



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Office of the Director

Washington, D.C. 20531

Ms. Elizabeth Bordowitz
Chief Executive Officer
Finance Authority of Maine
5 Community Drive
Augusta, ME 04330

Dear Ms. Bordowitz:

On April 23, 2012, the Bureau of Justice Assistance (BJA) received your application for the John R. Justice (JRJ) Grant Program. As Attachment 5, you included a waiver request regarding the JRJ Equal Allocation Requirement. A copy has been attached for reference. In this request, you assert that: 1) Maine does not have a state public defender office; 2) all defenses of indigent people charged with state crimes are carried out by a relatively small group of private defense lawyers; and 3) Maine's Federal Public Defender, David Beneman, Esq., has confirmed that none of his staff attorneys, a total of three people, have outstanding student loans and therefore no Federal Public Defenders are eligible for the JRJ Program in Maine.

The JRJ solicitation, in accordance with the JRJ Act, states that in order to demonstrate "good cause" a waiver request must, at a minimum, include documentation of the state agency's efforts to comply with the equal distribution requirement and state its reasons for its inability to comply. In the event that a waiver is granted, the equal allocation requirement shall be suspended and a state agency shall be permitted to make a disproportionate funding distribution to prosecutors and public defenders.

Based on the documentation included in your waiver request, and in accordance with the JRJ solicitation, I find that you have satisfied the "good cause" threshold and have demonstrated an inability to comply with the equal allocation requirement. This means that you are not held to the Equal Allocation Requirement. This waiver pertains to Fiscal Year 2012 funding only and shall not be construed as a waiver of any other requirement of the JRJ Program.

I encourage you to access the John R. Justice web page on the BJA web site to keep apprised of program updates and developments. On this page, we will include a new section entitled, "Equal Allocation Requirement Waivers." We intend to list Maine as a state that has requested and been granted a waiver. We also plan to post a copy of your waiver request on this page for purposes of informing the field and transparency.

If you have any questions, please do not hesitate to contact Cory D. Randolph at (202) 307-0940 or by e-mail at cory.randolph@usdoj.gov.

Sincerely,

A handwritten signature in cursive script that reads "Denise O'Donnell".

Denise E. O'Donnell
Director

Cc: William Norbert, Esq.

ATTACHMENT 5

WAIVER REQUEST

FAME again respectfully requests a waiver of the equal allocation requirement in the grant. Because of Maine's unique system of private criminal defense, as well as the terms of the JRJ Grant, little if any loan repayment monies can be allocated to Maine's public defenders. First, Maine has few state public defenders eligible under the grant's applicable definitions and terms, and second, although eligible, Maine's small Federal Defender's office has no attorneys with any outstanding federal student loans to qualify for repayment.

Maine has no state public defender office and all defenses of indigent people charged with state crimes, whether defendants are indigent or not, are carried out by a relatively small group of private defense lawyers. The state historically has operated a system of "court appointed" attorneys. The Maine Commission on Indigent Legal Services administers the appointment and reimbursement of criminal defense services through the private bar. Although members of Maine's private criminal defense bar are ineligible for the grant's loan repayment provisions, employees of the Commission satisfy the grant definition of "public defender," especially since they engage in oversight and training of public defenders. There is one current employee of the Commission who has outstanding loans but he has chosen not to apply for the program.

Maine has a small Federal Public Defender's office and it employs three attorneys. FAME recently consulted with Maine's Federal Public Defender, David Beneman, Esq., about the likelihood of his staff availing themselves of the JRJ Grant. He informed FAME once again

that none of his staff attorneys have outstanding student loans and, therefore, will not seek to participate in the program.

FAME has received a waiver in each of the past two years and again requests that the equal allocation requirement be suspended for Maine, and that FAME be permitted to make a disproportionate funding distribution to prosecutors.