

**TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT**  
**CHAPTER 10 DRUG CONTROL PROGRAMS**  
**PART 3 APPLICATION PROCEDURES GOVERNING THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM**

**10.10.3.1 ISSUING AGENCY:** Department of Public Safety  
[10.10.3.1 NMAC - Rp, 10.10.3.1 NMAC, 3/29/2013]

**10.10.3.2 SCOPE:** All eligible Edward Byrne Justice Assistance Grant Program (JAG) applicants.  
[10.10.3.2 NMAC - Rp, 10.10.3.2 NMAC, 3/29/2013]

**10.10.3.3 STATUTORY AUTHORITY:** 42 U.S.C. 3751 (a), P.L. 108-447, "Consolidated Appropriations Act, 2005", NMSA 1978 Section 9-19-6, and P.L. 109-162.  
[10.10.3.3 NMAC - Rp, 10.10.3.3 NMAC, 3/29/2013]

**10.10.3.4 DURATION:** Subject to award by federal agency.  
[10.10.3.4 NMAC - Rp, 10.10.3.4 NMAC, March 29, 2013]

**10.10.3.5 EFFECTIVE DATE:** March 29, 2013, unless a later date is cited at the end of a section.  
[10.10.3.5 NMAC - Rp, 10.10.3.5 NMAC, 3/29/2013]

**10.10.3.6 OBJECTIVE:**

**A.** The U.S. department of justice, bureau of justice assistance (BJA), under the Consolidated Appropriations Act, 2005, Public Law 108-447 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.  
[10.10.3.6 NMAC - Rp, 10.10.3.6 NMAC, 3/29/2013]

**10.10.3.7 DEFINITIONS:** [Reserved]  
[10.10.3.7 NMAC - Rp, 10.10.3.7 NMAC, 3/29/2013]

**10.10.3.8 ELIGIBLE APPLICANTS:**

**A.** Eligible applicants are limited to state agencies and local units of government. 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. State institutions of higher learning are considered to be "state agencies" for eligibility purposes.

**B.** Previous program recipients shall be in compliance with the stipulations of all previous awards in order to continue to be eligible.

**C.** Additionally, all applicants shall be in compliance with the required *uniform crime reporting* requirements under 29-3-11 NMSA.  
[10.10.3.8 NMAC - Rp, 10.10.3.8 NMAC, 3/29/2013]

**10.10.3.9 HOW TO APPLY:** To obtain an application 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.  
[10.10.3.9 NMAC - Rp, 10.10.3.9 NMAC, 3/29/2013]

**10.10.3.10 DISTRIBUTION OF FUNDS:** Amounts of pass-through funding will be provided in the notice of funding availability and application packet and shall be as set forth by the U.S. department of justice – bureau of justice assistance. New Mexico may exceed the minimum pass-through amount as set forth by U.S. department of justice – bureau of justice assistance, by providing funds not used at the state level to local units of government.

[10.10.3.10 NMAC - Rp, 10.10.3.10 NMAC, 3/29/2013]

**10.10.3.11 AUTHORIZED PROJECTS/PROGRAM AREAS:** Authorized purpose areas and programs eligible for funding will be further described in the notice of funding availability and application packet.

[10.10.3.11 NMAC - Rp, 10.10.3.11 NMAC, 3/29/2013]

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

**A.** Application deadline: All application packets must be received at the grants management bureau, department of public safety no later than the time and date stated in the application packet. 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 by the deadline will not be considered.

**B.** Each applicant shall forward **one original hard copy and an electronic copy** 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 area will be accepted for funding consideration projects with multiple purpose areas will not be considered.

**D.** Proposed project term: The term of the project proposed in the application shall follow the state of New Mexico's fiscal year.

**E.** Certification requirements: All applicants must adhere to all of DOJ's and NMDPS's certification application requirements, and any other requirements that may be imposed by DOJ.

**F.** 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 partners who receive \$500,000 or more in the aggregate during a single funding year.

**G.** 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 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 allowable costs, methods of payment, audits, accounting systems, and financial records.

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

**I.** 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.

**J.** 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.

[10.10.3.12 NMAC - Rp, 10.10.3.12 NMAC, 3/29/2013]

**10.10.3.13 APPLICATION FORMAT:** Upon approval of the notice of funding availability (NOFA) and application packet by New Mexico's drug enforcement advisory council, the GMB may release the NOFA and application. Upon release, all applications must follow the format outlined in the current notice of funding availability provided by the New Mexico department of public safety.

[10.10.3.13 NMAC - Rp, 10.10.3.14 NMAC, 3/29/2013]

**10.10.3.14 ALLOWABLE/UNALLOWABLE EXPENSES:** In order to ensure the most efficient and effective use of grant funds, applicants must adhere to the following: All allowable and unallowable expenses will be clearly defined in the notice of funding availability and application packet and shall be in accordance with the current edition of the office of justice programs financial guidelines.  
[10.10.3.14 NMAC - Rp, 10.10.3.15 NMAC, 3/29/2013]

**10.10.3.15 SUPPLANTING:** Federal funds must be used to supplement existing funds for program activities and cannot replace or supplant nonfederal funds that have been appropriated for the same purpose.  
[10.10.3.15 NMAC - N, 3/29/2013]

**10.10.3.16 REPORTING AND OTHER REQUIREMENTS:**

**A.** Accountability and transparency: a strong emphasis will be placed on accountability and transparency, it is essential that all funds be tracked, accounted for, and reported. Sub-recipients must be prepared to track and report on the specific outcomes and benefits attributable. Each sub-recipient will be responsible for having completed reports sent to the grants management bureau pm the prescribed scheduled included within the NOFA, Application, and any subsequent sub-grant agreement. Each recipient that receives JAG funds shall submit a report to the grants management bureau that contains, at a minimum:

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

**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, 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.** In accordance with 2 CFR Chapter 1, Part 170 REPORTING SUB-AWARD AND EXECUTIVE COMPENSATION INFORMATION, applicants should anticipate that all recipients (other than individuals) of awards of \$25,000 or more under this solicitation, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), will be required to report award information on awards totaling \$25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient.

**E.** Recipients shall also be required to submit quarterly progress reports. The department of public safety may withhold the reimbursement of funds if any award recipient is delinquent in submitting the required progress reports. Sub-grantees are required to submit any additional requirements as set forth by DOJ and NM DPS.

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

**G.** 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.

[10.10.3.16 NMAC - Rp, 10.10.3.16 NMAC, 3/29/2013]

**10.10.3.17 RATING CRITERIA:** The rating criteria will be as set forth in the notice of funding of availability and application packet.  
[10.10.3.17 NMAC - Rp, 10.10.3.17 NMAC, 3/29/2013]

**10.10.3.18 SELECTION PROCESS:** The department of public safety, in conjunction with the drug enforcement advisory council (DEAC), will make a decision on each complete application. The failure of an application to conform to state program priorities, as outlined in the notice of funding availability and application packet, may deem the application ineligible. The selection process is as follows.

**A.** Upon receipt, the grants management bureau staff will review the applications for completeness and conduct an internal evaluation, review and ranking of each application.

**B.** Complete applications will be forwarded to the drug enforcement advisory council (DEAC) budget sub-committee for review and rating. The subcommittee, through the grants management bureau, will submit their recommendations to DEAC for ratification.

**C.** The final recommendations will be forwarded to the cabinet secretary of the department of public safety.

**D.** The cabinet secretary of the department of public safety has the final authority in the awarding of grants.

**E.** All applicants will be notified in writing of the outcome of their application no later than 30 days after the application deadline.

**F.** Unsuccessful applicants may appeal if the applicant believes 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.

**G.** The New Mexico department of public safety reserves the right to reduce or deny any request based on funding availability and other factors as determined by the New Mexico department of public safety. [10.10.3.18 NMAC - Rp, 10.10.3.18 NMAC, 3/29/2013]

**10.10.3.19 SUSPENSION AND TERMINATION OF FUNDING:** The state may, after reasonable notice and informal efforts to effect resolution, suspend, in whole or in part, funding for program or project which fails to conform to the requirements of the program or financial regulations and policies or the terms and conditions of its grant award.

**A.** All successful applicants shall be required to expend at least thirty-five percent of their award by the end of the second quarter and at least seventy percent of their award by the end of the third quarter, of any award period.

**B.** If a successful applicant fails to expend their funds in accordance with the above-cited requirements, the difference between the actual expenditures and the required expenditures shall be reverted at the end of each milestone/benchmark accordingly.

**C.** If extenuating circumstances exist, applicants may petition the drug enforcement advisory council through its budget and funding subcommittee for relief of the reversion of un-expended funds.

**D.** Upon review and analysis of the petition, the budget and funding subcommittee through the grants management bureau, shall forward their recommendation to the secretary of the department for disposition.

**E.** The cabinet secretary of the department of public safety has the final authority in determining if the reversion shall occur.

[10.10.3.19 NMAC - Rp, 10.10.3.19 NMAC, 3/29/2013]

#### **HISTORY OF 10.10.3 NMAC:**

#### **HISTORY OF REPEALED MATERIAL:**

10.10.3 NMAC, Application Procedures Governing the Edward Byrne Memorial Justice Assistance Grant Program, filed 8/11/2009 - Repealed effective 3/29/2013.