

Department of Justice

§ 33.23

combinations of units of local government within the state. Section 407(d) of the Act.

(b) *Allocation of funds within the State.*
(1) Funds granted to the state are further subgranted by the state to state agencies and units of local government to carry out programs and projects contained in an approved application. Each state shall distribute to its local units of government, in the aggregate, a portion of the state's block grant funds equal to the local government share of total state and local criminal justice expenditures. Section 407(b) of the Act. In determining the portion to be distributed to local units, the most recent and complete data available from the Bureau of Justice Statistics of the U.S. Department of Justice shall be used unless the use of other data has been approved in advance by the Bureau of Justice Assistance.

(2) To request approval of a distribution ratio other than that based on data of the Bureau of Justice Statistics, the head of the State Office must certify in writing to the Bureau of Justice Assistance that the ratio it proposes is a correct reflection of the local share of total state and local criminal justice expenditures and that the state has notified its major local governments of the request and informed them of the opportunity to contact the Bureau within 30 days, if they have any objections. The written request must also cite the expenditure data used to substantiate the proposed change.

(c) *Allocation based on greatest need.* In distributing funds among urban, rural, and suburban units of local government, the state shall give priority to those jurisdictions with the greatest need. Section 407(b)(2) of the Act.

§ 33.21 Match.

(a) Funds may be used to pay up to 50 percent of the cost of a program or project. Section 403(b)(1) of the Act. The remaining non-Federal share shall be in cash. Section 403(b)(2) of the Act. Match will be provided on a project by project basis. However, states may request the Bureau to approve exceptions such as match on a program by program basis, state-wide basis, unit-of-government basis, or a combination of the above. States must include any re-

quests for approval of other than project-by-project match in their applications to the Bureau.

(b) Funds subgranted to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) shall be used to pay 100 percent of the cost of a program or project. Section 403(b)(1) of the Act.

§ 33.22 Title to personal property.

Section 808 of the Justice Assistance Act provides that notwithstanding any other provision of law, title to all expendable and nonexpendable personal property purchased with funds made available under this title, including property with funds made available under this title as in effect before the effective date of the Justice Assistance Act of 1984, shall vest in the criminal justice agency or nonprofit organization that purchased the property if it certifies to the State Office that it will use the property for criminal justice purposes. If such certification is not made, title to the property shall vest in the State Office, which shall seek to have the property used for criminal justice purposes elsewhere in the state prior to using it or disposing of it in any other manner. If a State Office does not exist, certification will be made directly to the Bureau of Justice Assistance.

§ 33.23 Limitations on fund use.

In order to insure the most efficient and effective use of grant funds, the Justice Assistance Act places restrictions on the award of block monies for routine equipment, personnel costs, construction, supplanting of state and local funds, and land acquisition.

(a) *Equipment and hardware.* The purchase or acquisition of equipment or hardware with grant funds is prohibited unless the purchase or acquisition is an incidental and necessary part of a program. Section 406(c)(1) of the Act.

(b) *General salaries and personnel costs.* Payment of personnel costs with grant funds is prohibited unless the costs are an incidental and necessary part of a program. Section 406(c)(1) of the Act. Programs which have as their primary purpose the payment of usual salaries

§ 33.30

paid to employees generally, or to specific classes of employees within a jurisdiction, are prohibited. Notwithstanding the above, grant funds may be used to compensate personnel for time engaged in conducting or undergoing training programs or the compensation of personnel engaged in research, development demonstration, or short-term programs. Section 406(c)(2) of the Act.

(c) *Construction.* Construction projects are prohibited. Section 406(c)(3) of the Act.

(d) *Land acquisition.* Acquisition of land with grant funds is prohibited. Section 406(c)(3) of the Act.

(e) *Ineffective programs.* The use of grant funds is prohibited for programs or projects which, based upon evaluations by the National Institute of Justice, Bureau of Justice Assistance, Bureau of Justice Statistics, state or local agencies, and other public or private organizations, have been demonstrated to offer a low probability of improving the functioning of the criminal justice system. The Bureau of Justice Assistance will formally identify ineffective programs by notice in the FEDERAL REGISTER after opportunity for public comment. Section 406(c)(4) of the Act.

(f) *Administrative costs.* The use of grant funds to pay for costs incurred in applying for or administering the block grant is prohibited. Block grant funds may only be used to carry out programs that fall within one of the purposes listed in section 403(a) of the Justice Assistance Act. Section 403(a) of the Act.

(g) *Period of project support.* A grant recipient may receive block grant funds for a specific program or project for a period not to exceed four years. The four-year maximum allowable period of funding includes any period prior to the Justice Assistance Act when the program or project was supported by funds made available under title I of the Omnibus Crime Control and Safe Streets Act. Section 403(c) of the Act.

(h) *Non-supplantation.* Block grant funds shall not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal

28 CFR Ch. I (7-1-08 Edition)

aid, be made available for criminal justice activities. Section 405(2) of the Act.

PURPOSES OF BLOCK GRANT FUNDS

§ 33.30 Program criteria.

The Justice Assistance Act requires that block grant funds assist states and local governments to carry out specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on violent crime and serious offenders. Section 403(a) of the Act.

(a) *High probability of improving the criminal justice system.* High probability of improving the criminal justice system means that a prudent assessment of the concepts and implementation plans included in a proposed program, project, approach, or practice, together with an assessment of the problem to which it is addressed and of data and information bearing on the problem, concept, and implementation plan, provides strong evidence that the proposed activities would result in identifiable improvements in the criminal justice system if implemented as proposed. Section 901(a)(21) of the Act.

(b) *Special emphasis on violent crime and serious offenders.* Special emphasis on violent crime and serious offenders means that a relationship exists between the program and violent crime, the victims of violent crime, serious offenders and their acts, and the prevention of violent crime and serious offenses. Violent crime, for the purpose of this program, includes homicide, robbery, assault, arson, residential burglary, child abuse and molestation, sexual assault, kidnapping, and all felonies involving weapons or narcotics trafficking. Serious offenders are those who commit violent crimes.

(c) *Criminal justice.* Criminal justice means activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts