC - Rp 10 NMAC 10.2.6, 3-15-00; A, 07-29-05; A, 4-15-09]

**10.10.2.7 DEFINITIONS:** Reserved  
[10.10.2.7 NMAC - Rp 10 NMAC 10.2.7, 3-15-00]

**10.10.2.8 ELIGIBLE APPLICANTS:** Eligible applicants are limited to local units of government only. A unit of local government is : a town, township, village, parish, city, county, or other general purpose political subdivision of a state; any law enforcement district or judicial enforcement district that is established under applicable state law and has authority to, in a manner independent of other state entities, establish a budget and impose taxes; or federally recognized Indian tribe or Alaskan native organization that performs law enforcement functions as determined by the secretary of the interior. In addition, local units of government who are eligible to receive a direct award through the bureau of justice assistance are not eligible to apply to the department of public safety for JAG funding. The department of public safety will accept applications for private or for profit businesses, limited to the evaluation component only.  
[10.10.2.8 NMAC - Rp 10 NMAC 10.2.8, 3-15-00; A, 05-31-02; A, 07-29-05; A, 07-31-07; A, 4-15-09; A, 8-31-09]

**10.10.2.9 INELIGIBLE APPLICANTS:** The following jurisdictions are eligible to receive a **direct** JAG award through BJA; therefore, the following jurisdictions **are not** eligible to receive funding through the New Mexico department of public safety.

- A.** Acoma tribal police department
- B.** Alamogordo city
- C.** Artesia city
- D.** Aztec city
- E.** Belen city
- F.** Bloomfield city
- G.** Cibola city
- H.** De Baca county
- I.** Deming city

- J.** Grants city
- K.** Lincoln county
- L.** Los Alamos county
- M.** Los Lunas village
- N.** Luna county
- O.** Otero county
- P.** Pueblo of Laguna tribal police department
- Q.** Rio Arriba county
- R.** Ruidoso village
- S.** Taos county
- T.** Taos tribal police department
- U.** Taos town
- V.** Torrance county
- W.** Valencia county
- X.** Zuni tribal police department

[10.10.2.9 NMAC - Rp 10 NMAC 10.2.9, 3-15-00; A, 05-31-02; A, 05-28-04; A, 07-29-05; A, 07-31-07; 10.10.2.9 NMAC - N, 4-15-09]

**10.10.2.10 HOW TO APPLY:** Application packets will be available after August 31, 2009. To obtain a packet in either electronic form or hard copy, contact: the grants management bureau, department of public safety, 4491 Cerrillos Road, Post Office Box 1628, Santa Fe, New Mexico 87504-1628 or by calling (505) 827-3347 or (505) 827-9112. Application packets must be completed in full with appropriate signatures, postmarked or delivered to the grants management bureau by 5:00 P.M. on September 25, 2009.

[10.10.2.10 NMAC - Rp 10 NMAC 10.2.10, 3-15-00; A, 05-31-02; A, 05-28-04; A, 07-29-05; A, 07-31-07; A, 07-31-08; 10.10.2.10 NMAC - N, 4-15-09; A, 8-31-09]

**10.10.2.11 DISTRIBUTION OF FORMULA FUNDS:** Variable pass-through: A minimum of 49.29% must be passed through to local units of government (as defined in 10.10.2.8 NMAC). States may exceed the minimum pass-through by providing funds not used at the state level to local units of government. State funds are available for the evaluation component only.

[10.10.2.11 NMAC - Rp 10 NMAC 10.2.11, 3-15-00; A, 05-31-02; A, 05-28-04; A, 07-29-05; A, 07-31-07; A, 07-31-08; 10.10.2.11 NMAC - Rn & A, 10.10.2.9 NMAC, 4-15-09; A, 8-31-09]

**10.10.2.12 AUTHORIZED PROJECTS/PROGRAM AREAS**

**A.** Authorized programs for Recovery Act funding are listed below. Approved program purpose areas:

- (1) law enforcement
- (2) planning, evaluation and technology improvement programs.

**B.** Applicants may request copies of the New Mexico drug strategy by writing the department of public safety, grants management bureau, post office box 1628, Santa Fe, New Mexico 87504 or by calling (505) 827-3347 or (505) 827-9112.

[10.10.2.12 NMAC - Rp 10 NMAC 10.2.12, 3-15-00; A, 07-29-05; A, 07-31-08; 10.10.2.12 NMAC - Rn & A, 10.10.2.10 NMAC, 4-15-09]

**10.10.2.13 APPLICATION REQUIREMENTS:** All applicants for funding under the JAG formula grant program must adhere to the following procedures.

**A.** Application deadline: All applications must be received at the grants management bureau, department of public safety postmarked or hand-delivered no later than 5:00 P.M., September 25, 2009. It is the responsibility of the applicant to ensure that the application is received by the grants management bureau, department of public safety. Any application not received or postmarked by the deadline will not be considered.

**B.** Each applicant shall forward **an original and six copies** of the application to the grants management bureau, 4491 Cerrillos Road, Post Office Box 1628, Santa Fe, New Mexico 87504-1628, phone number (505) 827-3347.

**C.** Single purpose area rule: Only applications proposing to carry out a project in one single program will be accepted for funding consideration.

**D.** Proposed project term: The term of the project proposed in the application shall be from October 1, 2009 through June 30, 2011. The state recognizes that continued funding of successful projects is paramount to the success of the overall program. Projects should be designed to be consistent with the multi-year state strategy.

**E.** Certification requirements: Drug free workplace requirement: This applies to state agencies **ONLY**. Title V, Section 5153, of the Anti-Drug Abuse Act of 1988 provides that all state agencies receiving federal funds shall certify and submit proof to the granting agency that it will provide a drug-free workplace.

**F.** Debarment, suspension, ineligibility, and voluntary exclusion: All applicants for funds will be required to complete a certification stating that the applicant has not been suspended, debarred, or is otherwise ineligible to participate in this federal program.

**G.** Disclosure of lobbying activities requirement: Section 319 of Public Law 101-121 generally prohibits recipients of federal contracts, grants and loans from using appropriated funds for lobbying the executive or legislative branches of the federal government in connection with a specific contract, grant or loan. Section 319 also requires each person who requests or receives a federal contract, grant, cooperative agreement, loan or a federal commitment to insure or grant a loan, to disclose lobbying. The term "recipient" as used in this context does not apply to Indian tribes, organizations, or agencies.

**H.** Disclosure of federal participation requirement: Section 8136 of the Department of Defense Appropriations Act (Stevens Amendment) enacted in October 1988, requires that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, all grantees receiving federal funds, including but not limited to state and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with federal money, and (2) the dollar amount of federal funds for the project or program. This applies only to subgrantees who receive \$500,000 or more in the aggregate during a single funding year.

**I.** General financial requirements: Grants funded under the formula grant program are governed by the provisions of 28 CFR Part 66, Common Rule, Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Government and the office of management and budget (OMB) circulars applicable to financial assistance. These circulars along with additional information and guidance contained in "OJP financial guide for grants" (current edition), are available from OJP and from the grants management bureau. This guideline manual provides information on cost allowability, methods of payment, audits, accounting systems and financial records.

**J.** Audit requirement: Agencies applying for federal funds must assure that they will comply with the appropriate audit requirement. Subgrantees expending \$500,000 or more in a fiscal year in all sources of federal funding shall have a single-organizationwide audit conducted in accordance with OMB circular A-133, as amended.

**K.** Confidential funds requirement: State agencies and local units of government may apply for and receive grants to conduct law enforcement undercover operations. Each agency must certify that it will develop policies and procedures to protect the confidentiality of the operations. Agencies must also certify that they will comply with the office of justice programs financial guide current edition.

**L.** Civil rights requirement: The applicant certifies that it will comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; Title II of the Americans With Disabilities Act of 1990 42 U.S.C. 12131; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Department of Justice Nondiscrimination Regulations 28 CFR Part 35 and 42, Subparts C, D, E and G; and Executive Order 11246, as amended by Executive Order 11375, and their implementing regulations. This applicant further certifies that if a federal or state court or the administrative agency makes a finding of discrimination, it will immediately forward a copy of the finding to the grantor agency, for submission to the office of civil rights, office of justice programs, U.S. department of justice within 30 days of receipt.

[10.10.2.13 NMAC - Rp 10 NMAC 10.2.13, 3-15-00; A, 05-31-02; A, 05-28-04; A, 07-29-05; Repealed, 07-31-07; 10.10.2.13 NMAC - Rn & A, 10.10.2.11 NMAC, 4-15-09; A, 8-31-09]

**10.10.2.14 APPLICATION PARTS:** The application must include all of the following parts in order to be considered for this funding.

**A.** Title page: (one page limit) Name of agency, project title, and purpose area.

**B.** Coversheet: (one page limit) Application (lead agency), address, county/counties served, congressional district, contact person, contact person telephone number, agency type, application type, joint application, federal grant funds requested, program area, and certification.

**C.** Table of contents: (one page limit) The table of contents should list the contents of the application, in the order in which they appear.

**D.** General overview: (one page limit) State a general overview of the program, to include what your program will accomplish, keeping it simple and to the point.

**E.** Problem statement: (no more than five page limit) Should include, but not limited to: description of the geographic area affected; description of the problem; who does the problem affect; how will program address the problem; and, provide statistical data to reinforce problem data.

**F.** Goals, objectives, and methods of accomplishments: (no page limit) Explain the goal of the project in simple and straight-forward terms, one or two goals specifically related to the program's purpose area are sufficient. Each goal should have at least one measureable output linked to a desired outcome. Additionally, explain how the program will preserve and create jobs as outlined in the Recovery Act. The goals, objectives, and methods of accomplishments must include:

(1) project objectives that are linked to meaningful and measureable outcomes consistent with the goals of the Recovery Act, and the likelihood of achieving such outcomes, such as job creation and preservation;

(2) organization capabilities and competencies, including a description of how the organization will track all drawdowns and grant expenditures separately from other funding sources;

(3) activities that can be started and completed expeditiously, and in a manner that maximizes job creation and economic benefits.

**G.** Project evaluation: (no more than three page limit) The evaluation must tie to the objectives and the BJA established performance measures. Applicants will be responsible for answering the following questions: How will you know the project is working? How will you determine if you are meeting your objectives?

**H.** Sustainment: (one page limit) Explain how the project will continue operations after the termination of this award. There is no guarantee grant funds will be available for your project in the future. Provide a detailed summary of the plan to continue operations when funds are not available or are significantly reduced.

**I.** Statement of coordination and funding: (narrative no more than five page limit) State participating agencies involved or have an interest in this program. State other funding sources available to your program and explain how you will coordinate all funding sources to maximize program impact. Multi-jurisdictional task forces must provide a joint powers agreement (JPA) or a memorandum of understanding (MOU). Letters of support must be addressed to the cabinet secretary and included in the application, but not mailed to the secretary directly. Letters of commitment should be addressed to the head of the agency applying for the funds. JPAs and MOUs must be signed by all agencies participating in joint applications.

**J.** Budget detail and budget narrative (no page limit) The budget detail is limited to the following categories: personnel, fringe benefits, contractual services, travel, equipment, supplies, and other costs. The budget narrative explains how the costs were estimated and justifies the need for the cost.

[10.10.2.14 NMAC - Rp 10 NMAC 10.2.14, 3-15-00; A, 05-31-02; A, 05-28-04; A, 07-29-05; A, 07-31-08; 10.10.2.14 NMAC - N, 4-15-09; A, 8-31-09]

**10.10.2.15 APPLICATION FORMAT: All applications should follow the format outlined below.**

**A.** Applications should be typewritten except for the coversheet. The original copy must be stapled in the upper left hand corner and two-hole punched at the top.

**B.** Applications are to be typed, single spaced. Font size must be comparable in size to 12 point times roman or courier.

**C.** Adhere to page limits for each part of the grant application.

**D.** Place footer in lower right hand corner with a project title and page number.

**E.** Include all required forms, such as signed certifications.

[10.10.2.15 NMAC - Rp 10 NMAC 10.2.15, 3-15-00; A, 05-28-04; A, 07-29-05; A, 07-31-08; 10.10.2.15 NMAC - N, 4-15-09]

**10.10.2.16 ALLOWABLE/UNALLOWABLE EXPENSES:** In order to ensure the most efficient and effective use of grant funds, applicants must adhere to the following.

**A.** Administrative expenses: Applicants shall limit total administrative expenses to no more than five percent (5%) of their grant award. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of administrative costs.

**B.** General salaries and personnel costs: Payment of personnel costs with grant funds is permitted if the costs are part of an approved program or project. Applicants must provide a copy of their agency's overtime policy with the grant application for review and prior approval by the department of public safety prior to overtime reimbursement. General salary and personnel costs must:

(1) reflect an after-the-fact distribution of the actual activity of each employee;

(2) account for the total activity for which each employee is compensated.

C. Expenditures for purchase of services, evidence, and information (confidential funds): Formula grant funds which may be used for confidential expenditures are defined as funds used for the purchase of services, purchase of physical evidence and information, including buy money, flash rolls, etc. Guidelines related to confidential expenditures are found in OJP financial guide for grants. The grants management bureau has the authority to approve the allocation, use, and expenditure of formula funds for confidential expenditures. **All applications containing projects which utilize funds for confidential expenditures must contain an assurance that the guidelines found in OJP financial guide for grants will be followed.**

D. Land acquisition: Acquisition of land with grant funds is prohibited.

E. Audit costs: Expenses associated with conducting audits of programs/projects funded with formula grants are allowable expenses and may be paid with administrative funds, program funds, or a combination of both.

F. Non-supplanting: Formula grant funds shall not be used to supplant applicant funds, but will be used to increase the amount of such funds that would, in the absence of federal aid, be made available for law enforcement activities.

G. Participation in drug enforcement administration task forces: Formula grant funds may be used for expenses associated with participation of the state or units of local government, or combination thereof, in the state and local task force program established by the drug enforcement administration (Section 504 (c) of the act). [10.10.2.16 NMAC - Rp 10 NMAC 10.2.16, 3-15-00; 10.10.2.16 NMAC - Rn & A, 10.10.2.12 NMAC, 4-15-09]

#### **10.10.2.17 REPORTING AND OTHER REQUIREMENTS:**

A. Accountability and transparency under the Recovery Act: consistent with the special purposes and goals of the Recovery Act, and its strong emphasis on accountability and transparency, it is essential that all funds from a Recovery Act grant be tracked, accounted for, and reported on separately from all other funds (including DOJ grant funds from non-Recovery Act grants awarded for the same or similar purposes or programs). Recipients must also be prepared to track and report on the specific outcomes and benefits attributable to use of Recovery Act funds. Each sub-recipient will be responsible for having completed reports sent to the grants management bureau **no later than five days after the end of each calendar quarter**. Each recipient that received recovery funds shall submit a report to the grants management bureau that contains:

- (1) the total amount of recovery funds received;
- (2) the amount of recovery funds that were expended or obligated;
- (3) a detailed list of all projects or activities for which recovery funds were expended or obligated;

- (a) the name of the project or activity;
- (b) a description of the project or activity;
- (c) an evaluation of the completion status of the project or activity;
- (d) an estimate of the number of jobs created and the number of jobs retained by the project or

activity; and,

(e) for infrastructure investments made by state or local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this act, and the name of the person to contact at the agency if there are concerns with the infrastructure investment.

B. Detailed information to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the director to the office of management and budget.

C. To assist in fulfilling the accountability objectives of the Recovery Act, as well as the department's responsibilities under the Government Performance and Results Act of 1993 (GPRA), (Public Law 103-62), applicants who receive funding under this solicitation must provide data that measures the result of their work.

D. Recipients will also be required to submit quarterly progress reports, either semi-annually or annually. **The department of public safety may withhold the reimbursement of funds if any award recipient is delinquent in submitting the required progress reports.**

E. Financial requirements: Recipient agrees to comply the financial and administrative requirements set forth in the current edition of the office of justice programs (OJP) financial guide.

F. Audit requirements: The recipient agrees to comply with the organizational audit of OMB circular A-133, audit of states, local government, and non-profit organizations, as further described in the current edition of the OJP financial guide, chapter 19.

**G.** Non-supplanting: Formula grant funds shall not be used to supplant applicant funds, but will be used to increase the amount of such funds that would, in the absence of federal aid, be made available for law enforcement activities.

[10.10.2.17 NMAC - N, 4-15-09]

**10.10.2.18 RATING CRITERIA:** Rating will be based on the different parts of the application, and will be assigned the following scores based on a 100 point scale.

- A.** Title page - up to two points.
- B.** Coversheet - up to two points.
- C.** Table of contents - up to two points.
- D.** Page limitation - four points (if any part is over the stated page limit, no points will be assigned).
- E.** General overview - up to five points.
- F.** Problem statement - up to 20 points.
- G.** Goals, objectives, and methods of accomplishments - up to 25 points.
- H.** Project evaluation - up to 10 points.
- I.** Sustainment - up to 10 points.
- J.** State if coordination - up to 10 points.
- K.** Budget detail and budget narrative - up to 10 points.

[10.10.2.18 NMAC - Rn & A, 10.10.2.14 NMAC, 4-15-09]

**10.10.2.19 SELECTION PROCESS:** The department of public safety will make a decision on each complete application 30 days after the application deadline. Failure to submit a complete application will result in ineligibility. The failure of an application to conform to state program priorities or to meet criteria set forth in this document may constitute reason for disapproval. The selection process is as follows.

- A.** Upon receipt of applications, the grants management bureau staff will review the applications for eligibility, completeness, and compliance.
- B.** Eligible applications will be forwarded to a panel for review and rating. The selection panel through the grants management bureau will submit their recommendations for consideration to the cabinet secretary.
- C.** The cabinet secretary of the department of public safety has the final authority in the awarding of grants.
- D.** All applicants will be notified in writing of the outcome of their application no later than 30 days after the application deadline.
- E.** Unsuccessful applications may appeal if the applicant feels any federal or state regulation involving selection was violated. Appeals must be received by the New Mexico department of public safety, grants management bureau within 15 calendar days of receipt of the outcome notification. A three-member appeal panel shall review the alleged violation, decide on its validity, and make a recommendation to the cabinet secretary of the department of public safety. If an appeal is received by the department of public safety all funding decisions will be delayed until the appeal has been reviewed and a final decision has been made by the cabinet secretary. The cabinet secretary's decision shall be final.

**F.** The New Mexico department of public safety reserves the right to reduce any request based on funding availability and other factors as determined by the New Mexico department of public safety.

[10.10.2.19 NMAC - Rn & A, 10.10.2.15 NMAC, 4-15-09; A, 8-31-09]

**10.10.2.20 SUSPENSION AND TERMINATION OF FUNDING:** The state may, after reasonable notice and failure of informal efforts to effect resolution, suspend, in whole or in part, or after reasonable notice and opportunity for a hearing, terminate, in whole or in part, funding for program or project which fails to conform to the requirements or statutory objectives, the program or financial regulations and policies or the terms and conditions of its grant award. Hearing and appeal procedures for termination actions are set forth in department of justice regulations at 28 CFR part 18.

[10.10.2.20 NMAC - Rn & A, 10.10.2.16 NMAC, 4-15-09]

#### **HISTORY OF 10.10.2 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under:

DPS/ODC 90-1, Drug Control and System Improvement Grant Program, 3-12-90

DPS/ODC 91-1, Regulations Governing the Drug Control and System Improvement Grant Program, 5-10-91

DPS/OSP 92-1, Regulations Governing the Drug Control and Systems Improvement Grant Program, 2-12-92

DPS/OSP 93-1, Regulations Governing the Drug Control and System Improvement Formula Grant Program, 3-4-93

DPS/OSP 94-1, Regulations Governing the Drug Control and System Improvement Formula Grant Program, 2-15-94

DPS/OSP Rule 95-1, Applications Procedures Governing the Drug Control and System Improvement Formula Grant Program, 2-14-95

**NMAC HISTORY:**

10 NMAC 10.2, Application Procedures Governing the Drug Control and System Improvement (DCSI) Formula Grant Program, 2-17-98

**HISTORY OF REPEALED [RESERVED]**