



Edward Byrne Memorial Justice Assistance Grant (JAG)

Prohibited and Controlled Expenditures

Overview: This document is applicable to Fiscal Year (FY) 2015 and all future JAG awards. It is broken into five sections and should be reviewed in its entirety:

1. Table of all prohibited expenditures (strictly unallowable expenditures under JAG);
2. Table of all controlled expenditures (expenditures which require prior written approval from BJA under JAG; including UAV guidance checklist);
3. Controlled Expenditures Justification Template (must be completed and submitted for any JAG controlled expenditures request to be considered for approval by BJA);
4. Overall Controlled Expenditure/Equipment Guidance (should be reviewed in conjunction with the template prior to controlled expenditures request(s) being submitted to BJA); and
5. Standards for State, Local and Tribal Law Enforcement Agencies for the Acquisition of Controlled Equipment with Federal Resources.

1. Prohibited Expenditures under JAG:

- Any items listed below or projects related to these items **are strictly prohibited** under JAG per the [Executive Order 13688 on Federal Support for Local Law Enforcement Equipment Acquisition](#). **These projects and/or items cannot be approved under any circumstances.**

1. Tracked armored vehicles
2. Weaponized aircraft, vessels and vehicles of any kind
3. Firearms and/or ammunition with a caliber of .50 or higher
4. Grenade Launchers
5. Bayonets
6. Camouflage Uniforms (digital pattern) *Woodland and desert patterns are allowable based on operational needs. Camouflage may not be worn in urban or populous areas.

2. Controlled Expenditures under JAG:

- Any projects and/or items listed within the “Controlled Expenditures” table below are only allowable under JAG with prior written approval from BJA. This list is a combination of items controlled under [Executive Order 13688 on Federal Support for Local Law Enforcement Equipment Acquisition](#) and/or statutorily by the JAG Program. **To submit a request for approval to purchase a controlled item, please follow the instructions on page three of this document.**

1. Unmanned Aerial System (UAS), Unmanned Aircraft (UA) and/or Unmanned Aerial Vehicle (UAV). To utilize JAG funds for UAS, UA and/or UAV purchases, award recipients must follow controlled expenditures request instructions as well as adhere to the UAS Guidance found here: https://www.bja.gov/Publications/BJA-UAS-Guidance.pdf.
2. Armored Vehicles (wheeled)
3. Command and/or Control Vehicles (Bus, Recreational Vehicle, etc.)
4. *Boats (Non-Police Patrol)
5. *Tactical and/or passenger SUVs, Vans, Trucks, and Sedans (excluding SUVs and Sedans that are used for Police Patrol)
6. Manned aircraft, fixed and/or rotary wing
7. Specialized firearms and ammunition under .50 caliber (excludes firearms/ammunition for routine duties)
8. Breaching Apparatus (battering ram or similar entry device)
9. Riot Helmets, shields and/or batons (excluding service-issued telescopic or fixed-length straight batons)
10. Explosives and pyrotechnics
11. Luxury items and Real estate
12. Construction projects (other than penal/correctional institutions)
13. *Segway, ATV and Golf Cart (Non-Police Patrol)
*Controlled Expenditure request is required if the vehicle is not being used in the ordinary course by police forces in the United States for patrol activities. Additionally, Segways, ATVs and golf carts never require a controlled expenditure request in states which do not require licensing and registration for those vehicle types.

3. JAG Controlled Expenditures Justification Template

This template is based on recommendations pursuant to Executive Order 13688 on Federal Support for Local Law Enforcement Equipment Acquisition. To utilize JAG funds to support a project and/or purchase an item listed within the “**Controlled Expenditures**” table above, applicants/grantees must attach a letter on their agency’s letterhead, addressed to the BJA Director. The letter can be included as an attachment to an application pre-award or a Program Office Approval Grant Adjustment Notice (GAN) post-award. **This letter must fully address all 11 elements listed below and applicants/grantees may not obligate and/or expend any JAG funds until prior written approval has been granted by BJA to do so. Grantees wishing to purchase Unmanned Aerial Vehicles/Systems must adhere to the additional guidance found here:** <https://www.bja.gov/Publications/BJA-UAS-Guidance.pdf>.

1. A general description of the requesting agency;
2. A detailed justification for supporting the controlled project and/or acquiring the controlled items, including a clear and persuasive explanation of the need for and appropriate criminal justice purpose that it will serve. (If applicable, please describe any previous instance in which the controlled item was used in a manner that deviated from the detailed justification supporting the application for that equipment.);
3. The number of units of the requested controlled item(s) that are currently in your agency’s inventory;
4. Categories of other controlled equipment acquired through Federal programs during the past three (3) years that the requesting agency currently has in its inventory;
5. Whether the requested controlled equipment currently could reasonably be accessed through loans or mutual assistance or mutual aid agreements;
6. Certification (written assurance) that the requesting agency has adopted required protocols ([see Recommendation 2.1](#): Agencies that acquire controlled equipment through Federal programs must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards.) or will adopt those protocols before physical acquisition or purchase of controlled equipment or transfer of funds;
7. Certification (written assurance) that the requesting agency has provided required training ([see Recommendation 2.2](#): Agencies that acquire controlled equipment through Federal programs must ensure that its personnel are appropriately trained and that training meets the specified requirements.) or will provide that training before physical acquisition or purchase of controlled equipment or transfer of funds;
8. Evidence of civilian governing body’s review and approval or concurrence of the requesting agency’s acquisition of the requested controlled equipment;
9. Whether the requesting agency has applied, or has a pending application(s), for this type of controlled equipment from another Federal agency during the current fiscal year;
10. Whether any prior application for controlled equipment has been denied by a Federal agency during the past three (3) years, and, if so, the reason for the denial; and
11. Whether the requesting agency has been found to be in violation of a Federal civil rights statute or programmatic term during the past three (3) years and, if so, whether any disposition was reached or corrective actions were taken. LEAs must disclose any finding by a Federal court or a Federal government agency, including an agency’s Office of Civil Rights or the Civil Rights Division of the U.S. Department of Justice, that the LEA has violated a Federal civil rights law with respect to their policing functions. LEAs must also disclose any admissions of liability they have made regarding violations of Federal civil rights law in their policing functions.

4. Controlled Equipment Implementation Guidance

The following issues have been identified for your review as the Department of Justice continues to implement the recommendations from the “Federal Support for Local Law Enforcement Equipment Acquisition”. Any additional updates will be provided via email to all grantees, and will be made available at BJA’s website.

Transition Period:

The Working Group will implement a six-month transition period while working to comply with new training and policy requirements. The transition period provides LEAs the opportunity to examine their policies and training programs and make adjustments so they are in compliance with the Report’s recommendations. During the transition period, LEAs will be permitted to apply for controlled equipment by certifying that they will be in compliance with the appropriate policies, training, and other requirements by April 1, 2016. LEAs will not be able to use any controlled equipment they receive during this six-month period, except for training purposes, until they have certified that the appropriate policies and training are in place. Final approval of all controlled equipment requests remains with the Director of BJA.

Equipment issues:

MODIFICATIONS. LEAs may not modify equipment acquired using Federal resources that would cause it to be considered prohibited equipment, or, absent specific approval from the Federal agency and adherence to all relevant requirements, controlled equipment.

CAMOUFLAGE UNIFORMS.¹ Federally-acquired camouflage-patterned uniforms are not authorized to be worn in environments where they do not actually camouflage the wearer, including cities, towns, and other urban or populous areas.

TRANSFER / SALE OF CONTROLLED EQUIPMENT TO NON-LEAs. Recommendation 4.2 limits the type of equipment that LEAs can transfer or sell to non-LEAs to fixed-wing aircrafts, rotary-wing aircrafts, and command and control vehicles.² The Working Group has added a fourth category of vehicles to this list – Tactical Vehicles, such as HMMWVs, which are not armored vehicles. Consistent with the Report, any equipment in these four categories must be stripped of law enforcement insignias and markings prior to transferring or selling the equipment; sensitive or potentially dangerous components must also be removed. The LEA also must notify and receive written approval from the Federal agency through which it acquired the controlled equipment. The receiving LEA must follow the same pre or post-award procedures for acquiring the controlled equipment as noted on Page 3 of this document.

Compliance and Oversight:

CIVILIAN GOVERNING BODY REVIEW.³ The Working Group has amended this requirement for LEAs where the chief executive is popularly elected (e.g. Sheriffs). Such LEAs must provide official written notice to – but is not required to obtain approval from – its civilian governing body at least 30 days in advance of any application to acquire controlled equipment from the Federal Government. This change takes into account the fact that popularly elected heads of LEAs are directly accountable to their community-constituency.

EFFECT OF FINDINGS OF CIVIL RIGHTS VIOLATIONS. As the Report indicates, LEAs are required to state in their application to acquire controlled equipment “whether they have been found to be in violation of a Federal civil rights statute or programmatic term during the past three (3) years and, if so, whether any disposition

¹ Report, p. 13.

² Report, p. 31.

³ Report, p. 28, Recommendation 3.1.

was reached or corrective actions were taken.”⁴ Accordingly, LEAs must disclose any finding by a Federal court or a Federal government agency, including an agency’s Office of Civil Rights or the Civil Rights Division of the U.S. Department of Justice, that the LEA has violated a Federal civil rights law with respect to their policing functions. LEAs must also disclose any admissions of liability they have made regarding violations of Federal civil rights law in their policing functions. Federal agencies will obtain as much information as possible about the violation, which, along with any effort the LEA has taken to cure the violation, will be considered in determining whether the LEA should acquire controlled equipment.

Policies and Protocols:

MODEL POLICIES AND DEFINITION OF POLICY GUIDELINES.⁵ DOJ provided funding to a group led by the International Association of Chiefs of Police (IACP), in partnership with the National Tactical Officers Association and the Commission on Accreditation for Law Enforcement Agencies, to provide more detailed definitions for the General Policing and Specific Controlled Equipment Standards and to develop model policies. The IACP-led group has consulted a number of subject matter experts during this process and has produced the detailed definitions, which the Working Group has accepted. These definitions apply to both the General Policing Standards and the Specific Controlled Equipment Standards, and are to this document for your use.

5. Standards for State, Local and Tribal Law Enforcement Agencies for the Acquisition of Controlled Equipment with Federal Resources

The IACP-led group has produced a document entitled “Standards for State, Local, and Tribal Law Enforcement Agencies for the Acquisition of Controlled Equipment with Federal Resources”. This document is designed to assist jurisdictions with meeting the requirements for acquiring controlled equipment and outlines specific considerations under the General Policing Standards and the Specific Controlled Equipment Standards. Recipients of federal equipment programs are encouraged to review these principles to ensure that they are present their individual agency policies and training programs.

The model policies will be available by April of 2016, and BJA will make those available upon publication.

Additional information related to BJA’s implementation of EO 13688 can also be found on the BJA’s webpage at: https://www.bja.gov/ProgramDetails.aspx?Program_ID=118.

⁴ Report, p. 26.

⁵ Report, p. 20.