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The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics is pleased to announce that it is seeking proposals for the design, development and pretesting of the Survey of State Court Criminal Appeals. As the statistical arm of the U.S. Department of Justice, BJS is responsible for the collection, analysis, publication, and dissemination of statistical information on crime, criminal offenders, victims of crime, and the operations of criminal justice systems at all levels of government. This survey, a component of the BJS Criminal Justice Statistics Program, furthers the mission of the Department and the Office of Justice Programs by working in partnership with the justice community to identify the most pressing challenges confronting the justice system and to provide state-of-the-art knowledge and information in support of innovative strategies and approaches for dealing with these challenges.

## **Survey of State Court Criminal Appeals: Development and Design Phase Solicitation**

### **Eligibility**

Applications for funds may be submitted by both for-profit (commercial) and non-profit organizations.

(See more information in the "Eligibility" section on page 3)

### **Deadline**

All applications are due by 5:00 p.m. Eastern time on May 15, 2008.

(See "Deadline: Application" on page 3)

### **Contact Information**

For assistance with the programmatic requirements of this solicitation, contact Thomas H. Cohen, Statistician, at 202-307-0765 or via e-mail at [askbjs@usdoj.gov](mailto:askbjs@usdoj.gov). Include "sscca08" in the subject line.

This application must be submitted through [Grants.gov](http://Grants.gov). For technical assistance with submitting the application, call the [Grants.gov](http://Grants.gov) Customer Support Hotline at 1-800-518-4726.

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## **2008 Survey of State Court Criminal Appeals: Development and Design Phase CDFA Number 16.734**

### **Overview**

The Bureau of Justice Statistics (BJS) is seeking proposals to develop, design, and field test the Survey of State Court Criminal Appeals and to prepare an implementation plan for fielding the survey in 2009. The goal of the survey is to obtain information about the types of criminal cases appealed from state trial courts to state intermediate appellate courts and/or courts of last resort, the disposition of criminal appeals, appellate case processing time, and the impact of appellate litigation on trial court outcomes for criminal cases. In addition, this survey will examine the factors associated with litigating criminal appeals, the decision to continue or abandon criminal appeals, and the flow of criminal cases from the trial court to intermediate appellate courts and courts of last resort. Applicants are encouraged to review previous BJS reports focusing on state court criminal case processing, sentencing, and appellate litigation available on the BJS website at <<http://www.ojp.usdoj.gov/bjs>>. BJS anticipates making one award for a ten month period under this solicitation, with an award date on or after August 1, 2008. BJS is authorized to issue this solicitation under the Omnibus Crime Control and Safe Streets Act of 1968, Section 302, as amended.

### **Deadline: Registration**

Registering with Grants.gov is a one-time process; however, if you are a first time registrant it could take up to several weeks to have your registration validated and confirmed and to receive your user password. It is highly recommended you start the registration process as early as possible to prevent delays in submitting your application package to our agency by the deadline specified. There are three steps that you must complete before you are able to register: 1) Register with the Central Contractor Registry (CCR); 2) Register yourself as an Authorized Organization Representative (AOR); and 3) Be authorized as an AOR by your organization. For more information, go to <<http://www.grants.gov>>. Note: Your CCR Registration must be renewed once a year. Failure to renew your CCR registration may prohibit submission of a grant application through Grants.gov.

### **Deadline: Application**

The due date for applying for funding under this announcement is 5:00 p.m. Eastern time on May 15, 2008.

### **Eligibility**

Both for-profit (commercial) and non-profit organizations may apply for funds. However, consistent with OJP fiscal requirements, for-profit organizations are not allowed to make a profit as a result of this award or to charge a management fee for the performance of this award.

Faith-Based and Other Community Organizations: Consistent with President George W. Bush's Executive Order 13279, dated December 12, 2002, and 28 C.F.R. Part 38, it is DOJ policy that faith-based and other community organizations that statutorily qualify as eligible applicants under DOJ programs are invited and encouraged to apply for assistance awards to fund eligible grant activities. Faith-based and other community organizations will be considered for awards on the same basis as other eligible applicants and, if they receive assistance awards, will be treated on an equal basis with all other grantees in the administration of such awards. No eligible applicant or grantee will be discriminated for or against on the basis of its religious character or affiliation, religious name, or the religious composition of its board of directors or persons working in the organization.

Faith-based organizations receiving DOJ assistance awards retain their independence and do not lose or have to modify their religious identity (e.g., removing religious symbols) to receive assistance awards. DOJ grant funds, however, may not be used to fund any inherently religious activity, such as prayer or worship. Inherently religious activity is permissible, although it cannot occur during an activity funded with DOJ grant funds; rather, such religious activity must be separate in time or place from the DOJ-funded program. Further, participation in such activity by individuals receiving services must be voluntary. Programs funded by DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion.

If your organization is a faith-based organization that makes hiring decisions on the basis of religious belief, it may be entitled, under the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb, to receive federal funds and yet maintain that hiring practice, even if the law creating the funding program contains a general ban on religious discrimination in employment. For the circumstances under which this may occur, and the certifications that may be required, please see the reference to the Civil Rights Compliance section under "Additional Requirements" included herein.

**American Indian Tribes and Alaska Native Tribes and/or Tribal Organizations:**

Applicants are limited to for-profit (commercial) organizations, non-profit organizations, faith-based and community organizations, institutions of higher learning, and consortiums with demonstrated organization and community-based experience working with American Indian and Alaska Native communities, including tribal commercial and non-profit organizations, tribal colleges and universities, and tribal consortiums.

All tribal applications must be accompanied by a current authorizing resolution of the governing body of the tribal entity or other enactment of the tribal counsel or comparable government body. If the grant will benefit more than one tribal entity, a current authorizing resolution or other enactment of the tribal counsel or comparable government body from each tribal entity must be included. If the grant application is being submitted on behalf of a tribal entity, a letter or similar document authorizing the inclusion of the tribal entity named in the application must be included.

Applicants are encouraged to review the Civil Rights Compliance section under "Additional Requirements" in this announcement.

## Project-Specific Information

Appellate courts represent a key component of criminal case processing. Appeals are the primary means by which appellate courts can oversee the trial process, correcting and reversing errors or mistakes at the trial court level. By functioning as a reviewing body, appellate courts ensure that trial courts are applying the law correctly and not making capricious or erroneous decisions. In addition to error correction, state appellate courts serve an important policymaking function by reviewing cases with broad implications for a state's legal system. For defendants facing sentences of life imprisonment or the death penalty, state appellate courts offer an important means for petitioning the trial courts to reverse or modify their sentencing decisions. Despite the significant role of appellate courts in correcting errors at the trial court level, making decisions that have major impacts on a state's legal and policymaking environment, and assuring that the criminal laws are applied in a just, fair, and evenhanded manner there have been few systematic attempts to examine case processing in state appellate courts.

In order to attain a greater comprehension of criminal appellate processes, BJS proposes to fund the design and development of a survey focusing on criminal cases appealed from trial courts to state intermediate appellate courts and/or courts of last resort. At present, there have been few direct attempts to examine criminal appellate litigation at the state level. Most studies on criminal appeals focus on a narrow subset of appellate litigation, including capital murder appeals, appeals ending in a published opinion, or federal appeals. In contrast to the criminal field, more efforts have focused on civil appellate litigation. In 2004, BJS funded a study that tracked tort, contract, and real property trials concluded in 2001 that were appealed from a trial court to an intermediate appellate court or court of last resort. Data collected from this study were used to produce the report "Appeals from General Civil Trials in 46 Large Counties, 2001 – 2005," which is available at <http://www.ojp.usdoj.gov/bjs/abstract/agctlc05.htm>. Some of the major findings from that study were: (1) plaintiffs and defendants appealed about 15% of general civil jury trials; (2) 43% of civil appeals were dismissed or withdrawn prior to disposition; and (3) among appeals decided on the merits, two-thirds affirmed and a third reversed the trial court verdict.

The lack of a systematic data collection effort for criminal appeals means that basic questions regarding the processing of these cases are not fully understood. What impact does appellate litigation have on trial court outcomes? What types of criminal cases are appealed from trial court? Does the likelihood of appeal depend on whether a case ends by guilty plea, bench, or jury trial? What legal or factual issues are raised on appeal? To what extent do appeals wash out before being decided by the court? How many criminal appeals are resolved through formal published opinions as opposed to non-published orders? What are the impacts of record preparation, oral argument, and opinion publication on case processing time? How many criminal appeals are reviewed by both intermediate appellate courts and courts of last resort? The proposed study will seek to design a survey capable of addressing these and other questions regarding the processing of criminal appeals in state intermediate appellate courts and courts of last resort.

## Scope of Work

The objectives of this project are to (1) develop a data collection instrument to obtain information on criminal cases appealed from a state trial court to an intermediate appellate court and/or court of last resort; (2) develop various sampling methodologies for producing reliable estimates of state criminal appellate litigation in both intermediate appellate courts and courts of last resort; (3) develop statistical models for assessing the reliability of the various proposed sampling frameworks; (4) conduct field tests of the data collection instrument in a range of intermediate appellate courts and courts of last resort; (5) develop methods to encourage participation from key professional appellate court agencies; and (6) provide an implementation plan for the national data collection to begin in 2009.

The recipient of funds will:

1. Develop a detailed timetable for each task in the project. The design and development of this survey should be completed in 10 months or less. After the BJS project manager has agreed to the timetable, all work must be completed as scheduled.
2. Develop a data collection instrument that will obtain both trial and appellate case processing data. Some of the data elements that will be included in this instrument include: (1) case type, conviction method, and sentence imposed at trial court level; (2) whether the appeal was abandoned or dismissed prior to being decided on the merits; (3) the appellate court's decision to affirm, reverse, or modify trial court outcomes; (4) the decision method, including whether the appeal ended in a published or unpublished opinion; (5) legal or factual issues raised on appeal; (6) different stages of appellate case processing (e.g., filing of notice of appeal, generation of trial court record, oral argument) and time spent at each of these different stages; and (7) the court type – intermediate appellate court or court of last resort - that ultimately decided the case.
3. Develop various sampling methodologies for producing reliable estimates of state criminal appellate litigation in both intermediate appellate courts and courts of last resort. The data collection agent shall develop several proposed national and sub-national sampling strategies for estimating criminal appellate case processing. The sampling strategies will allow for estimates to be made on criminal appeals in a range of states with different appellate court structures, including those with both intermediate appellate courts and courts of last resort and those with only courts of last resort. In addition, the data collection agent will develop several strategies for sampling criminal cases disposed by the selected intermediate appellate courts and courts of last resort. The data collection agent will work with BJS to develop these sampling strategies and will calculate the costs associated with implementing these proposed sampling frameworks.
4. Develop statistical models for assessing the reliability of the proposed sampling frameworks. The design will include statistical models capable of assessing the reliability of the proposed sampling frameworks. These statistical models and sampling estimates will be made available to the project monitor and be used for

project documentation and approval by the Office of Management and Budget (OMB).

5. Conduct field tests of the data collection instrument for nine criminal appeals disposed in a range of intermediate appellate courts and courts of last resort. The nine cases will include criminal appeals disposed at various points of the appellate process and should include several that were reviewed by both an intermediate appellate court and court of last resort and resulted in published opinions. In addition, at least one of the nine cases examined will involve a capital murder case. The nine cases examined should be located in states with different appellate court structures, including those with two levels of appeal and those with only one level of appellate review.
6. Develop methods to encourage participation from key professional agencies in the Survey of State Court Criminal Appeals. The collection agent will develop an action plan to enhance the level of interest and participation in the survey among key stakeholders in the state court community including the National Association of Appellate Court Clerks and the Council of Chief Judges of the State Courts of Appeal. Documentation of interest among these professional groups will be submitted to OMB as supporting evidence for the necessity of implementing this study.
7. Provide an implementation plan for the data collection to begin in 2009. In collaboration with the BJS project manager, an implementation plan for executing the Survey of State Court Criminal Appeals in 2009 will be developed. The implementation plan must address all aspects of the data collection including, but not limited to:
  - survey construction;
  - sample design and costs associated with proposed sampling frameworks;
  - contact procedures for selected courts;
  - protocols for coordinating the data collection within sampled courts;
  - techniques for obtaining high rates of participation by sampled courts; and,
  - a methodology to address item and unit non-response, post survey weighting specifications, and standard errors.
8. Meetings and progress reports – Formal meetings between the BJS project monitor and the recipient will be scheduled as needed. Such meetings will take place at a location mutually acceptable to both parties. Conference calls between BJS project principals and the recipient's Project Director shall be held at least once per month.
  - a. The recipient will shall host at least one formal meeting during the development phase of the instrument and sampling design. Participants shall include recipient and BJS staff, consultants, and subject matter experts. The meeting shall be held in Washington, DC. If a second meeting is needed, it can be held at a location to be determined by the recipient and Project Monitor.

### **Funding Information**

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

## Match Requirement

Consistent with established BJS data quality standards and based on the nature of the deliverables, BJS has determined that it is not feasible to require the award recipient to contribute money, facilities, or services to carry out the purposes for which the grant is sought. Therefore, there is no match requirement.

## Performance Measures

To assist in fulfilling the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measures the results of their work. Performance measures for this solicitation are as follows:

Objective	Performance Measures	Data Grantee Provides
Develop a Survey of State Court Criminal Appeals data collection instrument.	Successfully complete a survey design and implementation plan which will enable BJS to effectively obtain information on the processing of criminal appeal cases and allow for the examination of factors associated with litigating criminal appeals, the decision to continue or abandon criminal appeals, and the flow of criminal cases from the trial court to intermediate appellate courts and courts of last resort.	Demonstrate that the survey design and collection plan includes (1) a robust instrument capable of obtaining essential data elements; (2) various sampling methodologies for producing reliable estimates; (3) statistical models for assessing the reliability of the various proposed sampling frameworks; (4) methods to encourage participation from key professional appellate court agencies; and, (5) techniques for obtaining high rates of participation by sampled courts; and (6) a methodology to address item and unit non-response, post survey weighting specifications, and standard errors.
	Successfully conduct a pretest to assess the feasibility of collecting detailed criminal appeal case processing data and producing reliable estimates	Demonstrate the viability of the survey instrument and collection protocol to obtain quality data as indicated by factors such as: minimal number of missing or



	of state criminal appellate litigation in both intermediate appellate courts and courts of last resort.	inconsistent data in data file; minimal post validation follow-up; and 100% response from selected jurisdictions.
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## How to Apply

DOJ is participating in the e-Government initiative, one of 25 initiatives included in the President's Management Agenda. Part of this initiative -- Grants.gov -- is a "one-stop storefront" that provides a unified process for all customers of Federal grants to find funding opportunities and apply for funding.

Grants.Gov Instructions: Complete instructions can be found at <<http://www.grants.gov>>. If you experience difficulties at any point during this process, please call the Grants.gov Customer Support Hotline at 1-800-518-4726.

CFDA Number: The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 16.734, titled "Survey of State Court Criminal Appeals: Development and Design Phase" and the funding opportunity number is 2008-BJS-1853.

A DUNS number is required: The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS (Data Universal Numeric System) number in their application for a new award or renewal of an award. Applications without a DUNS number are incomplete. 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. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, simple, one-time activity. Obtain one by calling 1-866-705-5711 or by applying online at <http://www.dunandbradstreet.com>. Individuals are exempt from this requirement.

Note: Grants.gov does not support the Microsoft Vista Operating System. The PureEdge software used by Grants.gov for forms is not compatible with Vista. Also, Grants.gov cannot yet process Microsoft Word 2007 documents saved in the new default format with the extension ".DOCX." Please ensure the document is saved using "Word 97-2003 Document (\*.doc)" format.

Please also note: OJP's Grants Management System (GMS) does not accept executable file types as application attachments. OJP's Grants Management System (GMS) downloads applications from Grants.gov and is the system in which OJP reviews applications and manages awarded grants. 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".

## What an Application Must Include

When applying for Federal funding, applicants must provide the following:

Standard Form 424  
Program Narrative  
Budget and Budget Narrative  
Indirect Cost Rate Agreement (if applicable)  
Other Attachments

- Applicant must complete the Application for Federal Assistance (SF-424), a standard form that most Federal agencies use.
- The project narrative should describe activities as discussed in the Scope of Work. The applicant should describe the project goals and objectives, project plans, and the methods for achieving the goals.
- The Budget Detailed Worksheet may be found through the Internet at [http://www.ojp.usdoj.gov/funding/forms/budget\\_detail.pdf](http://www.ojp.usdoj.gov/funding/forms/budget_detail.pdf), OJP Standard Forms & Instructions. The OJP Financial Guide, which governs the administration of funds, contains information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records, is available on the OJP website at <http://www.ojp.usdoj.gov/financialguide/index.htm>. If you have any questions, please contact the OJP Office of the Chief Financial Officer's Customer Service Center at 1-800-458-0786.
- Applicants who do not have a Federally-negotiated indirect cost rate and wish to establish one may submit a proposal to their "cognizant" Federal

agency. Generally, the cognizant Federal agency is the agency that provides the preponderance of direct Federal funding. This can be determined by reviewing an organization's schedule of Federal financial assistance. If DOJ is your cognizant Federal agency, obtain information needed to submit an indirect cost rate proposal at [http://www.ojp.usdoj.gov/funding/pdfs/indirect\\_costs.pdf](http://www.ojp.usdoj.gov/funding/pdfs/indirect_costs.pdf).

#### Other Attachments

- **Key staff information.**  
Information on key staff includes: a staff loading chart, by task and contract year, showing the role and number of hours (per year) committed for proposed staff; identification of proposed key personnel and their qualifications for the significant functions in this project, along with concise descriptions of the duties each will perform under the grant; and an identification by name of all key personnel with decision-making authority.
- **Privacy Certification.**  
The Privacy Certificate is a funding recipient's certification of compliance with Federal regulations requiring confidentiality of information identifiable to a private person, which is collected, analyzed, or otherwise used in connection with an OJP-funded research or statistical activity. The funding recipient's Privacy Certificate includes a description of its policies and procedures to be followed to protect identifiable data. A model certificate is located at <http://www.ojp.usdoj.gov/bjs/pub/pdf/bjsmpc.pdf>.
- **Human Subjects Protection Certification of Compliance.**  
BJS requires the funding recipient to submit proper documentation to be used to determine that the research project meets the Federal requirements for human subjects protections set forth in 28 CFR Part 46. A model certificate, describing the necessary information to be provided by the funding recipient, can be accessed at <http://www.ojp.usdoj.gov/bjs/hscr.htm>.
- **Assurances and Certifications.** Applicants are required to submit as an attachment signed copies of these assurances and certifications electronically through Grants.Gov. It is critical that the name, address, telephone number, fax number, and e-mail address of the authorizing official on these online forms are correct. These forms can be obtained on OJP's funding page at <http://www.ojp.usdoj.gov/funding/forms.htm>.
  - (1) **Assurances.** The applicant must comply with the assurances in order to receive Federal funds under this program. It is the responsibility of the recipient of Federal funds to fully understand and comply with these requirements. Failure to comply may result in withholding of funds, termination of the award, or other sanctions.

(2) Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace. This form commits the applicant to comply with the certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," and 28 CFR Part 67, "A Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for a Drug-Free Workplace (Grants)."

## **Selection Criteria**

Proposals should describe the plan and implementation strategies outlined in the scope of work. Information on staffing levels and qualifications should be included for each task and descriptions of experience relevant to the project. Resumes of the proposed project director and key staff should be submitted with the proposal.

The applicant will be evaluated on the basis of:

1. Statement of the Problem/Program Narrative  
Content of the proposal and how it addresses the tasks in the Scope of Work.
2. Project Design and Implementation  
Demonstrated knowledge of applied survey research, including survey construction, sample issues, questionnaire issues, content issues, bias issues, as well as the ability to pre-test research findings.
3. Capabilities/Competencies  
Demonstrated ability of staff in understanding survey research, including survey and sample design.
4. Budget  
Demonstrated fiscal, management, staff, and organizational capacity to provide sound management for this project. Applicant should include detailed staff resources and other costs by project tasks.
5. Impact/Outcomes and Evaluation  
Demonstrated ability to develop research designs for complex surveys.

## **Review Process**

Applications will be reviewed competitively with the final award decision made by the Director of BJS. The applicant will be evaluated based on the requirements mentioned under the Selection Criteria.

## **Additional Requirements**

- Civil Rights Compliance
- Confidentiality and Human Subjects Protections Regulations

- Anti-Lobbying Act
- Financial and Government Audit Requirements
- National Environmental Policy Act (NEPA) Compliance
- DOJ Information Technology Standards
- Single Point of Contact Review
- Non-Supplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with Office of the Comptroller Financial Guide
- Suspension or Termination of Funding

We strongly encourage you to review the information pertaining to these additional requirements prior to submitting your application. Additional information for each can be found at <[http://www.ojp.usdoj.gov/funding/other\\_requirements.htm](http://www.ojp.usdoj.gov/funding/other_requirements.htm)>.