



**U.S. Department of Justice**

Office of Justice Programs

*Bureau of Justice Assistance*

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Office of the Director

Washington, D.C. 20531

Mr. Bruce Wagner  
Chief Executive Officer  
Finance Authority of Maine  
5 Community Drive  
Augusta, ME 04330-0949

Dear Mr. Wagner:

On March 26, 2014, 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) There is only one defense attorney eligible in applying for funding; and 3) all defenses of indigent people charged with state crimes are carried out by a relatively small group of private defense lawyers.

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 2014 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 Latanza Wilson at (202) 514-8267 or by e-mail at [Latanza.Wilson@usdoj.gov](mailto:Latanza.Wilson@usdoj.gov).

Sincerely,

A handwritten signature in cursive script that reads "Denise E. O'Donnell". The signature is written in black ink and is positioned above the printed name and title.

Denise E. O'Donnell  
Director

Cc: William Norbert, Esq.

## ATTACHMENT 5

### **WAIVER REQUEST**

The Finance Authority of Maine (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, FAME expects to allocate little, if any, of the loan repayment monies to Maine's public defenders. First, Maine currently has no federal public defenders eligible or interested in a grant award for the upcoming fiscal year; second, Maine has only one eligible state defense attorney (employed by the small and relatively new Maine Commission on Indigent Legal Services) who is interested in participating in this round of grants. Due to the requirement of priority consideration for renewing grant participants, this individual may not be selected to receive a grant award, however. In any event, it appears that, at most, only one criminal defense attorney is eligible or interested in applying for this year's grant, so a waiver of the equal allocation requirement is both desirable and necessary.

Maine has no state public defender office per se, as all defenses of indigent people charged with state crimes, whether defendants are indigent or not, are carried out by the private defense bar. For years, the state operated a system of "court-appointed" attorneys. Due to recent legislative changes, now, instead of the court, 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. Again, there is one current

employee of the Commission who has outstanding loans who may be interested in applying for the program.

Maine has a small Federal Public Defender's office, as well. 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 has outstanding student loans and, therefore, will not be participating in the program in the upcoming fiscal year.

FAME has received a waiver in each of the prior years of the program 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.