

# *Denial of Federal Benefits For Drug Offenders Program Guide*

1. **PURPOSE** The purpose of this Guideline is to provide information to supplement the President's implementation plan of August 30, 1989, on the Denial of Federal Benefits for Drug Offenders Program.
2. **SCOPE** This Guideline is of interest to all persons involved in any aspect of the Denial of Federal Benefits Program.
3. **AUTHORITY** Section 5301 of the Anti-Drug Abuse Act of 1988 (PL100-690) (21 U.S.C. §862).
4. **POLICY** Administration and Enforcement of the Act.
  - a. The administration and enforcement of the Denial of Federal Benefits for Drug Traffickers and Possessors provisions of PL 100-690, Subtitle G, Section 5301, is subject to the general supervision and direction of the Attorney General, as assigned by the President. The Attorney General has assigned these duties to the Assistant Attorney General for the Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA).
  - b. Copies of the statutory provision, guidelines, and forms prepared to implement the statute, and information concerning the foregoing, may be obtained upon request without charge from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Denial of Federal Benefits Program, 810 Seventh St., NW, Washington, D.C. 20531, telephone (202) 616-3506.
  - c. The Office of Justice Programs, Bureau of Justice Assistance, is authorized to prescribe such forms and instructions in addition to, or in lieu of, those specified in

this Guideline as may be necessary to carry out the purposes of this Program.

5. **DEFINITIONS**

- a. Federal benefit means (1) the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States, and (2) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. Appendix 1 contains a listing of the types of Federal benefits that may be denied.
- b. Veterans benefit means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.
- c. Controlled substance means any drug or other substance as defined in the Controlled Substances Act, 21 U.S.C. §801, et seq., particularly in 21 U.S.C. §802 (6), listed in schedules I through V of the Controlled Substances Act in 21 U.S.C. §812, or a controlled substance analog as provided in 21 U.S.C. §813.
- d. Trafficking offense means any offense that includes manufacturing, distributing, importing, dispensing, cultivating, or creating a controlled or counterfeit substance; or possession with intent to do any of the above; or conspiracy to commit any of the above offenses.
- e. Deemed to be Rehabilitated and Long-Term Treatment Program for purposes of carrying out the provisions of Section 5301 of the Anti-Drug Abuse Act of 1988 are defined pursuant to rules established by the Secretary of the Department of Health and Human Services in Part 78 of Title 45 of the Code of Federal

Regulations.

- f. The definitions of “has otherwise been rehabilitated” and “supervised drug rehabilitation” that follow are nonbinding and are shown here merely for informational purposes so that the courts may take judicial notice thereof.
1. *Has otherwise been rehabilitated* for purposes of carrying out the provisions of Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §853a (c) (B), means that an individual has abstained from the illegal use of a controlled substance for a period of at least 180 days, provided that such abstinence is documented by the results of periodic urine drug testing conducted during that period; and provided further that such drug testing is conducted using an immunoassay test approved by the Food and Drug Administration for commercial distribution or, in the case of a State office, either using an immunoassay test approved by the Food and Drug Administration for commercial distribution or pursuant to standards approved by the State.
  2. *Supervised Drug Rehabilitation* is a program supervised and/or maintained by a State, local, or private organization licensed to conduct or supervise rehabilitation services that incorporates a system for regular monitoring through drug testing and reporting on the progress of individual treatment subjects, and that provided written reports to the appropriate governmental authority at regular intervals during the course of treatment and at the completion or termination of treatment.
- g. ***State*** means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone (21 U.S.C. §802 (26)).

6. **DENIAL OF FEDERAL BENEFITS FOR DRUG TRAFFICKERS**

Any individual who is convicted of any State or Federal Offense consisting of the distribution of a controlled substance (as such term is defined for purposes of the Controlled Substances Act., 21 U.S.C. §802(6) et seq.) shall:

- a. At the discretion of the court, upon the first conviction for such an offense, be ineligible for any or all Federal benefits for up to 5 years after such conviction;
- b. At the discretion of the court, upon a second conviction for such an offense, be ineligible for any or all Federal benefits for up to 10 years after such conviction;  
and
- c. Upon a third or subsequent conviction for such an offense, be permanently ineligible for all Federal benefits (this provision is mandatory.)

7. **EXCLUSIONS FOR DENIAL OF FEDERAL BENEFITS FOR DRUG**

**TRAFFICKERS** Benefits denied under Section 5301 shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

8. **DENIAL OF FEDERAL BENEFITS FOR DRUG POSSESSORS**

Any individual who is convicted of any State or Federal offense involving the possession of a controlled substance (as such term is defined for purposes of the Controlled Substances Act 21 U.S.C. §802(6) et seq.) Shall:

- a. Upon the first conviction for such an offense, and at the discretion of the court:
  1. be ineligible for any or all Federal benefits for up to one year;

2. be required to successfully complete an approved drug treatment program that includes periodic testing to insure that the individual remains drug-free;
  3. be required to perform appropriate community service; or
  4. any combination of section 8.a.1, 2, or 3.
- b. Upon a second or subsequent conviction for such an offense, be ineligible for all Federal benefits for up to five years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph a in imposing penalties and conditions. The court may require that the completion of the conditions imposed by section 8.a.2, or 8.a.3 be a requirement for the reinstatement of benefits under clause 8.a.1.

9. **WAIVER AND SUSPENSION OF DENIAL OF FEDERAL BENEFITS FOR DRUG**

**POSSESSORS: PENALTIES AND CONDITIONS** Penalties and conditions imposed under paragraph 8 shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

10. **SUSPENSION OF PERIOD OF INELIGIBILITY** The period of ineligibility referred to in sections 6 and 8 shall be suspended by the court upon a showing that the individual has (1) completed a supervised drug rehabilitation program after becoming ineligible under Section 5301; (2) otherwise been rehabilitated; or (3) has made a good faith effort to gain admission into supervised drug rehabilitation programs, but is unable to do so because of inaccessibility or inability to pay for such a program.

11. **INAPPLICABILITY**

- a. Government Witness. The penalties provided by Section 5301 shall not apply to any individual who cooperates or testifies on behalf of the government in the prosecution of a State or Federal offense or who is in a government witness protection program. The government shall identify by motion any individual who has cooperated or testified on behalf of the government in the prosecution of a State or Federal offense or who is in a government witness protection program. The government may submit the motion under seal for the safety of a person or to avoid disclosure of an ongoing investigation.
- b. Indian Provision. Nothing in this Guideline shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty, statute, Executive Order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this subparagraph shall exempt any individual Indian from the sanctions provided for in Section 5301 provided that no individual Indian shall be denied any benefit under Federal Indian programs comparable to those described in subparagraphs 5.a.2, and 5.b.

**12. EFFECTIVE DATE** The Denial of Federal Benefits provision may only be applied to convictions occurring after September 1, 1989, that arise from offenses occurring on or after November 18, 1988.

**13. JUDICIAL ACTION**

- a. In pronouncing sentence, the court shall determine the range and scope of benefits to be denied. Recommendations regarding sentencing can be made to the court with respect to this law in accordance with all other sentencing recommendation requirements.
- b. The court, at its discretion, may deny some or all benefits or suspend eligibility on

a benefit-specific basis. There are no restrictions on the number or range of benefits for which the court may deny eligibility, other than those benefits specifically excepted from judicial denial by Section 5301. Appendix 1 contains a listing of the types of Federal benefits that may be denied.

- c. The court, at its discretion, may sentence an individual to be ineligible for all Federal benefits. Accordingly, a court could order a blanket denial of all benefits for a specified period of time not to exceed the periods described in sections 6 and 8 along with any exclusions to that blanket denial as stated above. This mechanism maximized the flexibility of the judicial branch in determining sentences in particular cases.

**14. CLEARINGHOUSE** The Denial of Federal Benefits Program (DFB), U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), will be the “information clearinghouse” for information provided by all Federal and state courts regarding sentences of drug traffickers or possessors that include denial of benefits, and individuals who have been convicted of a third or subsequent drug trafficking offense. The DFB will collect this information regarding those individuals to whom benefits are to be denied and forward this information to the General Services Administration (GSA) for inclusion in the publication “Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs” more commonly known as the “Debarment List.” Federal agencies are required to consult the Debarment List to ensure compliance with the provisions of the statute.

**15. STATE COURT AND FEDERAL COURT SUBMISSION OF STATEMENTS**  
“Statements” include, but are not limited to, copies of Judicial Orders issued by State courts and Federal courts, “Denial of Federal Benefits” forms, or “Reinstatement of

Federal Benefits” forms. State courts and Federal courts are requested to send statements to DFB after sentencing of an offender to denial of Federal benefits, or when the offender’s criminal history indicates the individual has been convicted of a third or subsequent drug trafficking offense, or completion of action qualifying the offender for reinstatement of benefits. See Appendix 2, OJP Form 3500/2-Denial of Federal Benefits for Drug Offenders; Appendix 3, Form AO245B-Judgment in a Criminal Case; Appendix 4, Form AO245 S-Reinstatement of Federal Benefits.

- 16. CONTENTS OF STATEMENTS** All documents submitted to the Clearinghouse should set forth the name, date of birth, and Social Security Number of the offender and any other identification available as specified on the statement Denial of Federal Benefits For Drug Offenders Form. See Appendix 2, OJP Form 3500/2.
- a. Denied Benefits. Document should state specific benefits to be denied, period of denial, nature of offense (trafficking or possession), existence of a previous drug conviction record, and other conditions associated with the denial.
  - b. Reinstatement of Denied Benefits. Any reinstatement of a denial of benefits to an individual should indicate the basis under Section 862 for the reinstatement, and attach materials evidencing completion of a rehabilitation program or other activities qualifying for reinstatement.
  - c. The court shall then complete and forward to the Department of Justice a “Reinstatement of Federal Benefits” form as provided in sections 15, 16, and 18.
  - d. Documentation and Exhibits. The Denial of Federal Benefits form, or an attached court order, should be a certified true copy and signed by the sentencing judge.

- 17. DEFICIENT STATEMENT FILINGS** Documents submitted with incomplete data may



be returned to the sender for additional information.

18. **SUPPLEMENTAL STATEMENT FILINGS** Documents submitted after the original filing should include all identification information included in the original statement and should indicate that the statement is an update of a previously filed denial document. Supplemental information may be provided on Block 17 of the Denial of Federal Benefits For Drug Offenders Form (See Appendix 2, OJP Form 3500/2) or as a narrative statement.
19. **FILING OF A STATEMENT**
  - a. State Court Denial of Federal Benefits For Drug Offenders Form (OMB 1121-0148, approved pursuant to the Paperwork Reduction Act), Federal court forms, and all statements, exhibits, amendments, and other documents and papers filed under the statute or under this Guideline should be submitted to the Denial of Federal Benefits Program, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 810 Seventh St., NW, Washington, DC 20531.
  - b. Filing of such documents may be made in person or by mail, and they are deemed to be filed upon their receipt by the Program. Courts seeking to deny Federal benefits to convicted drug traffickers and possessors pursuant to PL 100-690, Section 5301 of the Anti-Drug Abuse Act, should execute a statement, and address it to Denial of Federal Benefits Program, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 810 Seventh St., NW, Washington, DC 20531.
20. **ACKNOWLEDGMENT** All statements will be acknowledged in writing by the Denial of Federal Benefits Program Clearinghouse.
21. **PRIVACY ACT MATTERS**

- a. Consistent with the provisions of the Privacy Act of 1974, as amended (5 U.S.C. §552a), and DOJ regulation 28 CFR §20.30 et seq., DOJ will maintain records of all information received from State court and Federal court officials, and forward data to the General Services Administration (GSA) for inclusion in the “Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.” As required, the Clearinghouse will provide other Federal agencies with information on specific benefits that have been denied to an individual.
- b. Upon notification from a State court or Federal court, DOJ will notify GSA, and other Federal agencies as required, of an individual’s renewed eligibility for Federal benefits.
- c. DOJ will also provide information as requested by a State court or Federal court regarding current or prior Denial of Federal Benefits sanctions or restoration of benefits determinations.

**22. PROCESSING OF STATEMENTS - GSA** To add an exclusionary action to the Debarment List, a letter enumerating the Denial of Federal Benefits actions will be forwarded by DFB to GSA. The cover letter will include the following information:

- a. Name and complete address of the excluded participant.
- b. Cause for the action, citing the appropriate Cause and Treatment codes. The Cause and Treatment Codes, including definitions, that are now included in the “Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs,” are contained in Appendix 5.
- c. The date the period of benefits suspension ends.
- d. To delete an action that does not have a definite termination date, a brief letter

requesting removal of the participant from the Debarment List will be forwarded by DFB to GSA. GSA is not otherwise authorized to remove an action that does not have a definite termination date from the Debarment List without written notification from the DFB.

- e. Prior to submitting any information to GSA for inclusion in the Debarment List, DFB will determine if GSA's publication of any of the data elements pertaining to a participant is consistent with the Privacy Act of 1974, PL 93-579, as amended, 5 U.S.C. §552a et seq. If there are data elements that cannot be published, such data will be deleted.
- f. To insure the accuracy of entries on the Debarment List, the DFB will review and verify the entry(ies) in such edition of the monthly debarment list publication. If an entry is found to be incorrect, GSA will be notified in writing.
- g. All requests for exclusion from the Debarment List must be submitted to DFB for forwarding to GSA.

**23. RELEASE OF INFORMATION CONCERNING STATEMENTS AND INQUIRIES**

**CONCERNING APPLICATION OF THE ACT** Any inquiries concerning application of the law to any person should be addressed to the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Denial of Federal Benefits Program, 810 Seventh St., NW, Washington, DC 20531, telephone (202) 616-3506. Information will only be released in accordance with the Privacy Act (5 U.S.C. §552a), the Freedom of Information Act (5 U.S.C. §552), and DOJ regulation 28 CFR §20.30 et seq...

**24. FEDERAL AGENCY ACTION** The President's implementation procedures of August 30, 1989, direct the Federal agencies to do the following:

- a. As currently required by regulation and Executive Order, each Federal agency is

responsible for checking the contents of the Debarment List for Section 5301 violations prior to the award of any Federal benefit.

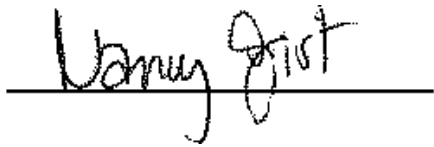
- b. Language contained in the current certification procedure in the Federal Acquisition Regulation for procurement programs, and in the common rule established among the Federal agencies for nonprocurement programs, provides for individuals who apply for Federal grants, contracts, or benefits to certify that they have not been debarred, suspended, or otherwise declared ineligible for participation in such programs. We interpret this language to apply to denials that occur as a result of a judicial order, or for a third or subsequent conviction for a drug trafficking offense pursuant to section 6.c.
- c. In those instances where denial of an existing benefit is at issue, each Federal department or agency having administrative authority to disburse Federal benefits under this provision, should determine the manner and time frame for benefit termination. Applicable agency rules pertaining to benefit payments and other administrative matters vary considerably according to the agency and the benefit involved. For instance, termination of a Federal license may be conducted in a fashion separate from termination of other grants or contracts. Additionally, agency rules governing disbursement of educational grants vary according to the requirements of particular programs, as do regulations concerning Federally insured loans. Accordingly, each agency should ensure that benefit termination occurs in an effective and expeditious manner appropriate to the targeted benefit and reasonable under the circumstances.

**25. APPEAL OF DENIAL OF BENEFITS** When any individual denied a benefit under

this program believes that the denial is based on false identification, or that the basis for the denial is no longer valid, the individual may appeal the denial to the Federal agency denying the benefit, consistent with any procedures established by the agency or by DFB. In such event, the Clearinghouse will make available to the denying agency, documentation relating to the basis for the denial.

26. **FOR FURTHER INFORMATION** Contact Robert T. Watkins, Director, Denial of Federal Benefits Program, 202-616-3506, [This is not a toll-free number,] or on the web at [www.ojp.usdoj.gov/BJA](http://www.ojp.usdoj.gov/BJA) [Click on BJA Administered Non-Grant Programs]

DATED: June 19, 2000

A handwritten signature in black ink that reads "Nancy Gist". The signature is written in a cursive style and is positioned above a solid horizontal line.

Nancy Gist, Director

Bureau of Justice Assistance

## Appendix 1

### Types of Federal benefits which may be denied

Procurement Programs Which May Be Denied Under Section 5301. All Contracts or Purchase Orders issued by Federal agencies or by others using monies appropriated by the Federal government. This will include all Federally awarded acquisition and personal property sales.

Non-Procurement Programs Which May Be Denied Under Section 5301. All taxpayer-supported economic benefits, defined by statute as “the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States.

The following list is an excerpt from the Catalog of Federal Domestic Assistance (CFDA), and contains the **types** and brief definition of Federal benefits which may be denied an individual under the Title 21, U.S.C. §862.

1. PROJECT GRANTS - The funding, for fixed or known periods, of specific projects or the delivery specific services or products without liability for damages for failure to perform. Project grants include fellowships, scholarships, research grants, training grants, traineeships, experimental and demonstration grants, evaluation grants, planning grants, technical assistance grants, survey grants, construction grants, and unsolicited contractual agreements.
2. DIRECT PAYMENTS FOR SPECIFIED USE - Financial assistance from the Federal government provided directly to individuals, private firms, and other private institutions to encourage or subsidize a particular activity by conditioning the receipt of the assistance on a particular performance by the recipient. This does not include solicited contracts for the procurement of goods and services for the Federal Government.
3. DIRECT PAYMENTS WITH UNRESTRICTED USE - Financial assistance from the Federal government provided directly to beneficiaries who satisfy Federal Eligibility requirements with no restrictions being imposed on the recipient as to how the money is spent. Included are payments under retirement, pension,

and compensation programs.

4. DIRECT LOANS - Financial assistance provided through the lending of Federal monies for a specific period of time, with a reasonable expectation of repayment. Such loans may or many not require the payment of interest.
5. GUARANTEED/INSURED LOANS - Programs in which the Federal government makes an arrangement to indemnify a lender against part or all of any defaults by those responsible for repayment of loans.
6. SALE, EXCHANGE, OR DONATION OF PROPERTY AND GOODS - Programs which provide for the sale, exchange, or donation of Federal real property, personal property, commodities, and other goods including land, buildings, equipment food and drugs. This does not include the loan of, use of, or access to Federal facilities or property.
7. USE OF PROPERTY, FACILITIES, AND EQUIPMENT - Programs which provide for the loan of, use of, or access to Federal facilities or property wherein the federally-owned facilities or property do not remain in the possession of the recipient of the assistance.

Appendix 2  
**OJP Form 3500/2- Denial of Federal Benefits for Drug Offenders**

APPROVED: OMB NO. 1121-0148  
 EXPIRES: 05/31/2002



U.S. DEPARTMENT OF JUSTICE  
 BUREAU OF JUSTICE ASSISTANCE  
 WASHINGTON, D.C. 20531  
**DENIAL OF FEDERAL BENEFITS  
 FOR DRUG OFFENDERS**

*This requirement is pursuant to authority of 21 U.S.C. 862. Courts may use this form or submit court documents. If the information requested below is included in court documents, complete only items 1-10, and submit this form as a transmittal sheet.*

1. NAME (last, first, middle): Please Print		2. SEX: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE		3. SENTENCING DATE:									
4. OTHER NAMES USED (AKA):													
5. STREET ADDRESS:													
6. CITY:			7. STATE:		8. ZIP CODE:								
9. DATE(S) OF BIRTH:		10. SOCIAL SECURITY NUMBER(S):		11. CASE/DOCKET NUMBER(S):									
12. OFFENSE: <input type="checkbox"/> DRUG TRAFFICKER <input type="checkbox"/> DRUG POSSESSOR		13. SENTENCE BY COURT: A. STATUTORY CRITERIA: <table style="width:100%; border:none;"> <tr> <td style="text-align:center; border:none;"><u>TRAFFICKER</u></td> <td style="text-align:center; border:none;"><u>POSSESSOR</u></td> </tr> <tr> <td style="border:none;"><input type="checkbox"/> FIRST OFFENSE _____ YEAR(S) <i>(up to 5 years)</i></td> <td style="border:none;"><input type="checkbox"/> FIRST OFFENSE _____ YEAR(S) <i>(up to 1 year)</i></td> </tr> <tr> <td style="border:none;"><input type="checkbox"/> SECOND OFFENSE _____ YEAR(S) <i>(up to 10 years)</i></td> <td style="border:none;"><input type="checkbox"/> SECOND OFFENSE _____ YEAR(S) <i>(up to 5 years)</i></td> </tr> <tr> <td style="border:none;"><input type="checkbox"/> THIRD OFFENSE <i>(PERMANENTLY DENIED)</i></td> <td style="border:none;"><input type="checkbox"/> SUBSEQUENT OFFENSE <i>(up to 5 years)</i></td> </tr> </table> B. OTHER CONDITIONS:				<u>TRAFFICKER</u>	<u>POSSESSOR</u>	<input type="checkbox"/> FIRST OFFENSE _____ YEAR(S) <i>(up to 5 years)</i>	<input type="checkbox"/> FIRST OFFENSE _____ YEAR(S) <i>(up to 1 year)</i>	<input type="checkbox"/> SECOND OFFENSE _____ YEAR(S) <i>(up to 10 years)</i>	<input type="checkbox"/> SECOND OFFENSE _____ YEAR(S) <i>(up to 5 years)</i>	<input type="checkbox"/> THIRD OFFENSE <i>(PERMANENTLY DENIED)</i>	<input type="checkbox"/> SUBSEQUENT OFFENSE <i>(up to 5 years)</i>
<u>TRAFFICKER</u>	<u>POSSESSOR</u>												
<input type="checkbox"/> FIRST OFFENSE _____ YEAR(S) <i>(up to 5 years)</i>	<input type="checkbox"/> FIRST OFFENSE _____ YEAR(S) <i>(up to 1 year)</i>												
<input type="checkbox"/> SECOND OFFENSE _____ YEAR(S) <i>(up to 10 years)</i>	<input type="checkbox"/> SECOND OFFENSE _____ YEAR(S) <i>(up to 5 years)</i>												
<input type="checkbox"/> THIRD OFFENSE <i>(PERMANENTLY DENIED)</i>	<input type="checkbox"/> SUBSEQUENT OFFENSE <i>(up to 5 years)</i>												
14. NAME OF SENTENCING JUDGE: Please Print		15. DURATION OF DENIAL:  A. STARTING DATE _____  B. ENDING DATE _____											
16. BENEFITS DENIED: <input type="checkbox"/> ALL BENEFITS DENIED. <input type="checkbox"/> ALL BENEFITS DENIED EXCEPT THOSE SPECIFIED BELOW:													
17. ADDITIONAL INFORMATION:													
18. RESCISSIONS: THE PERIOD OF INELIGIBILITY FOR FEDERAL BENEFITS WHICH WAS IMPOSED BY THE COURT IN THE ABOVE REFERENCED CASE IS HEREBY SUSPENDED FOR THE REASON THAT: <input type="checkbox"/> DEFENDANT HAS SUCCESSFULLY COMPLETED A DRUG REHABILITATION PROGRAM. <input type="checkbox"/> OTHER (specify).													
19. SIGNATURE AND TITLE OF AUTHORIZED COURT OFFICIAL:													
20. COURT NAME:				21. TELEPHONE (area code):									
22. STREET ADDRESS:				FAX (area code):									
23. CITY:		24. STATE:		25. ZIP CODE:									



# BJA DENIAL OF FEDERAL BENEFITS FOR DRUG OFFENDERS PROGRAM

## INSTRUCTIONS

Please **PRINT** or **TYPE** all responses.

**NOTE:** If all the information requested in this form is included in court documents *submitted with this form*, complete only items 1–10 and use this form as a transmittal sheet attached to the signed court documents. This form also may be used to restore benefits and as a rescission of the denial of benefits by using item 18. This form and appropriate court documents must be forwarded to:

U.S. Department of Justice  
Bureau of Justice Assistance  
Denial of Federal Benefits Program  
810 Seventh Street, N.W.  
Washington, D.C. 20531

1. Name of the offender to be denied benefits, listing last, first, and middle names.
2. Sex of the offender to aid in identification.
3. Date on which a judge rendered sentence calling for the denial of Federal benefits.
4. Other names used by the offender. (aliases)
- 5.–8. Last known address for the offender. (This should not be a prison address.)
9. All known Dates of birth for the offender.
10. All known Social Security Numbers of the offender.
11. Case or Docket numbers of court orders.
12. Drug Trafficking or Possession conviction.
- 13a. Terms of the sentence under Statute. (21 U.S.C. §862)
- 13b. Other conditions: Indicate whether drug treatment or community service is required.
14. Name of the sentencing judge.
15. If denied, the duration of the denial of Federal benefits, including starting and ending dates.
16. Indicate whether all Federal benefits are to be denied under 21 U.S.C. §83a. Specify which Federal benefits are excluded.
- 17a. All known FBI and BOP identification numbers.
- 17b. Indicate all prior drug offenses by listing case numbers, and specify (T) for trafficking or (P) for possession.
18. Date Federal benefits is restored by action of the court. (To be completed only after treatment has been completed and further action is taken by the court)
19. Signature of sentencing judge or other court official authorized to supply data.
20. Name of sentencing court.
21. Telephone and Fax numbers of sentencing court.
- 22.–25. Address of sentencing court.

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**Public Reporting Burden:** The estimated average time to complete and file this application is five (5) minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. If you have comments regarding the accuracy of this estimate, write to the Denial of Federal Benefits Program, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, N.W., Washington, D.C. 20531. For additional information on the Program, call (202) 616-3506.

**Appendix 3  
Form AO245B-Judgment in a Criminal Case**

AO 245B (8/96) Sheet 1 - Judgment in a Criminal Case

**UNITED STATES DISTRICT COURT**

District of \_\_\_\_\_

UNITED STATES OF AMERICA

V.

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

Case Number: \_\_\_\_\_

Defendant's Attorney \_\_\_\_\_

**THE DEFENDANT:**

- pleaded guilty to count(s) \_\_\_\_\_
- pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
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The defendant is sentenced as provided in pages 2 through \_\_\_\_\_ of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count(s) \_\_\_\_\_ (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: \_\_\_\_\_

Defendant's Date of Birth: \_\_\_\_\_

Defendant's USM No.: \_\_\_\_\_

Defendant's Residence Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant's Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date of Imposition of Judgment

\_\_\_\_\_  
Signature of Judicial Officer

\_\_\_\_\_  
Name and Title of Judicial Officer

\_\_\_\_\_  
Date

DEFENDANT:  
CASE NUMBER:

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of \_\_\_\_\_.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on \_\_\_\_\_.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
Deputy U.S. Marshal

DEFENDANT:  
CASE NUMBER:

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of \_\_\_\_\_.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

*For offenses committed on or after September 13, 1994:*

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

- The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT:  
CASE NUMBER:

## PROBATION

The defendant is hereby placed on probation for a term of \_\_\_\_\_.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

*For offenses committed on or after September 13, 1994:*

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.



DEFENDANT:  
CASE NUMBER:

### SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A  In full immediately; or
- B  \$ \_\_\_\_\_ immediately, balance due (in accordance with C, D, or E); or
- C  not later than \_\_\_\_\_; or
- D  in installments to commence \_\_\_\_\_ days after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E  in \_\_\_\_\_ (e.g., equal, weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ year(s) to commence \_\_\_\_\_ days after the date of this judgment.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

- The defendant shall pay the cost of prosecution.
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program are to be made as directed by the court, the probation officer, or the United States attorney.

DEFENDANT:  
CASE NUMBER:

**STATEMENT OF REASONS**

The court adopts the factual findings and guideline application in the presentence report.

**OR**

The court adopts the factual finding and guideline application in the presentence report except (see attachment, if necessary):

**Guideline Range Determined by the Court :**

Total Offense Level: \_\_\_\_\_

Criminal History Category: \_\_\_\_\_

Imprisonment Range: \_\_\_\_\_ to \_\_\_\_\_ months

Supervised Release Range: \_\_\_\_\_ to \_\_\_\_\_ years

Fine Range: \$ \_\_\_\_\_ to \$ \_\_\_\_\_

Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$ \_\_\_\_\_

Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).

For offenses committed on or after September 13, 1994 but before April 23, 1996 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.

Partial restitution is ordered for the following reason(s):

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

**OR**

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:

**OR**

The sentence departs from the guideline range:

upon motion of the government, as a result of defendant's substantial assistance.

for the following specific reason(s):



DEFENDANT:  
CASE NUMBER:

**DENIAL OF FEDERAL BENEFITS**  
(For Offenses Committed On or After November 18, 1988)

**FOR DRUG TRAFFICKERS PURSUANT TO 21 U.S.C. § 862**

IT IS ORDERED that the defendant shall be:

- ineligible for all federal benefits for a period of \_\_\_\_\_.
- ineligible for the following federal benefits for a period of \_\_\_\_\_.  
(specify benefit(s)) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OR**

- Having determined that this is the defendant's third or subsequent conviction for distribution of controlled substances, IT IS ORDERED that the defendant shall be permanently ineligible for all federal benefits.

**FOR DRUG POSSESSORS PURSUANT TO 21 U.S.C. § 862(b)**

IT IS ORDERED that the defendant shall:

- be ineligible for all federal benefits for a period of \_\_\_\_\_.
- be ineligible for the following federal benefits for a period of \_\_\_\_\_.  
(specify benefit(s)) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- successfully complete a drug testing and treatment program.
- perform community service, as specified in the probation and supervised release portion of this judgment.
- Having determined that this is the defendant's second or subsequent conviction for possession of a controlled substance, IT IS FURTHER ORDERED that the defendant shall complete any drug treatment program and community service specified in this judgment as a requirement for the reinstatement of eligibility for federal benefits.

Pursuant to 21 U.S.C. § 862(d), this denial of federal benefits does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. The clerk of court is responsible for sending a copy of this page and the first page of this judgment to :

U.S. Department of Justice, Office of Justice Programs, Washington, DC 20531

Appendix 4  
Form AO245 S- Reinstatement of Federal Benefits

AO 245 S (Rev. 7/92) Sheet 8 - Reinstatement of Federal Benefits

# UNITED STATES DISTRICT COURT

District of \_\_\_\_\_

## REINSTATEMENT OF FEDERAL BENEFITS

Case Number: \_\_\_\_\_

Sentencing Date: \_\_\_\_\_

Defendant's Name: \_\_\_\_\_

Defendant's Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Defendant's Soc. Sec. No.: \_\_\_\_\_

Defendant's Date of Birth: \_\_\_\_\_

### SUSPENSION OF PERIOD OF INELIGIBILITY PURSUANT TO 21 U.S.C. §862(c)

The defendant's ineligibility for federal benefits which was imposed by the district court in the above case is hereby suspended because the defendant:

- has successfully completed a supervised drug rehabilitation program.
- has otherwise been rehabilitated.
- has made a good faith effort to gain admission to a supervised drug rehabilitation program, but has been unable to do so because of the inaccessibility or unavailability of such a program, or because of an inability to pay for such a program.

OR

### REINSTATEMENT OF BENEFITS FOLLOWING COMPLETION OF CONDITIONS IMPOSED PURSUANT TO 21 U.S.C. §862

- The defendant has successfully completed a drug treatment and testing program and/or community service in accordance with the judgment in the above case. Accordingly, the defendant's eligibility for federal benefits which was denied in the case is hereby reinstated.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Judicial Officer

\_\_\_\_\_  
Name & Title of Judicial Officer

The Clerk of Court is responsible for sending a copy of this page and the first page of this judgment to: U.S. Department of Justice, Office of Justice Programs, Washington, D.C. 20531

## Appendix 5

### Cause and Treatment Codes

#### Parties Excluded from Federal Procurement Programs

##### Code AA

###### CAUSE

Denial of *all* Federal contracts and benefits by a sentencing judge pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

###### TREATMENT

Listed persons shall not be issued any contract provided by an agency of the United States or by appropriated funds of the United States. Subcontracts awarded with appropriated Federal funds shall also be denied. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "Indefinite" (Indef.).

##### BB

###### CAUSE

*Partial* denial of Federal contracts by a sentencing judge pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

###### TREATMENT

Listed persons shall not be issued contracts or subcontracts as specified by the sentencing judge which are provided by an agency of the United States or by appropriated funds of the United States. Contact the U.S. Department of Justice's Denial of Federal Benefits Program liaison shown under the heading "For Additional Information" in the front of this issue to determine the extent to which benefits have been denied. The denial shall terminate on the date included in the listing. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "Indefinite" (Indef.).

###### NOTE

A denial of benefits under Section 5301 of the Anti-Drug Abuse Act of 1988 does not include benefits relating to long-term drug treatment programs for addiction for any person who declares himself an addict, provides a reasonable body of evidence to substantiate this declaration, and submits to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services. The denial of benefits may also be suspended on the basis of the person's participation or good faith effort to participate in a supervised rehabilitation program. Contact the U.S. Department of Justice's Denial of Federal Benefits Program liaison shown under the heading "For additional Information" in the front of this issue to verify any assertions that the denial of benefits does not apply, or has been waived or suspended on this basis.

**Appendix 5**  
**Cause and Treatment Codes**  
**Page 2**

**Parties Excluded from Nonprocurement Programs**

**PP**

**CAUSE**

Denial of *all* Federal benefits by a sentencing judge pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

**TREATMENT**

Listed persons shall not be issued any grant, contract, loan professional license, commercial license, provided by an agency of the United States or by appropriated funds of the United States. The denial *does not* include any retirement, welfare, Social Security, health disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. Veterans benefits include all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Services of the United States. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "Indefinite" (Indef.).

**NOTE**

A denial of benefits under Section 5301 of the Anti-Drug Abuse Act of 1988 does not include benefits relating to long-term drug treatment programs for addiction for any person who declares himself an addict, provides a reasonable body of evidence to substantiate this declaration, and submits to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services. The denial of benefits may also be suspended on the basis of the person's participation or good faith effort to participate in a supervised rehabilitation program. Contact the U.S. Department of Justice's Denial of Federal Benefits Program liaison shown under the heading "For additional Information" in the front of this issue of verify any assertions that the denial of benefits does not apply, or has been waived or suspended on this basis.

**QQ**

**CAUSE**

*Partial* denial of Federal benefits by a sentencing judge pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

**TREATMENT**

Listed persons shall not be issued grants, contracts, loans, and/or professional or commercial licenses as specified by the sentencing judge which are provided by an agency of the United States or by appropriated funds of the United States. Contact the U.S. Department of Justice's Denial of Federal Benefits Program liaison shown under the heading "For Additional Information" in the front of this issue. The denial *does not* include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. Veterans benefits include all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Services of the United States. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "Indefinite" (Indef.).