



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Office of the Director

Washington, D.C. 20531

The Honorable Janet Mills Esq.
Attorney General
Maine Office of the Attorney General
6 State House Station
Augusta, ME 04333

Dear Attorney General Mills:

On September 12, 2017, the Bureau of Justice Assistance (BJA) received your application for the John R. Justice (JRJ) Program. As an attachment to the application, you included a waiver request regarding the JRJ Equal Allocation Requirement. In this request, you assert that Maine does not have a state public defender office; there are no defense attorneys eligible or interested in applying for funding; and all defenses of indigent persons charged with state crimes are carried out by a small group of private defense lawyers. (A copy is attached for your reference.)


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 Allocation 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 provided, and in accordance with the JRJ solicitation, I find that you have satisfied the "good cause" threshold and have demonstrated inability to comply with the Equal Allocation Requirement. This means that the State of Maine is not held to the Equal Allocation Requirement. This waiver pertains to fiscal year 2017 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 website to keep apprised of program updates and developments. On this page is a section entitled "Equal Allocation Requirement Waivers." We intend to list Maine as a state that has requested and been granted a waiver in fiscal year 2017. We also plan to post a copy of your waiver request 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 email at Latanza.Wilson@usdoj.gov.

Sincerely,

for 

Jon Adler
Director
Bureau of Justice Assistance

cc: Maeghan Maloney, Esq.

ATTACHMENT 5

WAIVER REQUEST

The Maine Prosecutors' Association (MPA) 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, MPA expects to allocate little, if any, of the loan repayment monies to Maine attorneys in criminal defense practice. First, Maine currently has no federal public defenders eligible or interested in a grant award for the upcoming fiscal year; second, Maine has few eligible state defense attorneys (employed by the small Maine Commission on Indigent Legal Services, which helps to assign criminal defense cases to private practice attorneys) who might be interested in participating in this round of grants. Due to the requirement of priority consideration for renewing grant participants, such individuals may not be selected to receive a grant award in any case. 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 criminal defense bar. Maine has a small Federal Public Defender's office, as well. The prior Grant administrator, the Finance Authority of Maine (FAME) previously 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 at that time 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 now that the JRJ Grant will be administered by the MPA, the MPA respectfully requests that the equal allocation requirement be suspended for Maine, and that MPA be permitted to make a disproportionate funding distribution to prosecutors.