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# John R. Justice FY 2012 Program Application Guidance

## Deadline

Applicants must register in [OJP's Grants Management System](#) (GMS) prior to submitting an application for this funding opportunity. Select the "Apply Online" button associated with the solicitation title. (See "How To Apply," page 9.) All registrations and applications are due by 8 p.m. eastern time on April 26, 2012. (See "Deadlines: Registration and Application," page 3.)

## Contact Information

For assistance with the requirements of this program, contact the BJA staff member identified in the cover letter or transmittal materials.

For technical assistance with submitting the application, call the Grants Management System Support Hotline at 1-888-549-9901, option 3, or via e-mail to [GMSHelpDesk@usdoj.gov](mailto:GMSHelpDesk@usdoj.gov).

**Note:** The GMS Support Hotline hours of operation are Monday-Friday from 6:00 a.m. to 12 midnight eastern time, except federal holidays.

**Release date: March 12, 2012**

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# **FY 2012 John R. Justice Program Application Guidance**

## **CFDA #16.816**

### **Overview**

One pressing challenge facing our criminal justice system today is the retention of qualified prosecutors and public defenders, who serve everyday to ensure that our communities are protected, the rule of law is upheld, and the rights of the citizenry are safeguarded. Both prosecutor and public defender offices consistently find it difficult to attract and retain talented attorneys. Driven by educational debt, attorneys interested in public interest law often forego opportunities to work in these offices in order to seek more lucrative private sector positions. Attorney shortages in these offices can result in overworked attorneys handling unmanageable caseloads, potentially affecting public safety, the administration of justice, and ultimately the public's confidence in our justice system.

Student loan debt is consistently cited as the overwhelming reason why attorneys decline or leave positions as prosecutors and public defenders. The vast majority of law students borrow to finance their legal education and the rising costs have imposed staggering debt. Furthermore, public defender and prosecutor salaries have failed to keep pace with the escalating cost of education. As a result, talented lawyers are often unwilling to accept or remain in attorney positions as prosecutors or public defenders, creating real challenges for those offices in their quest to hire and retain capable attorneys.

Acknowledging this challenge, the John R. Justice Prosecutors and Defenders Incentive Act (hereinafter referred to as the "Act"), codified at 42 U.S.C. §3797cc-21, and named for the late John Reid Justice of South Carolina, was enacted to encourage qualified attorneys to choose careers as prosecutors and public defenders and to continue in that service. The John R. Justice (JRJ) Grant Program provides loan repayment assistance for local, state, and federal public defenders and local and state prosecutors who commit to continued employment as public defenders and prosecutors for at least three years. To administer this program, the Bureau of Justice Assistance (BJA) will fund the JRJ administrating agency for each of the 56 states and territories to serve eligible recipients ("beneficiaries").

For each state and territory that is eligible for funding under the JRJ Grant Program, BJA will make awards to agencies designated by the Governor of those states or territories (or in the case of D.C., by the Mayor) to administer the JRJ Grant Program within the state or territory. These Governor-designated agencies shall establish a statewide JRJ Grant Program consistent with the guidance contained in this document and the Act.

### **Deadlines: Registration and Application**

Applicants must register in GMS prior to submitting an application for this funding opportunity. The deadline to register in GMS is 8:00 p.m. eastern time on April 26, 2012, and the deadline for applying for funding under this announcement is 8:00 p.m. eastern time on April 26, 2012.

See the “How To Apply” section, page 9, for more details.

## **What An Application Should Include**

Applicants should anticipate that failure to submit an application that contains all of the specified elements may negatively affect the review of the application; and, should a decision be made to make an award, it may result in the inclusion of special conditions that preclude access to or use of award funds pending satisfaction of the conditions.

OJP strongly recommends use of appropriately descriptive file names (e.g., “Program Narrative,” “Budget and Budget Narrative,” etc.) for all attachments.

Grant recipients are required to comply with the information in Appendix A: Guidance on State Implementation of the JRJ Program.

### **1. Standard Form 424**

The SF-424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. GMS takes information from the applicant’s profile to populate the fields on this form. See [www07.grants.gov/assets/SF424Instructions.pdf](http://www07.grants.gov/assets/SF424Instructions.pdf) for additional instructions on how to complete the SF-424.

### **2. Abstract (Attachment 1)**

Applicants should provide an abstract that includes the applicant’s name, goals of the program, and a description of the strategy to be used. The abstract should not exceed 1 page and must be double-spaced.

### **3. Program Narrative (Attachment 2)**

Applicants must submit a program narrative that generally describes the proposed program activities for the 1-year grant period. The program narrative must be double-spaced, using a standard 12-point font (Times New Roman is preferred) with not less than 1-inch margins, and must not exceed 15 pages. Number pages “1 of 15,” “2 of 15,” etc.

The narrative must include:

#### **a. Outreach Plan**

Applicants must submit a plan outlining their outreach strategy for eligible beneficiaries in their state. This plan must reflect an equal emphasis on outreach to both prosecutors and public defenders. In conducting outreach, the Bureau of Justice Assistance (BJA) encourages agencies that administer John R. Justice (JRJ) Grant Programs to publicize the availability of financial assistance programs available through other sources (examples include the Income-Based Repayment (IBR) plan, Public Service Loan Forgiveness (PSLF) and other available loan repayment assistance programs (LRAPs) that may apply).

b. Program Plan Overview

Applicants must provide a brief overview to explain how beneficiaries will apply for loan repayment, how decisions will be made as to eligibility and awards, and how data will be collected and assessed for performance measure evaluation. This overview should include details about:

- Evaluation criteria used to determine applicant eligibility and least ability to repay.
- General grant application process.
- Technical application process (e.g., how will applicants submit their application?).
- Attachments that applicants will be required to submit with their applications (e.g., loan documents, debt obligation data, proof of employment, income verification, transcripts, job evaluations, etc.).
- Proposed methods for collecting data for performance measure evaluation.

c. Compliance with Statutory Requirements

Applications must address a JRJ agency's plan to comply with the statutory requirement that priority consideration be given to those with "the least ability to repay" their loans. Applicants may use their own discretion in identifying a methodology that best identifies a person's ability to repay their loans; however, at a minimum, this plan must include an assessment of the following:

- The beneficiary's total educational debt. (The beneficiary's total educational debt, not monthly student loan payment(s) should be considered.)
- The beneficiary's gross or net income; or, if married, household gross or net income.
- An adjustment for the cost of living.

Applicants may also wish to give consideration to additional factors in identifying those potential beneficiaries who have "the least ability to repay" their loans, such as:

- The ratio of the beneficiary's total education debt to total assets.
- Number of dependents claimed by the beneficiary.
- The beneficiary's non-educational debt financial obligations.

d. Distribution of Funding

The application must include a statutory compliance plan that addresses a JRJ agency's plan to consider a fair distribution of funding based on geography and population density. Applications should ensure that funding is not isolated or heavily concentrated in any particular metropolitan area or geographic section of the state or territory. The plan should also address how much of the current award will be used to meet the statutory requirement found in 42 U.S.C. §3797cc-21(f)(2), which provides that priority be given to those individuals who – (a) have received repayment benefits in the prior fiscal year (FY 2011) and (b) who have completed less than three (3) years of their initial JRJSLRP Service Agreement.

**4. Designated Agency Representative Letter (Attachment 3)**

Applicants should include a new or updated letter from the Governor of the state, territory, or the Mayor of the District of Columbia (or person expressly designated by the Governor or Mayor) designating a JRJ agency to administer these funds as Attachment 3.

**5. Budget and Budget Narrative (Attachment 4)**

Applicants must submit a budget and budget narrative outlining how JRJ funds, including

administrative funds, if applicable, will be used to support and/or implement the program. The Governor-designated JRJ agency may use up to 10 percent of the state award for costs associated with administering the program within the state or territory. Among the administrative costs that would be considered are costs incurred in producing outreach materials (e.g., marketing materials, web sites, brochures, briefings). Applicants must utilize the following approved budget categories to label the requested expenditures: Personnel, Fringe Benefits, Travel, Equipment, Supplies, Consultants/Contracts, and an Other category. This document should clearly demonstrate a full breakdown of costs and show all calculations/computations for each category. A sample Budget Detail Worksheet can be found at [www.ojp.gov/funding/forms/budget\\_detail.pdf](http://www.ojp.gov/funding/forms/budget_detail.pdf)

The Budget Narrative should thoroughly and clearly describe every category of expense listed in the Budget Detail Worksheet. The narrative should be mathematically sound and correspond with the information and figures provided in the Budget Detail Worksheet. The narrative should explain how all costs were estimated and calculated and how they are relevant to the completion of the proposed program.

Use real numbers when outlining the use of JRJ funds. For example, a state that receives \$100,000 in grant funds:

Eligible State Prosecutors:	\$45,000
Eligible Federal and/or State Public Defenders:	\$45,000
Administration Funds:	\$10,000

***Limitation on Use of Award Funds for Employee Compensation; Waiver***

With respect to any award of more than \$250,000, federal funds may not be used to pay total cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110 percent of the maximum annual salary payable to a member of the Federal Government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (The 2012 salary table for SES employees is available at [www.opm.gov/oca/12tables/indexSES.asp](http://www.opm.gov/oca/12tables/indexSES.asp).) Note: A recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds. (Any such additional compensation will not be considered matching funds where match requirements apply.)

The limitation on compensation rates allowable under an award may be waived on an individual basis at the discretion of the Assistant Attorney General (AAG) for OJP. An applicant that wishes to request a waiver must include a detailed justification in the budget narrative of its application. Unless the applicant submits a waiver request and justification with the application, the applicant should anticipate that OJP will request the applicant to adjust and resubmit its budget.

The justification should include: the particular qualifications and expertise of the individual, the uniqueness of the service being provided, the individual's specific knowledge of the program or program being undertaken with award funds, and a statement explaining that the individual's salary is commensurate with the regular and customary rate for an individual with his/her qualifications and expertise, and for the work that is to be done.

### ***Match Requirement***

This program does not require a match. However, if a successful application proposes a voluntary match amount, the match amount incorporated into the OJP-approved budget becomes mandatory and subject to audit.

## **State Funding Allocations and Length of Awards**

The Bureau of Justice Statistics has calculated a minimum base allocation for each state, territory, and the District of Columbia in the amount of \$50,000. This minimum base allocation will then be enhanced by an amount proportional to that state's or territory's share of the national population. BJA reserves the right to reallocate unrequested funding in any fiscal year for use by participating states and to reduce future awards by amounts unexpended from prior year, all based upon such reasonable formulae as is necessary to extend accessibility to program funding.

Agencies designated by the Governor of a state or territory, including the Mayor of the District of Columbia, to administer the JRJ funding are eligible for the state allocation determined by the allocation process described above. Awards will be for one year.

All awards are subject to the availability of appropriated funds and any modifications or additional requirements that may be imposed by law.

## **Reporting Requirements**

Once an award is accepted, the designated JRJ administering agency must submit quarterly financial status reports, quarterly performance metrics reports, and semi-annual progress reports. JRJ administering agencies must annually assess, by engaging with prosecutor and public defender offices, the impact of the JRJ Grant Program on the recruitment and retention of prosecutors and public defenders in the state. This may be accomplished qualitatively, through surveys, leader interviews, a focus group or other methods. Additionally, BJA requires that JRJ administering agencies submit copies of the signed JRJ Student Loan Repayment Program (JRJSLRP) Service Agreements and standard documentation verifying both a recipient's eligibility and loan eligibility under the JRJ Grant Program guidelines. This information may be submitted via the Grants Management System (GMS) as a "Special Report".

## **Performance Measures**

To assist in fulfilling the Department's responsibilities under the Government Performance and Results Act of 1993 (GPRA), Public Law 103-62, and the GPRA Modernization Act of 2010, Public Law 111-352, applicants who receive funding under this program must provide data that measures the results of their work done under this solicitation. Any award recipient will be required, post award, to provide the data requested in the "Data Grantee Provides" column so that OJP can calculate values for the "Performance Measures" column.. This data must be submitted in their quarterly performance metrics through BJA's online Performance Measurement Tool (PMT) located at [www.bjaperformancetools.org](http://www.bjaperformancetools.org).

Submission of performance measures data is not required in the application. Instead, applicants should discuss in their application their proposed methods for collecting data for performance

measures. Refer to the section “What an Application Should Include” (page 4) for additional information.

Performance measures for this program are as follows:

Objective	Performance Measure	Data Grantee Provides
<p>To encourage qualified individuals to enter and continue employment as prosecutors and public defenders.</p>	<p>Number of eligible JRJ program applicants.</p> <p>Number of JRJ program applicants selected to receive loan repayments, based on the least ability to repay.</p> <p>Number of previous JRJ recipients selected under priority consideration.</p> <p>Dollar amount of loan repayments awarded.</p> <p>Dollar amount of loan repayments distributed.</p> <p>Length of time between initial outreach to eligible applicants and the opening of the JRJ loan repayment application period.</p> <p>Number of days the application period remained open for</p>	<p>Total number of applicants during the reporting period.</p> <p>Total number of eligible applicants (unique count) as of the reporting period, including the number who are prosecutors, state or local public defenders, and federal public defenders.</p> <p>Total number of prosecutors selected to receive loan repayments during the reporting period, based on the least ability to repay.</p> <p>Total number of state or local public defenders selected to receive loan repayments during the reporting period, based on the least ability to repay.</p> <p>Total number of federal public defenders selected to receive loan repayments during the reporting period, based on the least ability to repay.</p> <p>Total number of previous JRJ recipients selected under priority consideration.</p> <p>Total dollar amount awarded to prosecutors during the reporting period.</p> <p>Total dollar amount awarded to state or local public defenders during the reporting period.</p> <p>Total dollar amount awarded to federal public defenders during the reporting period.</p> <p>Total dollar amount distributed to prosecutors during the reporting period.</p> <p>Total dollar amount distributed to state or local public defenders during the reporting period.</p>

	<p>applicants.</p> <p>Number of days between the close of the application period and the repayment of loans.</p>	<p>Total dollar amount distributed to federal public defenders during the reporting period.</p> <p>Number of days between initial outreach to eligible applicants and the opening of the JRJ application period.</p> <p>Type of outreach conducted.</p> <p>The dates the application period opened, scheduled close date, and actual closed date.</p> <p>Date of the first payment made to a loan company.</p>
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## Notice of Post-Award FFATA Reporting Requirement

Applicants should anticipate that OJP will require all recipients (other than individuals) of awards of \$25,000 or more under this program, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), to report award information on any first-tier subawards totaling \$25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the reporting requirements should it receive funding. Reports regarding subawards will be made through the FFATA Subaward Reporting System (FSRS), found at [www.fsrs.gov](http://www.fsrs.gov).

Note also that applicants should anticipate that no subaward of an award made under this program may be made to a subrecipient (other than an individual) unless the potential subrecipient acquires and provides a Data Universal Numbering System (DUNS) number.

## How To Apply

Applications are submitted through OJP’s Grants Management System ([GMS](#)). [GMS](#) is a web-based, data-driven computer application that provides cradle to grave support for the application, award, and management of awards at OJP. Applicants must register in GMS for each specific funding opportunity and should begin the process immediately to meet the GMS registration deadline, especially if this is the first time using the system. Complete instructions on how to register and submit an application in GMS can be found at [www.ojp.usdoj.gov/gmscbt/](http://www.ojp.usdoj.gov/gmscbt/). If the applicant experiences technical difficulties at any point during this process, e-mail [GMS.HelpDesk@usdoj.gov](mailto:GMS.HelpDesk@usdoj.gov) or call 888-549-9901 (option 3), Monday–Friday from 6:00 a.m. to midnight eastern time, except federal holidays. OJP highly recommends that applicants start the registration process as early as possible to prevent delays in submitting an application package by the specified application deadline.

All applicants are required to complete the following steps:

1. **Acquire a Data Universal Numbering System (DUNS) number.** In general, the Office of Management and Budget requires that all applicants (other than individuals) for federal funds include a DUNS number in their application for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Obtain a DUNS number by calling Dun and Bradstreet at 866-705-5711 or by applying online at [www.dnb.com](http://www.dnb.com). A DUNS number is usually received within 1-2 business days.
2. **Acquire or Renew Registration with the Central Contractor Registration (CCR) Database.** OJP requires that all applicants (other than individuals) for federal financial assistance maintain current registrations in the CCR database. The CCR database is the repository for standard information about federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Note, however, that applicants must **update or renew their CCR registration annually** to maintain an active status. Information about CCR registration procedures can be accessed at [www.ccr.gov](http://www.ccr.gov).
3. **Acquire a GMS Username and Password.** A new user must create a GMS profile by selecting the “First Time User” link under the sign-in box of the [GMS](#) home page. For more information on how to register in GMS, go to [www.ojp.usdoj.gov/gmscbt/](http://www.ojp.usdoj.gov/gmscbt/).
4. **Verify the CCR registration in GMS.** OJP requests that all applicants verify their CCR registration in GMS. Once logged into GMS, click the “CCR Claim” link on the left side of the default screen. Click the submit button to verify the CCR registration.
5. **Search for the Funding Opportunity on GMS.** After logging into GMS or completing the GMS profile for username and password, go to the Funding Opportunities link on the left hand side of the page. Select “Bureau of Justice Assistance” and “BJA FY12 John R. Justice.”
6. **Register by selecting the “Apply Online” button associated with the solicitation title.** The search results from step 5 will display the solicitation title along with the registration and application deadlines for this funding opportunity. Select the “Apply Online” button in the “Action” column to register for this solicitation and create an application in the system.
7. **Complete the Disclosure of Lobbying Activities.** All applicants must complete this information and submit the form in GMS. An applicant that expends any funds for lobbying activities must provide the detailed information requested on the form, *Disclosure of Lobbying Activities*, (SF-LLL). An applicant that does not expend any funds for lobbying activities should enter “N/A” in the required highlighted fields. Access the form at [www.ojp.gov/funding/forms/disclosure.pdf](http://www.ojp.gov/funding/forms/disclosure.pdf).

8. **Submit an application consistent with this solicitation by following the directions in GMS.** Once submitted, GMS will display a confirmation screen stating the submission was successful. **Important:** In some instances, an applicant must wait for GMS approval before submitting an application. Applicants are urged to submit the application **at least 72 hours prior** to the due date of the application.

**Note: OJP's Grants Management System (GMS) does not accept executable file types as application attachments.** These disallowed file types include, but are not limited to, the following extensions: ".com," ".bat," ".exe," ".vbs," ".cfg," ".dat," ".db," ".dbf," ".dll," ".ini," ".log," ".ora," ".sys," and ".zip."

#### **Note: Duplicate Applications**

If an applicant submits multiple versions of an application, *[insert bureau/program office]* will review the most recent version submitted.

#### **Experiencing Unforeseen GMS Technical Issues**

If an applicant experiences unforeseen GMS technical issues beyond the applicant's control that prevent submission of its application by the deadline, the applicant must e-mail the BJA Justice Information Center (see page 1 for contact information) **within 24 hours after the application deadline** and request approval to submit its application. The applicant must include in the e-mail: a description of the technical difficulties, a timeline of submission efforts, the complete grant application, the applicant DUNS number, and GMS Help Desk tracking number(s) the applicant has received. **Note: Requests are not automatically approved by BJA.** After the program office reviews all of the information submitted, and contacts the GMS Help Desk to validate the technical issues reported, OJP will contact the applicant to either approve or deny the request to submit a late application. If the technical issues reported cannot be validated, the application will be rejected as untimely.

The following conditions are not valid reasons to permit late submissions: (1) failure to begin the registration process in sufficient time, (2) failure to follow GMS instructions on how to register and apply as posted on its Web site, (3) failure to follow all of the instructions in the OJP solicitation, and (4) technical issues experienced with the applicant's computer or information technology (IT) environment, including firewalls.

Notifications regarding known technical problems with GMS, if any, are posted at the top of the OJP funding Web page at [www.ojp.usdoj.gov/funding/solicitations.htm](http://www.ojp.usdoj.gov/funding/solicitations.htm).

#### **Additional Requirements**

Applicants selected for awards must agree to comply with additional legal requirements upon acceptance of an award. **OJP** strongly encourages applicants to review the information pertaining to these additional requirements prior to submitting an application. Additional information for each requirement can be found at [www.ojp.usdoj.gov/funding/other\\_requirements.htm](http://www.ojp.usdoj.gov/funding/other_requirements.htm).

- Civil Rights Compliance

- Faith-Based and Other Community Organizations
- Confidentiality
- Research and Protection of Human Subjects
- Anti-Lobbying Act
- Financial and Government Audit Requirements
- National Environmental Policy Act (NEPA) (if applicable)
- DOJ Information Technology Standards (if applicable)
- Single Point of Contact Review
- Nonsupplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with [Office of Justice Programs Financial Guide](#)
- Suspension or Termination of Funding
- Nonprofit Organizations
- For-Profit Organizations
- Government Performance and Results Act (GPRA)
- Rights in Intellectual Property
- Federal Funding Accountability and Transparency Act (FFATA) of 2006
- Awards in excess of \$5,000,000 – federal taxes certification requirement
- Active CCR Registration

## Appendix A

### Guidance on State Implementation of the JRJ Program

The JRJ administering agency shall conduct outreach and education and begin or continue soliciting applications from eligible beneficiaries. States and territories are encouraged to design their JRJ Grant Program based on their experience in administering last year's program, along with similar state-run programs and should consider the purpose of the Act in the planning and implementation process.

#### I. JRJ Administering Agency Program Model Considerations

In developing criteria and formulating a plan for the administration of a state-administered JRJ program, JRJ agencies are strongly encouraged to consider replicating the methodology of existing, analogous loan repayment programs in their respective states. The methodology must be consistent with the requirements of this solicitation, but it is anticipated that the expertise derived from previous administration of a state program will be useful in the administration of this program. In order to provide for the equitable distribution of funds, any award selection committees must be comprised of an equal number of prosecutors and public defenders. For federal defender applicants, the state in which the attorney practices is the appropriate state in which to apply for an award. (Federal prosecutors are not eligible under the JRJ statute, though other similar funding opportunities may exist from other, non-OJP sources).

In the absence of such a state model, the JRJ agency may wish to consider designing a program in which:

- Applicants apply directly to the governor-designated JRJ administering agency, which decides (based on the programmatic criteria set forth herein) which applicants should receive funding; or
- A governor-designated JRJ administering agency, maintaining centralized control of funding and eligibility determinations: (1) develops a basis for the fair distribution of funding to state prosecutor and defender offices throughout the state; (2) coordinates the solicitation of applications by those offices and (3) collects nominations from those offices of persons within their employment who are recommended to the JRJ administering agency for consideration for awards (based upon the programmatic criteria set forth herein).

Regardless of the model ultimately selected, all final funding decisions will be made by the Governor-designated JRJ administering agency.

When developing a program model, JRJ agencies must ensure that funding for loan repayment is allocated equally between prosecutors and public defenders. To comply with this requirement, a JRJ agency must demonstrate that the total amount of loan repayment funding awarded to eligible prosecutors is equal to the total amount awarded to eligible public defenders. This equal allocation requirement applies only to the total amounts repaid on behalf of the two categories of eligible beneficiaries. States are not required to make an equal number of awards to eligible

beneficiaries of each category. For example, if a gross sum of \$50,000 is awarded to prosecutors, a gross sum of \$50,000 must also be awarded to public defenders. While not required, states are encouraged to also strive for an equal number of awards between prosecutors and defenders, however it is recognized that various factors may affect the ability of a state to achieve 100% equality in the number of repayment distributions.

If a JRJ administering agency demonstrates good cause, a waiver of the equal allocation requirement may be granted, but only at the discretion of the Director of BJA. The waiver request must be submitted to BJA in writing, at the time of application and prior to any funding commitments. In order to demonstrate “good cause,” an application for such a waiver must, at a minimum, include documentation of the JRJ agency’s efforts to comply with the equal distribution requirement (including outreach efforts) and state the reasons for its inability to comply. In the event that a waiver is granted, the equal allocation requirement shall be suspended and a JRJ agency shall be permitted to make a disproportionate funding distribution to prosecutors and public defenders. Such a waiver shall pertain only to the fiscal year in which it is granted and shall not, under any circumstances, be construed as a waiver of any other requirement of this program.

## **II. Factors to Consider in Assessing Eligible Beneficiaries**

### **Eligible Beneficiaries**

The purpose of this program is to encourage qualified individuals to enter and continue employment as prosecutors and public defenders. JRJ agencies must give top consideration to those eligible beneficiaries who have the least ability to repay their loans, and to those who have received JRJ benefits in the prior fiscal year (and have less than 3 years remaining on their JRJSLRP Service Agreement). Individuals are permitted to apply for JRJ funding only from the state where they are employed. The JRJ agency must accept applications from federal defenders who practice in that state, regardless of where the applicant is licensed to practice law.

For purposes of this program the following persons shall be considered eligible:

**Prosecutor**—full-time employee of a state or unit of local government (including tribal government) who is continually licensed to practice law and prosecutes criminal or juvenile delinquency cases at the state or unit of local government level (including supervision, education, or training of other persons prosecuting such cases). 42 U.S.C. §3797cc-21(b)(1). Prosecutors who are employees of the federal government are not eligible.

**Public Defender**—an attorney who is continually licensed to practice law and is a full-time employee of a state or unit of local government (including tribal government) who provides legal representation to indigent persons in criminal or juvenile delinquency cases including supervision, education, or training of other persons providing such representation; is a full-time employee of a nonprofit organization operating under a contract with a state or unit of local government who devotes substantially all of the employee’s full-time employment to providing legal representation to indigent persons in criminal or juvenile delinquency cases

including supervision, education, or training of other persons providing such representation; or employed as a full-time federal defender attorney in a defender organization pursuant to Subsection )(g) of section 3006A of Title 18, United States Code, that provides legal representation to indigent persons in criminal or juvenile delinquency cases. 42 U.S.C. §3797cc-21(b)(2).

Full-time employment is considered “not less than 75% of a 40 hour work week” for the purpose of this solicitation.

**NOTE:** Attorneys who are in private practice and not a full-time employee of a non-profit organization, even if individually or part of a firm that is under contract with a state or court-appointed to provide public defense services, do not qualify as “public defenders” and therefore are not considered to be eligible as beneficiaries under this solicitation.

BJA, in its discretion, has determined that policy and ethical considerations preclude elected officials from being eligible. This prohibition does not extend to persons who hold elected offices other than as a prosecutor or public defender (e.g., city council member status unrelated to prosecutor/public defender position), provided: (1) a reasonable person could conclude that the individual’s elected status did not form a basis for their selection for JRJ benefits; (2) that the person did not use their office to influence a decision pertaining to the application; and (3) that the person’s obligations to his/her elected office do not interfere with the fulfillment of the JRJ service obligation.

JRJ agencies are encouraged to use their expertise and discretion in identifying factors to be considered in the evaluation of applicant beneficiaries. In addition to the requirement of giving consideration to an applicant’s ability to repay his/her student loan obligations, the JRJ administering agency may wish to consider the following additional factors:

- Salary cap for initial applicants.
- Distribution of awards to ensure a range of geographic and demographic representatives (i.e., distribution amongst all quadrants of a state and between rural and urban areas).
- Assistance from other sources.
- Amount of total qualifying loan debt.
- Amount of the repayment benefit (limited to \$10,000 per beneficiary in a calendar year/\$60,000 aggregate).
- Consideration of academic achievement (e.g., class rank, GPA, academic honors).
- Meritorious service (e.g., high mark job evaluations).

JRJ administering agencies may accord each factor a different weight when selecting eligible beneficiaries, but should ensure that such weighing of factors does not disproportionately favor one group of eligible beneficiaries.

JRJ administering agencies must keep on record, available for audit purposes, any record relied upon by the JRJ agency to support its funding decisions, including:

- (1) Applications received.
- (2) Income, debt, and loan data provided as part of each such application.

- (3) Documentation of outreach efforts implemented to distribute funding amongst a wide range of employing agencies within the state.
- (4) Documentation of decisional processes in the evaluation of an individual's ability to repay his/her loan obligations.
- (5) Documentation of decisional processes in the evaluation of an individual's meritorious service (including military service) (if applicable).
- (6) Proof of an individual's eligibility under the statutory definitions of "prosecutor" or "public defender."
- (7) Proof of an individual's debt obligations under a "qualifying loan."

BJA maintains the right to request from the JRJ administering agency any other records that are reasonably required to determine compliance with statutory obligations, and the JRJ agency, in receiving funds, will agree to cooperate to the fullest extent possible in producing all such records.

Additionally, once an eligible applicant is approved for JRJ student loan repayment, according to statute, the beneficiary should be given priority consideration to receive funding during the second and third years of the three-year service agreement, pending the availability of funds. Renewal is not automatic and nothing shall obligate the state to renew a benefit in the same (or greater) amount previously received by a beneficiary. Beneficiaries should consult their state guidance and follow any renewal request process established therein. States may consider developing separate renewal forms.

A lateral move, provided the beneficiary maintains his/her status as an eligible beneficiary (as defined above), should not affect renewal eligibility during an existing service obligation, unless the availability of funds and/or the beneficiary's eligibility status is otherwise compromised by the beneficiary changing his/her employment to a state different than the state from which s/he received their benefit. Note, however, that a person who is initially eligible, but changes his/her employment to a position that renders him/her ineligible (e.g., a transfer from a state public defender office to a private firm contracted by the state to provide public defense services) will lose their status as an "eligible beneficiary."

### **III. Factors to Consider in Assessing Eligible Student Loans**

Loans eligible for repayment are defined as, and limited to the following:

#### **Student Loan:**

- (1) A loan made, insured, or guaranteed under part B of subchapter IV of chapter 28 of Title 20 (Federal Family Education Loan Program);
- (2) A loan made under part C or D of subchapter IV of chapter 28 of Title 20 (William D. Ford Federal Direct Loan and Federal Perkins Loans);
- (3) A loan made under section 1078-3 or 1087e(g) of Title 20 (Federal consolidation loans and Federal Direct Consolidation loans, respectively).

#### **Ineligible Loans**

The term "student loan" does not include any of the following loans:

- (1) A loan made to the parents of a dependent student under section 428B of the Higher Education Act of 1965 (20 U.S.C. 1078-2).

- (2) A Federal Direct PLUS Loan made to the parents of a dependent student.
- (3) A loan made under section 428C or 455 (g) of the higher Education Act of 1965 (20 U.S.C. 1078-3 (Federal consolidation loans) and 1087e(g) (Federal Direct Consolidation loans) to the extent that such loan was used to repay a loan described in clause (1) or (2).

As a condition precedent to the repayment of any loan obligation under this program, all selected beneficiaries must sign the "Service Agreement" included as part of this solicitation as Appendix B. Appendix B is an agreement between the eligible beneficiaries selected by the JRJ agency and the Department of Justice, and as such, may not be modified by the JRJ agency or anyone else without the express written authorization of the BJA Director, and BJA will not accept or consider variances of the terms or form of Attachment B. The JRJ agency must provide the properly executed original agreement to BJA before the state may expend funds. Upon completion of the original three-year service obligation, subsequent agreements may be entered into for additional obligations of service in consideration for future grant awards. The terms of service obligation in future agreements shall be discretionary.

Grant funds received by any agency designated by the Governor (or Mayor in the case of D.C.) can only be paid to the institution holding the qualifying loan. In accordance with 42 U.S.C. § 3797cc-21(c), no funds may be paid directly to the beneficiary. Payments made on behalf of approved beneficiaries cannot exceed the total qualifying loan balance. The beneficiary remains responsible for any remaining payments or balances. Neither the Department of Justice nor the state will be held responsible for any late fees assessed by the lending institution. The amount paid by any state shall not exceed \$10,000 for any individual in any calendar year or an aggregate total of \$60,000 in the case of any individual. The JRJ administrating agency determines award payment amounts and payment dates in accordance with their programmatic needs, this solicitation and the legislative authority. Within the parameters of this solicitation, JRJ agencies are encouraged to maximize the number of beneficiaries who receive program benefits. It is left within the discretion of the JRJ administrating agency to determine the number and amount of payments(s) made to the lending institutions on behalf of each beneficiary.

### **Disqualifying Conditions**

An attorney must not be in default on repayment of any federal student loans. States may use discretion in applying other considerations for beneficiary continuation in the program, such as merit, etc.; however, states must ensure that any such considerations do not disproportionately affect one type of beneficiary (i.e., prosecutors v. public defenders) over another.

## Appendix B

### John R. Justice Student Loan Repayment Program (JRJSLRP) Service Agreement

NAME: \_\_\_\_\_

In consideration of the student loan repayment incentive for which I have been offered under 42 U.S.C. §3797cc-21, I hereby agree as follows:

1. I will remain employed as a prosecutor or public defender for a period of service of not less than three years (36 months) unless involuntarily separated from my employment.

In accordance with 42 U.S.C. §3797cc-21(b)(1), the term “prosecutor” is understood to mean a full-time employee of a State or unit of local government who—

- (A) is continually licensed to practice law; and
- (B) Prosecutes criminal or juvenile delinquency cases at the State or unit of local government level (including supervision, education, or training of other persons prosecuting such cases).

In accordance with 42 U.S.C. §3797cc-21(b)(2), the term “public defender” is understood to mean an attorney who—

- (A) Is continually licensed to practice law; and
- (B) Is—
  - (i) a full-time employee of a State or unit of local government who provides legal representation to indigent persons in criminal or juvenile delinquency cases (including supervision, education, or training of other persons providing such representation);
  - (ii) a full-time employee of a nonprofit organization operating under contract with a State or unit of local government, who devotes substantially all of the employee’s full-time employment to providing legal representation to indigent persons in criminal or juvenile delinquency cases (including supervision, education, or training of other persons providing such representation); or
  - (iii) employed as a full-time Federal defender attorney in a defender organization established pursuant to section 3006A of Title 18, that provides legal representation to indigent persons in criminal or juvenile delinquency cases.

2. I understand that JRJSLRP funds are a supplement to, not a substitute for, my personal student loan obligations. I understand that amounts to be paid on my behalf are subject to the availability of funds and my continued eligibility. I understand that if I do not remain eligible, then further loan repayment benefits may be denied although the service obligation will remain in force. I understand that the award of JRJSLRP in any fiscal year does not guarantee benefits in future fiscal years, and that awards are subject to the availability of appropriations. I understand that any loan repayments made on my behalf may be taxable and subject to withholding.

3. I authorize the Department of Justice and/or the designated JRJSLRP State administrative agency, to verify the status, payment history, and outstanding balance of each qualifying loan, and to discuss the terms with the lender or note holder, or predecessors or successors in interest.

The term “qualifying loan” is understood to have the same meaning as “student loan” in 42 U.S.C. §3797cc-21(b)(3):

- (1) A loan made, insured, or guaranteed under part B of subchapter IV of chapter 28 of Title 20;
- (2) A loan made under part C or D of subchapter IV of chapter 28 of Title 20; and
- (3) A loan made under section 1078-3 or 1087e(g) of Title 20.

Further, the term “qualifying loan” is expressly understood not to include any of the following loans:

- (1) A loan made to the parents of a dependent student under section 1078-2 of Title 20.
  - (2) A Federal Direct PLUS Loan made to the parents of a dependent student.
  - (3) A loan made under section 1078-3 or 1087e(g) of Title 20 to the extent that such loan was used to repay a loan described in sub. (1) or (2) above.
4. I will notify the designated JRJSLRP State administrative agency, without delay, in writing, of any transfer to a new position or employing agency, identifying myself as a JRJSLRP beneficiary.
  5. I will notify the designated JRJSLRP State administrative agency, without delay, in writing, of my intention to voluntarily separate, resign, or retire from my position as an eligible beneficiary before completing my service obligation under paragraph 1 above.
  6. I will notify the designated JRJSLRP State administrative agency, without delay, in writing, of my status in default of any loan obligation with respect to a qualifying “student loan,” as defined in 42 U.S.C. §3797cc-21(b)(3)(A).
  7. In the event I voluntarily leave my position as an eligible beneficiary, or in the event I am involuntarily separated for misconduct or unacceptable performance before completing the agreed upon period of service, I will be indebted to the Federal government and must reimburse the Department of Justice for the full amount of any student loan repayments made on my behalf under this service agreement. I further acknowledge that a sum equal to the amount that I am required to repay shall be recoverable by the Federal government from me (or my estate, if applicable) by such methods as are provided by law for the recovery of amounts owed to the Federal government.
  8. I understand and affirm that I remain responsible for making regular student loan payments, that such responsibility is not abated by selection for participation in the JRJSLRP, and that I am required to continue to make personal payments toward my qualifying loans to remain eligible for the JRJSLRP in the future. I understand that JRJSLRP payments will be made directly to the holder of my qualifying loan(s) and that I will not be the direct recipient of any such funds.
  9. Loan repayments made on my behalf pursuant to this agreement do not exempt me from responsibility and/or liability for the full amount of any loan in which I am the debtor.
  10. I am responsible for any income tax obligation resulting from the student loan repayments made on my behalf.

11. I understand that, by law, repayment benefits made on my behalf cannot exceed \$10,000 in any calendar year or an aggregate total of \$60,000. This limitation should not, under any circumstances, be construed as an obligation of said benefits. This agreement may be modified by the parties, subject to the limitations of 42 U.S.C. §§ 3797cc-21(d) and (e), to provide additional student loan repayment benefits without the need for an entirely new agreement. Such modifications include, but are not limited to, the possibility of payment increases, or the extension of benefits beyond the initial three-year service obligation, in consideration for additional service commitment by the beneficiary, based upon terms to be determined by the parties.
12. Periods of leave without pay, or other periods during which I am not in a pay status do not count toward the completion of the required service period upon reemployment. The service completion date must be extended by the total time spent in non-pay status. However, absence because of uniformed service in a recognized branch of the United States military, authorized maternity/paternity, FMLA, or due to compensable injury is considered creditable (within the sole discretion of the Director of BJA) toward the required service period upon reemployment.
13. This agreement is null and void if I am not selected for JRJSLRP in the year I sign and date this agreement.
14. Privacy Act Notification: This information is provided pursuant to the Privacy Act of 1974 (Public Law 94-579), as amended, for individuals supplying information for inclusion in a system of records. The authority for the collection of this information is 42 U.S.C. §3797cc-21. The purpose of the John R. Justice Loan Repayment for Prosecutors and Public Defenders statute is to encourage qualified individuals to enter and continue employment as prosecutors and public defenders. This Agreement and related data are made part of the file to be used within the Department of Justice for record-keeping and management while participating in the John R. Justice Loan Repayment program. The information also may be disclosed outside the Department, as permitted by the Privacy Act and Freedom of Information Act, to the Congress, the Internal Revenue Service, and pursuant to court order. You are asked to provide your Social Security Number. Please note that if you do not provide this information, and you are selected to participate in the John R. Justice Loan Repayment program, your Social Security Number will be required later to enable the Department to verify your eligibility status. Failure to submit this information will render this Agreement incomplete and you will be considered ineligible to participate in the program.

I, \_\_\_\_\_, agree to the terms of this Service Agreement.

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**DATE**