



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Office of the Director

Washington, D.C. 20531

The Honorable Marty Jackley
South Dakota Office of the Attorney General
George S. Mickelson Criminal Justice Center
1302 East Highway 14, Suite 5
Pierre, SD 57501-8501

Dear Attorney General Jackley:

On April 11, 2014, the Bureau of Justice Assistance (BJA) received your application for the John R. Justice (JRJ) Grant Program. As noted in your program's narrative, 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) You've encouraged both eligible Prosecutors and Public Defenders to apply for the program; 2) There are consistently more eligible Prosecutor applicants in South Dakota than Public Defender applicants resulting in significantly disproportionate award amounts between the eligible Prosecutors and the eligible Public Defenders; and 3.) You intend to divide the available award equally between all applicants to mitigate the disparity.

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 South Dakota 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.

Sincerely,

A handwritten signature in black ink that reads "Denise E. O'Donnell". The signature is written in a cursive style with a large, prominent "D" at the beginning.

Denise E. O'Donnell
Director

Cc: Wanda Fergen

Narrative

South Dakota is applying for 2014 John R. Justice Student Loan Repayment Grant funding which will be used to recruit and retain prosecutors and public defenders in the state. The program will reduce student loan debt for eligible applicants, which will encourage attorneys to enter and continue work in public service.

A. Outreach Plan

South Dakota will provide outreach to public defenders and for prosecutors through the following methods.

- *Public Defender Outreach Plan*

South Dakota has two target groups of eligible beneficiaries among public defenders. The first target group is public defenders, which operate out of individual county offices. South Dakota has 66 counties including 63 counties that do not have a full-time public defender (and thus do not meet the eligibility criteria). The three counties that have full-time public defenders are Minnehaha, Pennington, and Lawrence. The second group is the assistant federal public defenders located in the offices of the Federal Public Defender of South Dakota. Outreach to the two identified groups would employ three different methods described below.

Electronic: A representative from the South Dakota Association of Criminal Defense Lawyers (SDACL) will electronically send to all public defenders information on the John R. Justice Loan Repayment for Prosecutors and Public Defenders Program, its eligibility requirements, application form, and any available webpage links to other information about the program. The

Applications will comply with the requirement that priority consideration will be given to those with “the least ability to repay” their loans. Applicants will be assessed and ranked according to the beneficiary’s total education debt, gross income, and an adjustment for the cost of living when appropriate.

D. Distribution of Funding – WAIVER REQUEST

Awards will be fairly distributed. South Dakota is a rural state and does not have any metropolitan areas. Applicants are encouraged to apply from each county. This is a request for waiver consideration for the State of South Dakota Office of Attorney General, as the JRJ administrating agency, to more equitably distribute the FY2014 JRJ funds awarded to our state. There are more full-time prosecutors than full-time public defenders in the state which leads to more applications from prosecutors. In 2011, there were 48 requests for funds (29 prosecutors and 19 defenders); in 2012, there were 43 applications (33 prosecutors and 10 defenders). The 2013 awards have not yet been determined because at the time of this application, we have not yet heard whether our waiver request has been approved or disapproved. There are only two target groups of eligible beneficiaries among public defenders: 1) full-time public defenders from three counties and 2) assistant federal public defenders. If this waiver is granted, the intent would be to divide the award equally between all applicants rather than the two groups (prosecutors and defenders).

Designated Agency Representative

The South Dakota Office of Attorney General was designated by the Governor in 2012 as the designated state administrative agency for the JRJ program.