



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

Dear Attorney General Jackley:

On July 20, 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 you have encouraged both eligible prosecutors and public defenders to apply for the program; there are consistently more eligible prosecutor applicants in South Dakota than public defender applicants, resulting in significantly disproportionate award amounts; and you intend to divide the available awards equally among all applicants to mitigate disparity. (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 South Dakota 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 South Dakota as a state that has requested and been granted a waiver for 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 Antonio Tovar at 202-598-7424 or by email at Antonio.Tovar@usdoj.gov.

Sincerely,

for 

Jon Adler
Director
Bureau of Justice Assistance

cc: Wanda Fergen

WAIVER REQUEST

This request is for the 2017 John R. Justice Student Loan Repayment Grant application that would be for the period of October 1, 2017 thru September 30, 2018. 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 FY2017 JRJ funds awarded to our state. South Dakota has had the wavier approved every year since 2013. 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); in 2013, there were 51 applications (36 prosecutors and 15 defenders); in 2014, there were 44 applicants (34 prosecutors, 9 public defenders, and 1 federal public defender); in 2015 there were 46 applicants (36 prosecutors and 10 public defenders and zero federal public defender); and in 2016 there were 47 applicants (34 prosecutors and 12 public defenders and 1 federal public defender. The 2017 awards have not yet been determined, but we expecting to have similar numbers to 2016, approximately 46 applicants (36 prosecutors and 10 public defenders and zero federal public defender). We would open up the awarding process as soon as possible after we received word of our grant being approved and would require applicants to have their information to us by December 31, 2017. 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).